



OHIO LEGISLATIVE SERVICE COMMISSION

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Fiscal Note & Local Impact Statement

Bill: H.B. 52 of the 132nd G.A.

Status: As Passed by the Senate

Sponsor: Rep. Rezabek

Local Impact Statement Procedure Required: No

Subject: Regulates the solicitation of real property deeds

State Fiscal Highlights

- The costs for the Office of the Attorney General's Consumer Protection Section to investigate and enforce civil violations are likely to be minimal at most annually and potentially offset to some degree by the collection of civil penalties credited to the Consumer Protection Enforcement Fund (Fund 6310).
- There may be a negligible annual increase in locally collected state court costs credited to the Indigent Defense Support Fund (Fund 5DY0) and the Victims of Crime/Reparations Fund (Fund 4020).

Local Fiscal Highlights

- The number of violations for local criminal and civil justice systems to adjudicate is likely to be relatively small with any additional costs minimal at most annually. Revenue in the form of court costs, fees, and fines may offset those costs to some degree.

Detailed Fiscal Analysis

The bill regulates the solicitation of real property deeds by: (1) establishing requirements for a supplier soliciting a fee for providing a copy of a deed or a free deed in connection with the solicitation for any other service or product, (2) requiring a supplier to make certain disclosures, and (3) restricting the amount of money a supplier is permitted to charge a consumer for a copy of a deed. A violation is enforceable both as a civil matter under the Ohio Consumer Sales Practices Act (CSPA) and as a criminal matter as an unclassified misdemeanor.

The likely number of new cases involving the solicitation of deeds stemming from violations of the bill's provisions is difficult to estimate because there are no statewide sales records or data resources that track the solicitation of deeds, and the frequency at which violators would be reported is unknown. LSC conversations with the Office of the Attorney General's Consumer Protection Section suggest that solicitation likely occurs on a regular basis and presumably, some unspecified

percentage of these are likely to be deceptive. Over the last three years, 39 complaints related to the solicitation of deeds have been reported to the Section. Of those 39 complaints, six cases involved an actual purchase of a deed from the solicitor. In those cases, a payment was made by the consumer and the deed was not provided, which constitutes a CSPA violation under current law. Given these factors, it is expected that the number of violations enforced through local criminal and civil justice systems generally will be relatively small.

Enforcement

Under the bill, there are two civil remedies for handling alleged violations of the bill's prohibition. The first such remedy is available to the Attorney General, who is authorized to investigate violations, seek a declaratory judgment, an injunction or other equitable relief, or organize and bring a class action. The second remedy permits a private individual to initiate a civil action.

Attorney General-initiated remedy

Under current practice, the Attorney General's Consumer Protection Section handles the investigative and legal work associated with the CSPA and is funded with money appropriated from the Consumer Protection Enforcement Fund (Fund 6310) and the General Revenue Fund (GRF).

It is likely that the Attorney General would try to settle the issues surrounding violations of the bill's provisions prior to initiating any formal legal action. For example, a violator could simply agree to cease their conduct, and assuming they do so, the Attorney General would stop incurring any related investigative and legal expenses. The Attorney General would seek court action against a violator as a last resort if they perceive that the violator is receiving a pattern of consumer complaints. Assuming a less formal negotiating strategy does not work, the Attorney General is permitted to bring an action in court to obtain a declaratory judgment, a temporary restraining order, preliminary injunction, or a permanent injunction. The additional costs for the Attorney General, if any, are likely to be no more than minimal annually.

The remedies available when the Attorney General brings an action include permitting the court to impose a civil penalty of: (1) not more than \$5,000 for each day of violation of a temporary restraining order, preliminary injunction, or a permanent injunction, and (2) not more than \$25,000 for each violation of the CSPA. The civil penalties will be distributed in the following amounts: three-fourths, or 75%, to the state's Fund 6310 and one-fourth, or 25%, to the treasury of the county where the Attorney General's action is brought. The timing and magnitude of this potential revenue stream is uncertain.

Consumer-initiated remedy

The bill allows a consumer to sue for damages and other relief from the violator under the CSPA. The number of additional civil actions likely to be filed in any affected court will be relatively small in the context of that court's total caseload. Thus, any

additional cost for the court to adjudicate these matters and any related gain in court cost and fee revenues will be no more than minimal annually.

Criminal penalty

The bill makes a reckless violation of the bill's provisions an unclassified misdemeanor offense that is punishable by a fine of no more than \$100 for the first violation and not more than \$200 for each subsequent violation. Given that the discovery and enforcement of violations is expected to be relatively small, any additional costs for a local criminal justice system to prosecute and adjudicate such cases is likely to be minimal at most annually. Money collected from violators (fines, court costs, and fees) may offset those costs to some degree.

In the case of a misdemeanor conviction, the state collects a \$29 court cost from the violator divided as follows: \$20 to the Indigent Defense Support Fund (Fund 5DY0) and \$9 to the Victims of Crime/Reparations Fund (Fund 4020). The potential gain in annual court cost revenue for the state will be negligible.