

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7360

BILL NUMBER: HB 1504

NOTE PREPARED: Feb 22, 2023

BILL AMENDED: Feb 9, 2023

SUBJECT: Enforcement of Deceptive Consumer Sales Act.

FIRST AUTHOR: Rep. Speedy

FIRST SPONSOR: Sen. Messmer

BILL STATUS: As Passed House

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
☐ **FEDERAL**

IMPACT: State & Local

Summary of Legislation: *Agency Settlement Fund:* This bill provides that the Agency Settlement Fund administered by the Budget Agency does not include costs and expenses, including reasonable attorney's fees and expert fees, received by the Attorney General in connection with an action brought by the Attorney General under the deceptive consumer sales act (act).

Consumer Transaction: The bill amends the definition of "consumer transaction" for purposes of the act to include conduct that arises from, occurs in connection with, or otherwise involves a transaction between commercial entities if the conduct results in harm to consumers.

Reasonable Costs: The bill provides that in an action for an injunction brought by the Attorney General under the act, the court may order the supplier to pay the costs and expenses of the action, including reasonable attorney's fees and expert fees.

Consumer Protection Judgement Fund: The bill provides that any award, judgment, or settlement for the costs and expenses of the Attorney General's action, including reasonable attorney's fees and expert fees, shall be deposited in the consumer protection judgment fund and used to support the efforts of the Division of Consumer Protection.

Right of Action: The bill provides that an action that arises from, or otherwise involves, a consumer transaction that: (1) involves a transaction between commercial entities; and (2) results in harm to consumers; may only be brought and enforced by the Attorney General. It provides that an action to remedy a deceptive act may not be brought more than five years after the deceptive act.

Effective Date: July 1, 2023.

Explanation of State Expenditures: *Deceptive Acts:* This bill adds to the consumer transaction definition to include conduct that arises from, occurs in connection with, or otherwise involves a transaction between commercial entities if the conduct results in harm to consumers. To the extent that there is an increase in actions from the addition in the provision, this bill could increase expenditures and workload for the Attorney General (AG).

Explanation of State Revenues: *Agency Settlement Fund:* This bill would decrease revenue into the Agency Settlement Fund because it would not receive costs and expenses, including reasonable attorney's fees and expert fees, from an action brought by the AG under deceptive consumer sales act. Actual revenue decreases are indeterminable.

Consumer Protection Judgement Fund: This bill could increase revenue into the Consumer Protection Judgement Fund. Under the bill, when the AG brings an action for an injunction, a supplier could be ordered to pay the costs and expenses of the action, including reasonable attorney's fees and expert fees. Any award, judgement, or settlement for the costs and expenses, including reasonable attorney's fees and expert fees, from an AG action under the deceptive act provision would be deposited into the fund. The money in the fund would be used to support the Division of Consumer Protection. Actual revenue increases are indeterminable.

Deceptive Acts: If the number of deceptive acts with a consumer transaction increases, revenue to the General Fund would also increase. Under current law, deceptive acts discovered by the AG carry a maximum \$5,000 civil penalty for each violation. Actual revenue increases are indeterminable.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana, and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected: Attorney General.

Local Agencies Affected: Trial courts, city and town courts. Trial courts, city and town courts.

Information Sources:

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