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Office of Research
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Office

H.B. 38
(I_133_0449-2)
133rd General Assembly

Fiscal Note & Local Impact Statement

[Click here for H.B. 38's Bill Analysis](#)

Version: In House Financial Institutions

Primary Sponsor: Rep. Hillyer

Local Impact Statement Procedure Required: No

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Highlights

- The number of alleged disputed information violations for county and municipal civil justice systems to adjudicate is likely to be relatively small with any additional costs minimal at most annually and absorbed by utilizing existing staff and appropriated resources. Revenue in the form of court costs and fees may offset those costs to some degree.
- The bill may minimally increase the number of mortgage lenders, servicers, or brokers registered under the Ohio Residential Mortgage Lending Act overseen by the Department of Commerce. The annual registration fee is \$500 per office location and deposited into the Consumer Finance Fund (Fund 5530).

Detailed Analysis

Commercial credit reports

The bill requires a commercial credit reporting agency to: (1) provide one credit report per year to a business that is the subject of the report for a permissible fee of up to \$100, and (2) establish a procedure through which such a business may dispute statements on the report. If a business claims to have suffered a loss as a result of the agency failing to comply with the procedure for handling disputed information, it may file a civil action or accept a cure offer, both of which are described in more detail below.

The bill permits a business that suffers a loss as a result of a failure of a commercial credit reporting agency to take certain actions related to disputed information in the credit report to file a civil action against the agency. An action must be brought no later than two years after the occurrence of the violation. The business may recover actual damages, or \$500, whichever is greater or, if the failure to comply is deemed willful, up to three times the actual damages, or \$1,000, whichever is greater. The business may be awarded reasonable attorney's

fees and court costs. The business may also seek a declaratory judgment, an injunction, or other appropriate relief in an individual capacity or, where warranted, in a class action.

In addition, the bill permits a commercial reporting agency and a business to remedy a violation with a “cure offer” to compensate for inconvenience and any attorney’s or other fees, expenses, or other costs of any kind that the business may have incurred in relation to the loss. A business that accepts a cure offer cannot initiate or maintain any other action that is substantially based on the same allegations of fact. By allowing cure agreements, cases could move through the civil justice system more quickly, resulting in some level of administrative cost savings for the courts that adjudicate these matters.

The net effect of these provisions is that there is likely to be some increase in civil actions filed in common pleas, municipal, or county courts across the state. The number of additional cases is expected to be relatively small in the context of any given court’s total caseload, with the associated costs minimal at most and absorbed utilizing existing staff and appropriated resources. Court costs and fees charged by the court to adjudicate these filings may offset costs to some degree as well.

Ohio Residential Mortgage Lending Act

The bill makes several changes to the Ohio Residential Mortgage Lending Act (ORMLA) which is overseen by the Department of Commerce. One of the changes eliminates the existing requirements that a mortgage lender, servicer, or broker maintain an office location in the state and instead requires the office to be located in any U.S. state. As a result, the Department anticipates that the number of individuals registered as mortgage lenders, servicers, or brokers may minimally increase. The annual registration fee is \$500 per office location. These fees are deposited into the Consumer Finance Fund (Fund 5530). In FY 2019, there were over 13,000 registrants. The other changes the bill makes to the ORMLA do not appear to have a fiscal effect on the Department.

Synopsis of Fiscal Effect Changes

The adopted substitute bill (I_133_0449-2) allows a commercial credit reporting agency to charge a business that is the subject of the report a fee of up to \$100 rather than requiring the report to be provided free as proposed by the bill’s previous adopted version (I_133_0449-1). This change may slightly reduce the number of reports likely to be requested, but will have no discernible effect on the magnitude of any new administrative costs incurred by local civil justice systems to dispose of cases stemming from an agency’s failure to comply with certain actions in response to disputed information in a report.

Additionally, the latest adopted substitute bill (I_133_0449-2) eliminates the existing requirement that a mortgage lender, servicer, or broker maintain an office location in the state and instead requires the office to be located in any U.S. state. As a result, the substitute bill may minimally increase the number of mortgage lenders, servicers, or brokers registered under the Ohio Residential Mortgage Lending Act (ORMLA) overseen by the Department of Commerce. The annual registration fee is \$500 per location and deposited into the Consumer Finance Fund (Fund 5530). The previous adopted substitute bill (I_133_0449-1) did not contain any provisions related to the ORMLA.