Fiscal Note & Local Impact Statement

127 th General Assembly of Ohio

Ohio Legislative Service Commission
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BILL: **Am. Sub. H.B. 248**

DATE: **March 17, 2008**

STATUS: **As Reported by House Civil and Commercial Law**

SPONSOR: **Rep. Blessing**

LOCAL IMPACT STATEMENT REQUIRED: **No — Minimal cost**

CONTENTS: **Sets forth requirements governing nonrecourse civil litigation advance contracts**

State Fiscal Highlights

- No direct fiscal effect on the state.

Local Fiscal Highlights

LOCAL GOVERNMENT	FY 2009	FY 2010	FUTURE YEARS
County and Municipal Courts			
Revenues	Potential offsetting gain from court cost and filing fees	Potential offsetting gain from court cost and filing fees	Potential offsetting gain from court cost and filing fees
Expenditures	Potential minimal increase in civil adjudication costs	Potential minimal increase in civil adjudication costs	Potential minimal increase in civil adjudication costs

Note: For most local governments, the fiscal year is the calendar year. The school district fiscal year is July 1 through June 30.

- The only legal recourse available to a consumer injured by a violation of the bill's requirements would be to file a civil action in a county or municipal court. It is unknown how many actions may result from the bill, but it is likely that filing fee revenue and court costs would mitigate any increase in civil adjudication costs that may occur.

Detailed Fiscal Analysis

Overview

This bill sets forth requirements governing nonrecourse civil litigation advance contracts. These are contracts in which a company makes a cash payment to a consumer who has a pending civil claim or action in exchange for the right to receive an amount out of the proceeds of any realized settlement award. Repayment of the advance is only required if a case is won or an out-of-court settlement is reached. Nonrecourse advances carry a risk premium—effectively an amount of money paid to the finance company in addition to the funds already advanced. These advances are typically more expensive than a bank loan since nonrecourse advances are not required to be repaid if the claimant does not receive a payment from the defendant.

Fiscal effects

While the bill would authorize legal finance companies and nonrecourse advance contracts, it provides no specific state governing authority for the regulation of such contracts. It is highly unlikely that the Office of the Attorney General (AGO) would assist a consumer with a complaint concerning these contracts since (1) AGO does not provide investigative and filing assistance to individual consumers, and (2) there is a substantial likelihood that a consumer with a pending claim involving money coming out of a pending lawsuit is already represented by counsel. Consequently, there does not appear to be any direct fiscal effect on the state as a result of the bill.

The only legal recourse available to a consumer injured by a violation of the bill's requirements would be to file a civil action in a county or municipal court. It is uncertain how many actions may be filed in the case of breach of contract, failure to provide a right to cancel or some other statutory violation involving these contracts, but it is likely that filing fee revenue and court costs would offset any increase in civil adjudication costs that may occur.

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