

## Commerce

### Am. H.B. 52

**Reps.** Rezabek, Butler, Hughes, Manning, Anielski, Antonio, Arndt, Ashford, Blessing, Boggs, Boyd, Brenner, Conditt, Craig, Cupp, Dever, DeVitis, Duffey, Edwards, Ginter, Green, Greenspan, Hagan, Hambley, Holmes, Householder, Howse, Koehler, Leland, Lepore-Hagan, Miller, O'Brien, Patterson, Patton, Pelanda, Perales, Ramos, Reineke, Rogers, Ryan, Scherer, Schuring, R. Smith, Strahorn, Sweeney, Sykes, West, Young, Rosenberger

**Sens.** Hottinger, Bacon, Beagle, Wilson, Balderson, Brown, Burke, Dolan, Eklund, Gardner, Hackett, Hoagland, Huffman, LaRose, Lehner, Manning, O'Brien, Oelslager, Peterson, Sykes, Tavares, Terhar, Thomas, Uecker, Williams, Yuko

**Effective date:** May 11, 2018

- Requires specified disclosures to consumers when suppliers solicit (1) a fee for real property deeds or (2) a free copy of a deed in connection with another service or product.
- Prohibits a supplier from charging a fee exceeding four times the fee charged by the county recorder for a copy of that deed.
- Requires a supplier that is soliciting a fee for providing a copy of a deed to provide a copy of the solicitation document to the county recorder.
- Designates a violation as a violation of the Ohio Consumer Sales Practices Act, thereby permitting the Attorney General to sue for a declaratory judgment, injunction, or damages, and an injured consumer to sue to rescind the transaction, recover damages, and obtain other relief.
- Imposes fines for reckless violations of the act's requirements.
- Permits the Attorney General to adopt rules specifying the contents and form of the solicitation document.

### Sub. H.B. 329

**Reps.** Pelanda, Dever, Anielski, Antonio, Arndt, Ashford, Blessing, Boyd, Brown, Craig, Galonski, Ginter, Green, Greenspan, Hambley, Holmes, Householder, T. Johnson, Koehler, Lanese, Lepore-Hagan, Manning, O'Brien, Patterson, Patton, Rogers, Ryan, Schaffer, K. Smith, M. Sweeney, Sykes, West, Young

**Sens.** Coley, Brown, Dolan, Eklund, Gardner, Hackett, Hoagland, Kunze, Manning, O'Brien, Oelslager, Schiavoni, Tavares, Terhar, Thomas, Uecker, Yuko

**Effective date:** March 8, 2019

- Modifies the law governing pyramid promotional schemes.

- Establishes that a violation against a pyramid promotional scheme is an unfair or deceptive act or practice in connection with a consumer transaction, which is a violation of the Consumer Sales Practices Act (CSPA).
- Permits the Attorney General to use all powers and remedies under the CSPA to enforce the prohibition against pyramid promotional schemes.

## **Am. Sub. H.B. 480**

**Reps.** Hill, Scherer, Seitz, Anielski, Dever, Green, Hambley, Koehler, Miller, Perales, Rezabek, Riedel, Rogers, Schaffer, Wiggam, Wilkin, R. Smith

**Sens.** Hackett, Beagle, Eklund, Gardner, Lehner, Peterson, Terhar, Wilson

**Effective date:** March 20, 2019

### **Multi-parcel auctions**

- Authorizes the Department of Agriculture to regulate multi-parcel auctions.
- Specifies that a multi-parcel auction is any auction of property in which multiple parcels or lots are offered for sale in various amalgamations.
- Requires a contract for a multi-parcel auction to specify that the auction will be a multi-parcel auction.
- Requires all advertisements for a multi-parcel auction to state that the auction will be offered in various amalgamations, including as individual or combinations of parcels or lots and all parcels or lots as a whole.
- Authorizes a licensed auctioneer or auction firm to advertise an absolute auction as a multi-parcel auction if the licensee complies with requirements governing advertising, sales, and bidding.
- Authorizes the Department to deny, refuse to renew, suspend, or revoke a license for both:
  - Specifying that an auction is a multi-parcel auction, but not conducting the auction as specified; and
  - Failing to display a notice conspicuously at the clerk's desk or on a bid card that clearly states an explanation of the multi-parcel auction process.

### **Foreclosure procedures**

- Establishes that the seven-day period within which an online foreclosure auction managed by a private selling officer must be open refers to calendar days counted by excluding the first day the auction is open and including all subsequent days.

- Establishes that a sheriff's proceedings, when indorsed on an order of sale that is returned to the clerk of courts after a foreclosure sale, may be indorsed electronically on the order of sale.
- Requires residential properties that do not sell at an online foreclosure auction to be brought to subsequent sales without regard to minimum bidding requirements, as required for residential properties that do not sell at in-person auctions.
- Permits a residential property involved in a foreclosure sale deemed invalid due to the buyer's failure to pay the deposit to be brought to sale on a provisional second sale date included in the notice of foreclosure.

## **Sub. S.B. 220**

**Sens.** Hackett and Bacon, Coley, Burke, Dolan, Hoagland

**Reps.** Anielski, Blessing, Brenner, Carfagna, Dean, Hambley, Lanese, Reineke, Riedel, Roegner, Seitz, Wiggam, R. Smith

**Effective date:** November 2, 2018

### **Cybersecurity program affirmative defense**

- Creates an affirmative defense to a tort action against a covered entity because of a data breach, if the entity is accused of failing to implement reasonable information security controls and it has a cybersecurity program that meets the act's requirements.
- Defines "covered entity" as a business or nonprofit entity, including a financial institution, that accesses, maintains, communicates, or handles personal information or restricted information.

#### **Requirements for the affirmative defense**

- Requires a covered entity, to qualify for the affirmative defense, to create, maintain, and comply with a written cybersecurity program containing certain safeguards for protection of personal information, restricted information, or both.
- Requires the cybersecurity program to meet the act's design, scale, and scope requirements and to reasonably conform to certain industry recognized cybersecurity frameworks.
- Allows a covered entity to have a cybersecurity program that protects personal information and therefore to be entitled to an affirmative defense to a cause of action involving a data breach concerning personal information.
- Allows a covered entity instead to have a cybersecurity program that protects both personal information and restricted information and therefore to be entitled to an

affirmative defense to a cause of action involving a data breach concerning personal information or restricted information.

### **Other provisions**

- Specifies that the act does not provide a private right of action that would allow a person to sue a covered entity for failing to follow the act's cybersecurity requirements.
- States that the act is intended to encourage improved cybersecurity through voluntary action and not to create a minimum cybersecurity standard that must be achieved.

### **Blockchain transactions permitted**

- Specifies that transactions recorded by blockchain technology are permitted under the Uniform Electronic Transactions Act.

### **Casinos – key employees**

- Raises from 1% to 5% the threshold of direct or indirect ownership in a casino operator, management company, or gaming-related vendor license that requires an individual to obtain a key employee license.
- Eliminates the Casino Control Commission's ability to determine whether an individual whose duties differ from those included in the definition of "key employee" should be considered a key employee.

## **Am. S.B. 223**

**Sens.** LaRose, Manning, Bacon, Brown, Yuko, Williams, Tavares, Sykes, O'Brien, Hackett, Uecker, Eklund, Gardner, Kunze, McColley, Schiavoni, Thomas, Wilson

**Reps.** Anielski, Blessing, Craig, Dever, DeVitis, Holmes, Hoops, Perales, R. Smith.

**Effective date:** July 1, 2019

- Prohibits the installation of unsafe used tires on specified motor vehicles.
- Makes a violation of the prohibition a violation of the Ohio Consumer Sales Practices Act.
- Excludes from the prohibition tires mounted on wheels or rims that are temporarily removed from a vehicle and reinstalled on the same vehicle.
- Imposes a fine of up to \$1,000 for a violation.

## Sub. S.B. 263

**Sens.** Huffman and Wilson, Terhar, Lehner, Sykes, Hackett, Hottinger, Beagle, Coley, Dolan, Hoagland, Kunze, LaRose, Peterson, Schiavoni, Yuko

**Reps.** Blessing, Anielski, Carfagna, Craig, Galonski, Hambley, Miller, Perales, Reineke, Ryan, Schuring, Seitz, Slaby, R. Smith

**Effective date:** Notary provisions effective September 20, 2019; other provisions effective March 20, 2019; one provision effective July 1, 2019

### Online notary

- Allows the Secretary of State to authorize notaries public who are Ohio residents to perform notarizations online using live video links, electronic signatures, and electronic notary seals, but does not extend this authority to taking and certifying depositions.
- Requires notaries public seeking authorization to act as online notaries public to complete an educational course and pass a test in addition to those necessary to acquire an initial notary commission.
- Generally, establishes five-year terms for online notary authorizations for both nonattorneys and attorneys.
- Establishes continuing education requirements for online notaries.
- Requires the Secretary of State to adopt rules for online notarizations, including rules regarding approval to perform online notarizations, process and procedure for online notarial acts, required technology, record retention, online notarial certificates, and revocation of authorization to perform online notarizations.
- Specifies that an electronic document notarized through an online notarization is considered an original document.
- Prohibits online notaries public from performing online notarizations while physically outside Ohio.
- Allows online notaries public to perform online notarizations for individuals located in U.S. territory, and for individuals located outside the U.S. in limited circumstances.
- Requires online notaries public to comply with certain procedures to confirm the identities of individuals seeking online notary services, and requires the Secretary of State to adopt standards regarding those procedures.
- Requires online notaries public to:
  - Use only technology that meets the Secretary of State's standards;
  - Abide by minimum security requirements when conducting online notarizations and storing required information;

- Maintain audio and video recordings of the process used to confirm identities during online notarizations;
- Maintain electronic journals with details of all online notarizations performed during their five-year authorization, and to deposit them with the Secretary of State or an approved repository when the term expires, to be kept for ten more years.
- Allows individuals who provide particular information about a notarization to review a related record in an electronic journal, and allows journals to be copied without restriction by law enforcement engaged in official investigations, by court order, or at the direction of the Secretary of State.
- Imposes restrictions on access to electronic journals maintained by attorney notaries authorized to conduct online notarizations.
- Authorizes the Secretary of State to charge a fee to register to be an online notary and to set the fee for the related course of instruction and examination.

### **Electronic notary**

- Allows a notary public to obtain an electronic signature and electronic seal to notarize electronic documents in the physical presence of the individual seeking notarization.
- Applies the online notary public provisions' technology and security requirements to electronic signatures and seals obtained for in-person electronic notarizations.
- Specifies that an electronic document notarized through an electronic notarization is considered an original document.
- Requires county auditors, engineers, and recorders to accept printed documents that were notarized electronically and contain the required notarial certificate for purposes of approval, transfer, and recording.

### **Notary commissions**

- Requires an individual seeking a notary public commission to complete an education course and, if the individual is not an attorney, to also pass a related test.
- Requires a nonattorney seeking a notary public commission to obtain a criminal records check showing that the individual has not been convicted of a disqualifying offense; requires commissioned notaries public to self-report a conviction of a disqualifying offense; and requires the Secretary of State to revoke the commission of a notary public who is convicted of a disqualifying offense.
- Requires nonattorney notaries public whose existing commissions expire after the act's September 20, 2019, effective date to submit a new criminal records check when renewing their commissions and submit a fee set at \$60 or less.

- Revises the fee to become a notary from \$15 to \$150 or less, with up to \$15 going to the Secretary of State and the remainder going to the entity providing the educational course.
- Allows renewal applications to be submitted no more than three months before a commission expires, and requires a notary public who does not renew before expiration to obtain a new, rather than a renewal, commission.

### **Secretary of State's responsibilities**

- Requires the Secretary of State to oversee notary application processing and notary commissioning.
- Requires the Secretary of State to create and maintain an online database of notaries public.
- Removes recordkeeping requirements imposed on common pleas court clerks with regard to notary public commissions and maintains similar recordkeeping requirements imposed on the Secretary of State.
- Requires information submitted to the Secretary of State as part of the application or renewal of notary public commissions, or to update a notary public's records, to be transmitted electronically.
- Transfers responsibility for notary public discipline from courts of common pleas to the Secretary of State.
- Prohibits notaries public from engaging in numerous practices that could call the reliability of a notarization into question.
- Prohibits nonattorney notaries public from engaging in certain practices that might constitute the practice of law.
- Allows the Secretary of State to establish an advisory board to discuss matters related to notary public laws and procedures.

### **Notarial acts**

- Eliminates the recording of notarial protests from the statutory list of authorized notarial acts and adds the execution of jurats.
- Defines the notarial terms "acknowledgment," where signers acknowledge that they have signed, understand, and recognize the consequences of a document, and "jurat," where a signer gives an oath or affirmation that a statement is true and signs in the notary's presence.
- Adds requirements for notarial certificates used to memorialize notarial acts.
- Adds a statutorily approved form for the memorialization of jurats.

- Allows an individual who is physically unable to sign a document needing notarization to designate an alternative signer if certain conditions are met.

### **Fees**

- Replaces the list of fees for notarial acts with authority for notaries public to charge up to \$25 for online notarizations and up to \$5 for other notarizations, but not both for any notarial act.
- Prohibits notaries public from calculating fees on a per signature basis.

### **Notarial tools**

- Changes the requirements for the size of notarial seals, but allows notaries public to continue using stamps in their possession that were compliant prior to the act's September 20, 2019, effective date.
- Eliminates a requirement that notaries public provide themselves with an official register in which to record certificates of protests and copies of note.

### **Notary resignation**

- Requires attorney notaries public to deliver written notice to the Secretary of State when resigning a commission, consistent with continuing law for nonattorney notaries public.

### **Salvage certificates of title**

- Exempts insurance companies seeking salvage certificates of title from notarization and verification requirements in certain circumstances.
- Until January 1, 2021, generally prohibits clerks of court from issuing a salvage certificate of title if the only basis for issuing the title is information reported from the National Motor Vehicle Title Information System (NMVTIS).
- Creates the National Motor Vehicle Title Information System Utilization Study Committee and requires it to study and report on:
  - The advantages and disadvantages of using information reported to NMVTIS for making decisions on issuing salvage certificates of title in Ohio;
  - The accuracy of that information;
  - Allowing that information to be shared in the same manner as information is shared under Ohio law that allows the public to access certain motor vehicle title information online; and
  - How other states utilize this information.



- Transfers oversight of the Statewide Salvage Motor Vehicle Database to the Department of Public Safety or a third-party provider pursuant to a contract with the Department, effective July 1, 2019.

### **Oil and gas land professionals**

- Exempts oil and gas land professionals who perform their duties as employees from the Real Estate Broker Licensing Law.
- Exempts oil and gas land professionals who perform their duties as independent contractors from the Real Estate Broker Licensing Law if they register with the Superintendent of Real Estate and make certain disclosures to people involved in transactions.