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HOUSE BILL 271 – ADA LAWSUITS

PROPONENT TESTIMONY

OHIO HOUSE CIVIL JUSTICE COMMITTEE

SEPTEMBER 20, 2017

Chairman Butler, Vice-Chair Hughes, Ranking Member Boggs and members of the Ohio House Civil Justice Committee, my name is Chris Ferruso, and I serve as Legislative Director for the National Federation of Independent Business/Ohio (NFIB/Ohio). Thank you for the opportunity to provide testimony on behalf of the nearly 25,000 governing members of the National Federation of Independent Business to express our support for House Bill 271, legislation we believe could reduce Americans with Disabilities Act (ADA) lawsuits while concurrently remediating issues to provide better access to individuals with disabilities.

By way of background, a typical NFIB/Ohio member employs 25 or fewer and does less than \$2 million in annual sales. Our members come from every industry type, and our organization looks like Main Street in any legislative district across Ohio. We set policy based upon a unique member balloting process. The positions we take before the Ohio General Assembly are directly related to this process.

Our members strive to comply with the law to ensure the ability for all individuals to have easy access to their businesses. However, there may be situations that arise where they may be out of compliance with a specific provision of the ADA. Our members, in general, are not intentionally breaking the law, they may simply not know they have an issue on their property. Small business owners typically wear many different hats in their businesses. It is challenging to know every specific, albeit well-intentioned, detail of the ADA. We believe House Bill 271 allows business owners the opportunity to correct a violation prior to having to combat a lawsuit.

As heard in testimony by Reps. McColley and Rezabek last week, the intent of this bill is to increase compliance with the ADA by making businesses aware of violations, and giving a right to remedy. House Bill 271 requires an aggrieved party to file a notice indicating the alleged violation and grants a reasonable response time of 15 days followed by a 90-day cure period, with reasonable exceptions to exceed this window permitted.

An aggrieved party may file a lawsuit, however, once notice is served per House Bill 271, they must wait until any of the following occurs: a response indicating a property will be brought into compliance and it is not, a challenge to the validity of an alleged violation, a response indicating the violation has been corrected but the aggrieved party believes violation still exists, or no response. If the notice process is not undertaken an aggrieved party may forgo attorney fees. House Bill 271 seeks to discourage the

filing of lawsuits simply to force or receive a settlement with no intent of seeking or ensuring proper remedy of an ADA violation.

We believe House Bill 271 strikes a fair balance. Business owners who have an ADA violation, many times unbeknownst, will be afforded an opportunity to remedy the violation ensuring access for all individuals. Aggrieved individuals will see violations of the ADA remedied or can proceed with a lawsuit to recover damages. We believe resources used to remedy ADA violations in lieu of paying attorney fees better enshrines the spirit of the ADA. We feel that addressing violations to provide accessibility for all should be the goal.

NFIB/Ohio encourages favorable recommendation of this legislation.

Thank you, Chairman Butler and members of the committee, I would be happy to try and address any questions.