



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Andrew Little

H.B. 647

132nd General Assembly
(As Introduced)

Reps. Brown and Scherer, Antonio, Holmes, West, Ingram, Celebrezze, Hill, Cera, Kent

BILL SUMMARY

- Requires the Attorney General to publish a brief warning statement regarding the signs and possibilities of financial scams and fraud.
 - Requires certain financial institutions, prior to completing a wire transfer for an individual in Ohio, to provide the Attorney General's warning statement regarding the signs and possibilities of financial scams and fraud.
 - Makes a covered financial institution's failure to provide the required warning statement prior to completing a wire transfer an unfair or deceptive act or practice in violation of the Consumer Sales Practices Act.
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CONTENT AND OPERATION

The bill enacts the Wire Fraud Information Act, requiring certain financial institutions to provide information regarding the signs and possibilities of financial scams and fraud before executing a wire transfer (an electronic transfer of funds¹) for an individual in Ohio.

Attorney General to develop model-scam warning

The bill requires the Attorney General to create a brief model statement that warns of the possibility of financial scams and fraud. The Attorney General must publish the model statement on its website and issue press releases to announce the

¹ Investopedia, *Wire transfer*, <https://www.investopedia.com/terms/w/wiretransfer.asp> (accessed October 3, 2018).

posting. The first press release must be issued 30 days before the model statement is posted, and a second must be issued once the statement actually is posted.

The bill does not establish a deadline for the Attorney General to create the model statement.²

Notice required from covered institutions

The bill requires "institutions" to read or otherwise provide the Attorney General's model statement regarding the signs and possibilities of financial scams and fraud to individuals seeking wire transfers in Ohio, beginning no more than 30 days after the model statement is published on the Attorney General's website. Under the bill, "**institutions**" are defined as either: (1) federally or state-chartered banks, savings banks, savings and loan associations, or credit unions, or holding companies, subsidiaries, or affiliates of banks, savings banks, or savings and loan associations, or (2) licensed money transmitters.³

Remedies

The bill deems an institution's failure to read or provide the required statement regarding the signs and possibilities of financial scams and fraud to individuals seeking wire transfers to be an unfair or deceptive act or practice under the Consumer Sales Practices Act (CSPA). The bill also extends the Attorney General's enforcement powers, and the private remedies available to individuals, under the CSPA to such a failure.⁴

Under continuing law, if the Attorney General has reasonable cause to believe that a supplier has engaged, or is engaging, in an act or practice that violates the CSPA, the Attorney General may do any of the following:

- Investigate the suspected violation through issuance of subpoenas, administration of oaths, and by requiring the production of relevant materials.
- Sue for a declaratory judgment that the act or practice is an unconscionable consumer sales act or practice under the CSPA.

² R.C. 1349.85(C).

³ R.C. 1349.85(A), (B), and (D).

⁴ R.C. 1349.85(E).



- Sue for an injunction to restrain the act or practice. In this type of suit, the court may also impose a civil penalty of not more than \$5,000 for each day the injunction is violated, if the supplier received notice of the lawsuit.
- Commence a class action for damages on behalf of consumers who have engaged in consumer transactions in Ohio.⁵

An injured consumer also may sue under the CSPA. Specifically:

- The consumer may, in an individual action, rescind the transaction or recover the consumer's actual economic damages, plus up to \$5,000 in noneconomic damages.
- If the violation was an act or practice that had previously been determined to be an unconscionable consumer sales act or practice by Attorney General rule or a court determination, the consumer may rescind the transaction or recover the greater of three times the consumer's economic damages or \$200, plus up to \$5,000 in noneconomic damages. Alternatively, the consumer can recover damages or obtain other appropriate relief in a class action.
- The consumer may seek a declaratory judgment, an injunction, or other appropriate relief.⁶

HISTORY

ACTION	DATE
Introduced	05-14-18

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⁵ R.C. 1345.06 and 1345.07, not in the bill.

⁶ R.C. 1345.09, not in the bill.

