



SENATE BILL 98 – (ADDRESS FRAUDULENT BUSINESS FILINGS, RELATED DOCUMENTS)

WRITTEN TESTIMONY- OHIO HOUSE STATE & LOCAL GOVERNMENT COMMITTEE

MAY 21, 2024

Chairman Wiggam and members of the Ohio House State and Local Government Committee, I am writing on behalf of the nearly 21,000 members of the National Federation of Independent Business in Ohio (NFIB) to lend our support for Senate Bill 98. We thank Senator Rulli for carrying this piece of legislation aimed at combatting fraud against small businesses in Ohio.

By way of background, a typical NFIB member in Ohio employs 20 or fewer and does less than \$2 million in annual gross receipts. Our members come from all industry types and each of the 88 counties. Member companies range in size from sole proprietors to larger operations employing hundreds.

Senate Bill 98 has, unfortunately, become necessary as businesses are being targeted by nefarious and increasingly sophisticated individuals who are utilizing them as a means of financial gain. The bill calls for several important measures including making reporting of a suspected fraudulent filing easier, requiring solicitations to clearly indicate they are not from a government entity, and disclosing an actual physical address for agents of businesses. We were glad to see the bill pass both committee and the full Senate unanimously late last year.

The bill establishes prohibitions against using a person's name or address without their consent. This is aimed at preventing the creation of a fraudulent business (under a similar name) or utilizing an existing business, without authorization, to secure loans and/or other things of value. Senate Bill 98 authorizes any individual who believes they have been the victim of a fraudulent filing to file a complaint with the Ohio Secretary of State. The bill requires an individual filing a complaint to provide supporting information to

ensure legitimacy. The Secretary of State must review complaints and forward any likely violations to the Ohio Attorney General. The Attorney General will then determine whether to investigate further.

If the Attorney General elects to investigate the complaint, notice is sent to the person subject to the complaint, and a 21-day window opportunity for response commences. If no response is received, a second notice is sent triggering a second 21-day window for response. If there is no response the bill considers this concession by the person subject to the complaint.

A person subject to the complaint may request an administrative hearing to contest the complaint. If filed timely, the Attorney General may refer to an administrative hearing. If the Attorney General does not respond to a hearing request within 180 days, then it is considered the Attorney General did not wish to prosecute the complaint. An administrative hearing must take place within 60 days (with 30 days extension allowance) of referral to an administrative law judge with a decision to be made within 15 days. These timeframes ensure an expedient resolution.

The Attorney General is responsible for notifying the Secretary of State that there has been a fraudulent filing. The Secretary of State will cancel the business entity and stop additional filings on the entity's records or for existing businesses cancel each unauthorized filing.

In addition to the fraudulent filings Senate Bill 98 requires certain disclosures on mailings that solicit fees for filing a document with or receiving a copy of a record from the Secretary of State. The bill prohibits these solicitations from appearing to come from a governmental entity and requires notification to the recipient of where they can obtain these documents. Small businesses have limited resources. It is unfortunate that individuals attempt to extract these resources through deception by appearing to be an official government entity and charging more than what is otherwise required. Nothing prevents a business owner from utilizing these services, but they will now have greater clarification on who is soliciting them and what other avenues are available to obtain documents.

Finally, Senate Bill 98 requires statutory agents to disclose their physical address or a physical address where business is routinely conducted. The provision excludes utilization of a post office box to meet this requirement. This will assist in ensuring a business is legitimate and any necessary service of documents can occur to an actual person.

We support the intent of Senate Bill 98 to reduce fraudulent business filings and deceptive business activities and urge the committee's favorable adoption. Thank you for the opportunity to provide comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Cameron J. Garczyk". The signature is fluid and cursive, with the first name being the most prominent.

Cameron Garczyk
Assistant State Director - NFIB Ohio
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