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May 9, 2023

Senator Nathan Manning  
Chair, Ohio Senate Judiciary Committee  
1 Capitol Square, Ground Floor  
Columbus, OH 43215

Dear Chairman Manning:

On behalf of the 20,000 governing members of the National Federation of Independent Business in Ohio (NFIB), thank you for the opportunity to provide 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 receipts. Our members come from all industry types and each of the 88 counties. Our members range in size from sole proprietors to large operations employing hundreds.

Senate Bill 98 has, unfortunately, become necessary as businesses are being targeted by nefarious, increasingly sophisticated individuals who are utilizing them as a means of financial gain. The bill calls for a few 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.

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. In the context of this new section of code prohibiting such activities, 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 (SOS). The bill requires an individual filing a complaint to provide supporting information to ensure legitimacy. The SOS must review complaints and forward any likely violations to the Ohio Attorney General (AG). The AG will review and determine whether to review the complaint.

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

The AG is responsible for notifying the SOS that there has been a fraudulent filing. The SOS 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 SOS. The bill prohibits these solicitations from appearing to come from a governmental entity and require notification to the recipient of where they can go to obtain these documents from the SOS. 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. Thank you for the opportunity to provide comments.

Sincerely,



Christopher J. Ferruso  
State Director