OHIO LEGISLATIVE SERVICE COMMISSION

www.lsc.ohio.gov

Office of Research and Drafting

Legislative Budget Office

H.B. 757
136th General Assembly

Bill Analysis

Click here for H.B. 757's Fiscal Note

Version: As Passed by the House

Primary Sponsor: Rep. Daniels

Nick Thomas, Research Analyst

SUMMARY

- Prohibits a rental home marketplace guarantee from being issued or offered unless the guarantee provider has made the rental home marketplace guarantee terms available on the provider's website and complied with the requirements of the bill.
- Requires all rental home marketplace guarantees to be insured under a reimbursement insurance policy.
- Specifies that rental home marketplace guarantees do not constitute a contract amounting to insurance and that guarantee providers are not insurance companies.
- Requires certain statements and disclosures in rental home marketplace guarantees and reimbursement insurance policies relating to insurance.
- Specifies that the sale or issuance of a rental home marketplace guarantee is a consumer transaction subject to the Consumer Sales Practices Act.
- Specifies that the application of the bill's requirements are limited to the sale or issuance of rental home marketplace guarantees and that the bill is not to be construed as limiting any law pertaining to the business of insurance in any other transaction.
- Specifies that the Insurance Producers Licensing Act governs any actions involving the business of insurance not otherwise covered by the bill.
- Entitles the bill the "Rental Home Marketplace Guarantee Act."

DETAILED ANALYSIS

Rental home marketplace guarantees

A rental home marketplace is defined by the bill as being an individual, partnership, corporation, incorporated or unincorporated association, joint stock company, reciprocal, syndicate, or any similar entity or combination of entities acting in concert that:

- Provides an online application, software, website, system, or other medium through which a property is advertised or is offered to the public as available and that connects platform users to enable them to share property;
- Provides or maintains an online platform by either communicating an offer or acceptance of a transaction between two platform users or by owning or operating the electronic infrastructure or technology that allows two or more platform users to engage in a transaction;
- If engaged in the offering of rental home marketplace guarantees, does so only in a manner that is ancillary to the conduct of its primary legitimate business or activity; and
- Is not a local or state governmental entity.[1]

Note that the bill does not define the term "property." It is presumed that the bill is intended to apply to "real property," things like homes or land, but, as the term "property" is undefined, the bill could be interpreted as applying to various types of property that one might use as a home, such as recreational vehicles, campers, vans, towable homes, and mobile shelters.

Under the bill, a "rental home marketplace guarantee" is a contract or agreement issued in connection with a rental home marketplace, whether or not for a separate consideration, to reimburse a platform user offering property for rent for any damages for which the renter is responsible under the rental home marketplace's terms of service, with or without additional provision for incidental payment of indemnity.[2]

Business of insurance

The bill specifies that rental home marketplace guarantees do not constitute a contract amounting to insurance of any character and that the contract's issuance is not the business of insurance. Additionally, the bill specifies that guarantee providers are not insurance companies and rental home marketplace guarantees are not required to comply with any provision of the insurance laws of Ohio. The bill also requires rental home marketplace guarantee contracts to include a statement in substantially the following form: "This rental home marketplace guarantee is not an insurance contract."[3]

[1] R.C. 3905.427(A)(1) and (5).

[2] R.C. 3905.427(A)(6).

[3] R.C. 3905.427(D), (E), and (I).

Disclosure of terms

The bill prohibits a rental home marketplace guarantee from being issued or offered unless the provider of the guarantee has made the rental home marketplace guarantee terms available on the provider's website and complied with the requirements of the bill.[4] The term "provider" includes both a rental home marketplace and an affiliate or representative of a rental home marketplace who issues or offers, as well as administers, either directly or indirectly, a rental home marketplace guarantee.[5]

Reimbursement insurance policies

To ensure the faithful performance of a provider's obligations under a rental home marketplace guarantee, each guarantee provider who is obligated to a platform contract holder is required to insure all rental home marketplace guarantees under a reimbursement insurance policy issued by an insurer authorized to transact insurance in Ohio or eligible to do business in Ohio as a surplus lines insurer.[6]

Under the bill, a "reimbursement insurance policy" is a policy of insurance issued to a provider and pursuant to which the insurer agrees, for the benefit of a platform contract holder, to discharge all of the obligations and liabilities of the provider under the terms of the rental home marketplace guarantee in the event of default or nonperformance of the provider under the rental home marketplace guarantee. Also, a "platform contract holder" is a rental home marketplace user who is the beneficiary or holder of a rental home marketplace guarantee.[7]

The bill requires reimbursement insurance policies insuring rental home marketplace guarantees to clearly state that, upon default or nonperformance by the guarantee provider under the rental home marketplace guarantee, the insurer that issued the policy will pay on behalf of the guarantee provider any sums the provider is obligated to pay according to such rental home marketplace guarantee.[8] A reimbursement insurance policy is subject to the laws and regulations governing termination and nonrenewal of insurance policies in this state. The termination of a reimbursement insurance policy does not reduce the issuer's responsibility for rental home marketplace guarantees issued by providers prior to the effective date of the termination.[9]

Under the bill, a provider is considered to be the agent of the insurer that issued the reimbursement insurance policy.[10] Under continuing law, unchanged by the bill, insurers are bound by the actions of their agents within that agent's actual and apparent authority.[11] The bill

[4] R.C. 3905.427(B).

[5] R.C. 3905.427(A)(3).

[6] R.C. 3905.427(C).

[7] R.C. 3905.427(A)(2) and (4).

[8] R.C. 3905.427(F).

[9] R.C. 3905.427(G).

[10] R.C. 3905.427(H)(1).

[11] R.C. 3905.20(B)(3), not in the bill.

specifies that the insurer issuing the reimbursement policy retains the right to seek indemnification or subrogation from the guarantee provider if the insurer pays or is obligated to pay sums to the platform contract holder that the guarantee provider was obligated to pay under the rental home marketplace guarantee. The bill specifies that its requirements are not to be construed as preventing or limiting the insurer's right in this regard.[12]

Mandatory disclosure about reimbursement insurance

The bill requires rental home marketplace guarantees to contain a statement in substantially the following form: "Obligations of the provider under this guarantee are backed by a reimbursement insurance policy. If the provider is unable or fails to perform on its contractual obligation under a rental home marketplace guarantee within one hundred eighty (180) days after proof of loss has been filed, a platform user is entitled to make a claim directly against the insurance company subject to the terms of the policy."[13]

Consumer Sales Practices Act

The bill specifies that the sale or issuance of a rental home marketplace guarantee is a consumer transaction subject to the Consumer Sales Practices Act (CSPA). For purposes of the CSPA, the guarantee provider is the supplier and the contract holder is the consumer.[14] The CSPA provides certain protections to consumers, allowing both the Attorney General and consumers to initiate lawsuits for violations of the CSPA.[15]

Interpretation

The bill specifies that the application of its requirements is limited to the sale or issuance of rental home marketplace guarantees and that the bill is not to be construed as limiting any law pertaining to the business of insurance in any other transaction. It further specifies that the Insurance Producers Licensing Act governs any actions involving the business of insurance not otherwise covered under the bill.[16]

Title

The bill is entitled the "Rental Home Marketplace Guarantee Act."[17]

---

[12] R.C. 3905.427(H)(2) and (3).

[13] R.C. 3905.427(J).

[14] R.C. 3905.427(K).

[15] R.C. 1345.07 and 1345.09, not in the bill.

[16] R.C. 3905.427(L).

[17] Section 2.

HISTORY

Action	Date
Introduced	03-11-26
Reported, H. Insurance	06-09-26
Passed House (90-5)	06-09-26

ANHB0757PH-136/ts