OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

H.B. 757
136th General Assembly

Fiscal Note & Local Impact Statement

Click here for H.B. 757's Bill Analysis

Version: As Passed by the House

Primary Sponsor: Rep. Daniels

Local Impact Statement Procedure Required: No

Jessica Murphy, Senior Budget Analyst, and other LBO staff

Highlights

- The bill regulates rental home marketplace guarantees by establishing requirements and prohibitions that are enforceable as consumer transactions under the Consumer Sales Practices Act (CSPA). It also clarifies that guarantee providers are not subject to insurance licensure or other insurance regulatory requirements. However, the Department of Insurance may experience minimal administrative costs to oversee the reimbursement insurance policies that guarantee providers must maintain, in accordance with the bill, with any such costs paid from the Department of Insurance Operating Fund (Fund 5540).
- The costs for the Office of the Attorney General's Consumer Protection Section to investigate and enforce new violations of the CSPA will depend on the number of complaints filed/reported, investigations performed, and enforcement actions taken. To some degree, any related increase in operating costs might be offset by the collection of civil penalties credited to the Consumer Protection Enforcement Fund (Fund 6310).
- Any increase in the annual operating costs of courts to adjudicate resulting in Attorney General and consumer-initiated civil actions will be no more than minimal and absorbed by utilizing existing staff and resources.

Detailed Analysis

The bill enacts the "Rental Home Marketplace Guarantee Act," to regulate "rental home marketplace guarantees," which are contracts or agreements 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.[1] Specifically, the bill makes such transactions subject to the Consumer Sales Practices Act (CSPA) and stipulates the following: (1) 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, (2) requires each provider of rental home marketplace guarantees to be insured under a reimbursement insurance policy, (3) specifies that rental home marketplace guarantees do not constitute a contract amounting to insurance and that guarantee providers are not insurance companies, and (4) requires certain statements and disclosures in rental home marketplace guarantees and reimbursement insurance policies relating to insurance. The bill also specifies that the provider of the guarantee is considered to be the agent of the insurer that issued the reimbursement insurance policy. Full details are available in the LSC bill analysis.

Reimbursement insurance policies

The bill may increase the Department of Insurance's administrative costs related to regulation of reimbursement insurance policies; if there is any such increase, it would likely be minimal and would be paid out of the Department of Insurance Operating Fund (Fund 5540). The bill's requirement for providers to insure all rental home marketplace guarantees under a reimbursement insurance policy issued by an insurer could increase GRF revenue from the domestic and foreign insurance taxes. Any such increase is likely to be minimal.

Enforcement

The bill specifies that the sale or issuance of a rental home marketplace guarantee is a consumer transaction subject to the CSPA. For purposes of the CSPA, the guarantee provider is the supplier and the contract holder is the consumer.

The Attorney General has broad authority to enforce the CSPA, including suing for injunctive relief and civil penalties. Depending upon the nature of the violation, the court is permitted to impose a civil penalty of $5,000 up to $15,000 for each day of violation of a temporary restraining order, preliminary injunction, or permanent injunction and an additional amount of not more than $25,000 if the violation is an act or practice that was declared to be unfair, deceptive, or unconscionable. Pursuant to current law, the civil penalties are distributed as follows: three-fourths, or 75%, to the state's existing Consumer Protection Enforcement Fund (Fund 6310) and one-fourth, or 25%, to the treasury of the county where the Attorney General's action is brought. The timing and magnitude of this potential revenue stream is uncertain. Typically, the Attorney General will try to negotiate a settlement and take a matter to trial as a last resort.

Under the bill and the CSPA, a consumer has a private right of action and can sue the supplier to rescind the transaction or to recover the consumer's actual economic damages plus up to $5,000 in noneconomic damages. If the supplier's violation is an act or practice that has already been declared deceptive or unconscionable by the Attorney General or by a court, then the consumer may sue to rescind the transaction or recover three times the amount of the consumer's actual economic damages.

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

Overall, the number of additional Attorney General or consumer-initiated civil actions is expected to be relatively small in the context of a court's total caseload, with associated costs minimal at most. Any costs would be absorbed utilizing existing staff and appropriated resources.