

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6738
BILL NUMBER: SB 211

NOTE PREPARED: Jan 29, 2015
BILL AMENDED: Jan 26, 2015

SUBJECT: Debt Collection.

FIRST AUTHOR: Sen. Miller Patricia
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill amends the statute concerning deceptive consumer sales as follows:

- (1) Defines the term "debt buyer".
- (2) Specifies that a debt buyer is a debt collector for purposes of the statute.
- (3) Requires a debt collector to make certain disclosures to an Indiana debtor.
- (4) Provides that the failure to make the required disclosures constitutes a deceptive act under the statute.
- (5) Specifies that the Attorney General's authority to recover a civil penalty not exceeding \$1,000 for knowing violations of the provisions concerning debt collection practices applies to each violation of the provisions per consumer, subject to a cap of \$25,000 in total civil penalties that may be imposed for each violation.

Effective Date: July 1, 2015.

Explanation of State Expenditures: *Office of Attorney General (AG):* This bill may result in additional actions brought by the AG. The bill's requirements should be able to be implemented by the AG with no additional appropriations.

Explanation of State Revenues: (Revised) *Civil Actions and Court Fee Revenue:* The bill establishes that the term debt collector includes debt buyer and requires debt collectors to make certain disclosures. The failure to make such disclosures constitutes a deceptive act. As a result, there may be more civil actions, where the total amount of civil penalties imposed for each violation may not exceed \$25,000. The actual number of civil actions that may result due to the bill, and therefore, the amount of court fee revenue to the General Fund is indeterminable. The Attorney General is not required to pay a civil filing fee. However, if

the Attorney General prevails in a lawsuit, the defendant in the case is required to pay all court fees.

Revenue to the state General Fund may increase as a result of any additional civil actions and accompanying court fees. When a civil case is filed, a civil costs fee of \$100 would be assessed, 70% (55%) of which would be deposited in the state General Fund if the case is filed in a court of record (if the case is filed in a city or town court).

Additionally, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5) and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use in assistance with pro bono legal services programs in Indiana. Proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund. Additional fees may be collected at the discretion of the judge.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Civil Actions and Court Fee Revenue:* If any additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge. Persons filing a civil case are also required to pay document storage fees (\$2), document fees (\$1 per document) and service fees (\$10) that are deposited in local funds.

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts.

Information Sources:

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