

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7065
BILL NUMBER: SB 382

NOTE PREPARED: Feb 18, 2013
BILL AMENDED: Feb 18, 2013

SUBJECT: Senior Consumer Protection Act.

FIRST AUTHOR: Sen. Lanane
FIRST SPONSOR:

BILL STATUS: 2nd Reading - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill creates the Senior Consumer Protection Act. The Senior Consumer Protection Act is intended to protect senior consumers from financial exploitation. The bill defines a senior consumer as a person at least 60 years old. The bill also updates the definition of a senior consumer for the purposes of enforcing deceptive consumer sales. The bill refers actions regulated by the Indiana Department of Insurance (IDOI) to the Insurance Commissioner.

Effective Date: July 1, 2013.

Explanation of State Expenditures: *Attorney General (AG)* :The bill's requirements are within the agency's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

(Revised) *Indiana Department of Insurance (IDOI)*: The bill states that all instances involving insurance coverage or insurance products will be referred to the IDOI. If the person who committed the act is not subject to regulation by the IDOI, the IDOI will refer the senior consumer to the AG. The IDOI's current level of staff and resources should be sufficient to implement the provisions within the bill.

Explanation of State Revenues: This bill specifies the actions the AG may bring against a person who financially exploits a senior. The court may freeze the person's assets, issue an injunction, and order the payment of investigation and prosecution costs. For knowing violations, the court may increase restitution up to three times the amount of damages or the value of the property. The court may issue a civil penalty of up to \$5,000 per violation. However, if the violation was committed by a person in a position of trust, the court

may issue a civil penalty of up to \$10,000 per violation. A civil penalty of up to \$15,000 per violation may be sought if the person violates the terms of an injunction. Potentially, any additional revenue deposited to the state General Fund through the civil penalties would be minimal.

[Under current law, a deceptive act is punishable with a civil penalty of \$500 per violation or, if the deceptive act was knowingly committed, \$5,000 per violation.]

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, 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 to assist with pro bono legal services programs in Indiana. And 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 and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If 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, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

State Agencies Affected: Attorney General; Indiana Department of Insurance.

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

Information Sources:

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