

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

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 7065

BILL NUMBER: SB 382

NOTE PREPARED: Mar 28, 2013

BILL AMENDED: Mar 26, 2013

SUBJECT: Senior Consumer Protection Act.

FIRST AUTHOR: Sen. Lanane

FIRST SPONSOR: Rep. Neese

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill creates the Senior Consumer Protection Act and makes conforming changes. It refers actions regulated by the: (1) Indiana Department of Insurance (IDOI) to the Insurance Commissioner; and (2) Indiana Uniform Securities Act to the Secretary of State (SOS).

The bill also urges the Legislative Council to study the topic of a supplier discriminating against consumers based on the price of promotion of goods to retailers by refusing to sell to a retailer a good at the same price that the supplier sells the good to any other retailer.

Effective Date: (Amended) Upon Passage; 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.

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.

(Revised) *Secretary of State (SOS)*: The bill states that all instances related to the Indiana Uniform Securities Act will be referred to the SOS. If the person who committed the act is not subject to regulation by the SOS, the SOS will refer the senior consumer to the AG. Their current level of staff and resources should be sufficient

to implement the provisions within the bill.

(Revised) *Legislative Council*: If the committee were to hold additional meetings to address the topic within the bill, there would be additional expenditures for legislator per diem and travel reimbursement for the committee members. Any additional expenditures must be within the committee's budget, which is established by the Legislative Council.

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 a 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; Secretary of State; Legislative Council.

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

Information Sources:

Fiscal Analyst: Heath Holloway, 232-9867.