

BILL ANALYSIS

C.S.S.B. 2279
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under the Business & Commerce Code, there exist a number of provisions under which the attorney general is authorized to seek civil penalties against persons or organizations for fraudulent and abusive business practices or for engaging in business practices that are specifically prohibited. In most cases, the lawsuit results in settlements with requirements that the attorney general be reimbursed for investigative and other fees. When individual victims are identified, the settlements generally provide for restitution of affected customers. The remaining civil penalty, if any, is directed into the state treasury and may be used in subsequent years for appropriations.

C.S.S.B. 2279 amends current law relating to the dedication of certain civil penalties for violations of the Deceptive Trade Practices–Consumer Protection Act to provide civil legal services to the indigent.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 402.007, Government Code, as follows:

Sec. 402.007. New heading: PAYMENT TO TREASURY; ALLOCATION OF CERTAIN PENALTIES. (a) Creates this subsection from existing text.

(b) Requires the comptroller of public accounts to credit to the judicial fund for programs approved by the supreme court that provide basic civil legal services to the indigent the net amount of a civil penalty that is recovered in an action by the attorney general in any matter actionable under Subchapter E (Deceptive Trade Practices and Consumer Protection), Chapter 17 (Deceptive Trade Practices), Business & Commerce Code, after deducting amounts allocated to or retained by the attorney general as authorized by law, unless another law requires that the penalty be credited to a different fund or account or the judgment awarding the penalty requires that the penalty be paid to another named recipient.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.

EFFECTIVE DATE

Upon passage or September 1, 2009.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The Substitute differs from the original in that it puts a cap on the amount of monies which will be credited to the judicial fund at \$10 million per biennium.

The substitute is a legislative council version of the originally filed bill. The bill as substituted has been reworded and formatted by the Legislative Council, its substance and intent are the unchanged.