



SF 417 – Real Estate Service Agreements, Enforceability and Recording (LSB1944SV)
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Fiscal Note Version – New

Description

Senate File 417 relates to unfair residential real estate service agreements. Provisions in the Bill include:

- Defining a service agreement as unfair if a service covered by the agreement is not required to be completely performed within one year of the start of the agreement.
- Establishing that entering into an unfair service agreement with a consumer is an unlawful practice, which may carry a civil penalty not to exceed \$40,000 per violation.
- Prohibiting a person from recording or causing to be recorded an unfair agreement or a notice or memorandum of an unfair agreement. The Bill creates an aggravated misdemeanor, which is punishable by no more than two years in jail and a fine of at least \$855 but not more than \$8,540.
- Allowing a county recorder to refuse to record an unfair agreement.
- Allowing any person with an interest in the real estate that is the subject of a recorded unfair agreement to apply to a district court for an order declaring the agreement unenforceable.

Background

An aggravated misdemeanor is punishable by a fine of at least \$855 but not more than \$8,540 and up to two years in prison. Iowa Code section [714.16](#), referred to in Section 2 of the Bill, details consumer frauds and lists various unlawful practices defined in connection with the lease, sale, or advertisement of any merchandise, whether or not a person was misled, deceived, or damaged.

Assumptions

- The following will not change over the projection period: charge, conviction, and sentencing patterns and trends, prisoner length of stay (LOS), revocation rates, plea bargaining, and other criminal justice system policies and practices.
- A lag effect of six months is assumed from the effective date of this Bill to the date of first entry of affected offenders into the correctional system.
- Marginal costs for county jails cannot be estimated due to a lack of data. For purposes of this analysis, the marginal cost for county jails is assumed to be \$50 per day.

Correctional Impact

Senate File 417 establishes a new criminal offense, and the correctional impact cannot be estimated for this Bill due to the lack of existing conviction data. **Table 1** shows estimates for sentencing to State prison, parole, probation, or Community-Based Corrections (CBC) residential facilities; LOS under those supervisions, and supervision marginal costs per day for all convictions of aggravated misdemeanors for nonviolent offenses. Refer to the Legislative Services Agency (LSA) memo addressed to the General Assembly, [Cost Estimates Used for Correctional Impact Statements](#), dated January 20, 2023, for information related to the correctional system.

Table 1 — Sentencing Estimates and LOS

Conviction Offense Class	Percent Ordered to State Prison	FY 22 Avg LOS In Prison In Months (All Releases)	FY 22 Marginal Cost Per Day Prison	Percent Ordered to Probation	FY 22 Avg LOS on Probation In Months	FY 22 Avg Cost Per Day Probation	Percent Sentenced to CBC Residential Facility	FY 22 Marginal Cost Per Day CBC	Percent Ordered to County Jail	Avg Length of Stay in County Jail	Marginal Cost Per Day Jail	FY 22 Avg LOS on Parole In Months	FY 22 Marginal Cost Per Day Parole
Aggravated Misdemeanor (Non-Violent Offense)	31.4%	7.5	\$23.42	45.6%	20.7	\$7.27	3.3%	\$20.67	72.2%	N/A	\$50.00	8.2	\$7.27

Minority Impact

Senate File 417 establishes a new offense. As a result, the Criminal and Juvenile Justice Planning Division (CJJP) of the Department of Human Rights cannot use prior existing data to estimate the minority impact of SF 417. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Statement](#), dated January 20, 2023, for information related to minorities in the criminal justice system.

Fiscal Impact

Senate File 417 establishes a new offense, and the fiscal impact cannot be estimated due to the lack of existing conviction data. The average State cost per offense for an aggravated misdemeanor ranges from \$5,000 to \$9,600. The estimated impact to the State General Fund includes operating costs incurred by the Judicial Branch, the Indigent Defense Fund, and the Department of Corrections. The cost would be incurred across multiple fiscal years for prison and parole supervision. Additional revenue due to the civil penalty established in the Bill cannot be estimated.

Sources

Criminal and Juvenile Justice Planning Division, Department of Human Rights
 Department of Corrections
 Legislative Services Agency

/s/ Jennifer Acton

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
