The Assault on Consumer Rights

Linda Cook
Ohio Poverty Law Center
lcook@ohiopovertylaw.org
The Current State of Consumer Protection in Ohio

• Consumer Sales Practices Act
  – Prohibits unfair, deceptive or unconscionable acts and practices by suppliers
  – Consumers can recover three times actual damages or $200 for each violation
  – Consumers can recover attorney fees and costs
  – Consumers can act as private attorneys general
Effective Consumer Protection Requires Effective Remedies

• 40 years ago, CSPA was adopted because:
  – Provides safeguards for legitimate businesses
  – Prohibits deceptive practices in a manner neither too general or too restrictive
  – Gives consumers a means to recover losses even if amount is small
  – Provides adequate enforcement tools
Current Legislation Cuts Off Consumer Protection

• HB 275 allows suppliers to stop a law suit after filing by making a cure offer

• HB 383 exempts residential construction contracts from the CSPA
What Does HB 275 Propose?

- After filing, suppliers have 30 days to make a cure offer
- Offer must be cash plus attorney fees
- Attorney fees are capped at $2,500
- Consumer has 30 days to accept or reject
- If consumer rejects, goes to trial and does not recover more than the offer in actual damages, then:
  - No treble damages
  - Fees are cut off as of offer date
  - Costs are cut off as of offer date
What Will Happen if HB 275 Becomes Law?

- Lowers the cost of bad business by removing disincentives
- Decreases consumer access to legal representation
- Increases complaints to Ohio Attorney General
- Increases pro se filings in courts
- Ohio will win the race to the bottom for the least effective consumer protections

Using the Law To Fight Poverty in Ohio
What Does HB 383 Propose?

• As amended, exempts transactions involving home construction services contracts from CSPA
  – Home construction service means construction of a residential building
  – Puts a floor of $25,000 on exempt contracts
• Gives AG enforcement authority
What Will Happen if HB 383 Becomes Law?

- Creates an alternative structure governing residential construction
- No treble damages against home builders
- Non-economic damages limited to $5,000
- No public inspection file
- Attorney fees possible if violation “knowing”
- Defines workmanlike manner by referring to local building standards established by trade group
What Can We Do?

• Call your senators about HB 275 and HB 383
  – HB 275 passed the House and is in the Senate Insurance Commerce & Labor committee
    • Opponent testimony scheduled for March 13 (unless something changes)
  – HB 383 passed the House Feb. 15
    • Senate committee assignment ???