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ACLU OF RI POSITION: OPPOSE

TESTIMONY IN OPPOSITION TO 2024-H 7830, AN ACT RELATING TO DEPARTMENT OF ATTORNEY GENERAL April 4, 2024

The ACLU of RI is opposed to this bill which would substantially expand the authorities of the Department of Attorney General. The proposed legislation would provide sweeping authority for the Attorney General to conduct civil investigations and bring court action to enjoin any “repeated fraudulent or illegal acts” or “persistent fraud or illegality in the carrying on, conducting or transaction of business of governmental activity.”

The proposed legislation incorporates procedures of the current Deceptive Trade Practices Act, both in concept and in the availability of civil investigative demands. But the scope of the new authority being provided is unclear and appears almost limitless. The acts proposed to be subject to Attorney General investigation and enforcement are simply described as “in the carrying on, conducting or transaction of business or governmental activity.”

The Deceptive Trade Practices Act, RIGL 6-13.1-2, already covers “unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce” and allows the Attorney General to sue to enjoin such practices and to conduct civil investigations.

This bill, in contrast, appears to expand “deceptive practices or representations” to cover any business—not just in dealings with the consumer—and any governmental activity. Since none of these terms are defined or limited in scope, no limit can be assumed. Thus, as currently written, it would authorize the Attorney General to investigate and seek to enjoin any business-to-business

dealings, and leaves completely undefined the scope or object of “governmental activity.” Is the focus on fraudulent transactions *by* the government towards members of the public? Or does it also, or only, focus upon fraudulent transactions by individuals and businesses in dealing with the government? In either circumstance, it appears unnecessary. There are already a host of civil and criminal provisions applicable to individuals and businesses against engaging in fraudulent transactions with the government. If, in contrast, the Attorney General is looking for additional authority to prevent fraudulent transactions *by* state or local government agencies, then a much clearer authorization should be sought.

In sum, as written, the proposed legislation would provide unlimited authority to the Attorney General to conduct civil investigations in virtually every corner of public or private life. The ACLU of Rhode Island opposes its passage as written. It should be rejected or else revised to make clear precisely against whom the proposed legislative expansion is directed so that a more informed determination can be made as to its scope, need and value.

Submitted by:
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