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 7174
BILL NUMBER: HB 1655

NOTE PREPARED: Apr 9, 2003
BILL AMENDED: Apr 9, 2003

SUBJECT: Financial institutions.

FIRST AUTHOR: Rep. Bardon
FIRST SPONSOR: Sen. Clark

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill restricts certain lending acts and practices. The bill establishes the Mortgage Fraud Unit (Unit) under the Attorney General (AG). The bill increases the bond requirements and certain fees for loan brokers. The bill provides that the securities commissioner may issue certain remedial orders against loan brokers. The bill allocates fee revenue to the Housing Finance Authority (Authority) and the Unit for education and enforcement activities. The bill appropriates seventy-five thousand dollars to conduct a study of mortgage foreclosure rates in Indiana. The bill provides limits on assignee liability.

Effective Date: (Amended) July 1, 2003.

Explanation of State Expenditures: (Revised) ***Securities Commissioner***- The bill allows the Securities Commissioner to investigate and conduct hearings concerning violations of the bill. If more investigations are conducted as a result of the bill, additional administrative time could be required to comply with the bill. If the Commissioner were able to coordinate investigations with the Mortgage Fraud Unit established by the bill, costs generated by investigations could be shared and/or reduced.

Foreclosure Study- The bill requires the Legislative Services Agency (LSA) to contract with the Kelly School of Business at Indiana University to conduct a study on the causes of the high rate of foreclosure in Indiana during 2001 and 2002. The expenditure required for the study would be funded from an allocation of $75,000 in revenue generated from the increased fees provided under the bill. (See *Explanation of State Revenues*.) The study results must be reported in writing to the LSA not later than December 31, 2004. The LSA would be required to distribute the report to the Legislative Council, The Department of Financial Institutions, and the Attorney General. *The bill does not state an expiration date for this provision.*

Mortgage Fraud Unit - This bill establishes the Mortgage Fraud Unit (the Unit), which is to be administered by the Attorney General (AG). The Unit would be required to cooperate and the AG would be allowed to file complaints with, the Professional Licensing Agency, Department of Financial Institutions, Department of Insurance, Securities Division of the Secretary of State, and the Supreme Court Disciplinary Commission in order to implement the Unit's responsibilities. The Unit would also be required to cooperate with these agencies in order to implement and maintain an education program which, is intended to inform mortgage loan consumers of lending fraud.

The Unit may require two additional Deputy Counsels (PAT 1) and one additional law clerk (PAT VI). The estimated direct and indirect cost of these three positions is $136,310 in FY 2004 and $136,150 in FY 2005. The bill provides for the Unit to be funded with various fee revenues (see Explanation of State Revenues). The funds and resources required could also be supplied through a variety of other sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Office of the Attorney General has 278 authorized full-time positions. As of January 6, 2003, there were 58 full-time positions vacant. The Office of the Attorney General reverted just under $4,000 from its operating account at the end of FY 2002. Ultimately, the source of funds and resources required to satisfy the requirements of this bill would depend upon legislative and administrative actions.

Explanation of State Revenues: (Revised) ***Mortgage Fraud Unit -*** The bill raises a county recorder's fee for recording a mortgage by $3, of which the recorder would retain $0.50 and distribute to the recorder's records perpetuation fund. The remaining $2.50 would be remitted to the State Auditor's Office for distribution as specified below.

According to the Department of Local Government Finance, approximately 200,000 parcels of land are sold or conveyed each year. Assuming that a majority of these filings, or 90%, have a mortgage associated with the parcels, the county recorder fee increase would generate approximately $90,000 for the recorder. The remaining $450,000 (180,000 assumed mortgages * $2.50) would be distributed as follows. Fifty percent of revenue generated by the above fee increases would be appropriated to the Indiana Housing Finance Authority (the Authority) for the purpose of identifying, promoting, and funding financial literacy training and programs. The remaining fifty percent would appropriated to the Unit to carry out the responsibilities under the bill.

If only half of the filings, or 100,000, have a mortgage associated with the parcels, the fee increase would generate $50,000 for the recorder. The remaining $250,000 would be divided in the following manner. The first $75,000 would annually go to the Legislative Services Agency (LSA) to contract for the foreclosure study. The remaining **$175,000** ($250,000 - $75,000 = $175,000) would be distributed 50% between the Unit and the Authority at **$87,500** per fiscal year ($175,000 X 0.5 = $87,500) to carry out their duties under the bill. The bill states that the LSA must first receive the $75,000 for the study before any further fee revenue is allocated to the Unit and the Department of Education.

Civil Penalties- The bill establishes civil penalties not exceeding $2,000 per offense that may be imposed by the court for certain violations specified in the bill. Violation of an injunction issued under the bill would require payment of a civil penalty not to exceed $15,000 per violation. Court and investigative costs incurred by the state may also be recouped.

Background: Revenue from loan broker regulation is currently deposited into the Loan Broker Regulation

Account (LBRA). In FY 2002, the LBRA received $55,000 in revenue from loan broker licensing fees.

Explanation of Local Expenditures:

Explanation of Local Revenues: (Revised) *Summary: **Mortgage Fraud Unit*** **-** County recorders' revenues will increase by $0.50 per mortgage filing (see Explanation of State Revenues). The revenue would be deposited in the recorder's records perpetuation fund.

State Agencies Affected: Office of the Attorney General; Professional Licensing Agency and appropriate licensing boards; Department of Financial Institutions; Department of Insurance; Office of the Secretary of State, Securities Division; Indiana Supreme Court; Legislative Council; Legislative Services Agency; Department of Education; Auditor of State.

Local Agencies Affected: County recorders, trial courts, local law enforcement agencies.

Information Sources: Department of Financial Institutions website: www.in.gov/dfi/members/minutes; State Budget Agency website: www.in.gov/sba; *HRM Detail Staffing Report Position and Employee Totals 01/06/2003*.

Fiscal Analyst: Chris Baker 232-9851