

**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 6683

BILL NUMBER: HB 1071

NOTE PREPARED: Apr 30, 2009

BILL AMENDED: Apr 29, 2009

SUBJECT: Homeowners Associations and Model Home Taxation.

FIRST AUTHOR: Rep. Cheatham

FIRST SPONSOR: Sen. Boots

BILL STATUS: Enrolled

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Model Home Deduction-* The bill applies the model home property tax assessed value deduction to 2008 assessments of model homes.

Homeowner Associations- The bill applies the following provisions to a homeowners association established after June 30, 2009, and allows an association established before July 1, 2009, to elect to be governed by the provisions:

- (1) Requires an association to maintain a current roster of all members of the association (members).
- (2) Requires the board of directors of the association to hold a special meeting of the members if at least 10% of the members submit a written demand to the board to hold the meeting.
- (3) Requires an association to prepare an annual budget that must be approved by the members or by the board under certain circumstances.
- (4) Prohibits a board from entering into certain contracts without the approval of the affected members.
- (5) Prohibits an association from borrowing certain amounts of money on behalf of the association unless borrowing the money is approved by the affirmative vote of a majority of the members.
- (6) Provides that the governing documents of an association must include grievance resolution procedures.
- (7) Prohibits an association from suspending the voting rights of a member for nonpayment of annual assessments unless the assessments are delinquent for more than six months.

Complaint Filings- The bill provides also that an association may enforce an association lien by filing a complaint in the circuit or superior court of the county where the real estate that is the subject of the lien is located if the complaint is not filed: (1) earlier than one year; and (2) later than five years; after the date the statement and notice of intention to hold a lien was recorded. The bill provides that an association lien is void

if: (1) the owner of the real estate subject to the lien or any person or corporation having an interest in the real estate, including a mortgagee or a lienholder, provides written notice to the owner or holder of the lien to file an action to foreclose the lien; and (2) the owner or holder of the lien fails to file an action to foreclose the lien in the county where the real estate is located within one year after the date the owner or holder of the lien received notice of the lien.

Effective Date: Upon passage; July 1, 2009.

Explanation of State Expenditures:

Explanation of State Revenues: *Complaint Filings-* If additional complaints are filed and court fees are collected, revenue to the state General Fund may increase.

Court Fee Revenue: A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Complaint Filings-* Local small claims courts' workloads would increase if more homeowners associations file complaints. If, however, a homeowners association fails to collect the unpaid common expenses from bringing a civil action above, they would have to wait a year before filing a complaint to enforce a homeowners association lien for the expenses.

Explanation of Local Revenues: *Model Home Deduction:* Under current law, new homes that are complete but unoccupied on the assessment date are assessed as any other home. The assessments for homes that are partially complete on the assessment date are prorated. The owner of a model home that is first assessed in 2009 or later may receive a 50% AV deduction for up to three years. Each owner is limited to three model home deductions, statewide. The deduction will first be available for taxes payable in 2010.

Under this bill, the model home deduction would apply to models first assessed in 2008 for taxes payable in 2009. The removal of existing AV from the tax base would result in an increased tax rate. The higher tax rate would shift part of the property tax burden from the model homes first assessed in 2008 to all other property, and it would also result in an increase in circuit breaker credits in areas where the circuit breaker has been triggered.

If a model home owner has paid the tax bill in 2009, then the owner would be entitled to a refund of the tax associated with the deduction. Property tax refunds reduce current tax collections for local civil taxing units and school corporations.

Complaint Filings- If additional complaints are filed, local governments would receive revenue from the following sources.

Court Fee Revenue: The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be

deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

State Agencies Affected:

Local Agencies Affected: Trial courts (small claims); civil taxing units and school corporations.

Information Sources:

Fiscal Analyst: Chris Baker, 317-232-9851; Bob Sigalow, 317-232-9859.