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 6423 | **NOTE PREPARED:** Jan 21, 2010
BILL NUMBER: HB 1336 | **BILL AMENDED:**

SUBJECT: State Investment in Aggressive Lenders.

FIRST AUTHOR: Rep. Bardon | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: GENERAL
X DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill defines an "aggressive lender" as a financial institution that engages in a practice of making consumer loans in Indiana at rates of interest that exceed the maximum finance charge allowed for supervised loans under the Uniform Consumer Credit Code. It requires the Department of Financial Institutions to determine whether a financial institution is an aggressive lender.

The bill provides that a financial institution determined to be an aggressive lender is ineligible to serve as a depository for public funds. It also provides that the Public Employees' Retirement Fund (PERF) and the Teachers' Retirement Fund (TRF) must divest themselves of investments in financial institutions determined to be aggressive lenders.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Department of Financial Institutions (DFI)*: This bill would increase administrative expenditures for the DFI by requiring the DFI to schedule hearings to determine if a lender is an "aggressive lender" and to publish a quarterly notice in the *Indiana Register*. The bill's requirements represent an additional workload on the agency outside of the agency's routine administrative functions. The DFI reports that existing staffing and resource levels are being used to capacity. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

The bill describes an aggressive lender as a lender making consumer loans in Indiana that provide for a loan finance charge that exceeds the limits on loan finance charges for supervised loans specified in IC 24-4.5-3-508 as adjusted in accordance with IC 24-4.5-1-106. Under current statute, lenders based in Indiana may not, except for payday lenders exceed the cap included in IC 24-4.5-3-508.

(Revised) *PERF and TRF Divestiture:* Both TRF and PERF have estimated their costs for this proposal. TRF has estimated their cost of divestiture at $125,000 in the first year and costs ranging from $88,000 to $125,000 in future years. PERF has estimated first year costs to range between $200,000 and $1.5 M, depending upon the number of securities end up on the restricted list. The costs include outside service providers, staff time, and trading costs.

State Treasurer's Office: The cost of divestiture will depend upon the number of deposits that are withdrawn from financial institutions that are determined to be aggressive lenders.

Background Information on DFI Funding- The DFI is funded by bank examination fees placed into dedicated funds. The DFI received an appropriation of $8.5 M for FY 2010. The DFI generated approximately $8.3 M in total revenue during FY 2009. Revenue is placed into the Department of Financial Institutions Fund.

Explanation of State Revenues: This bill could affect fund revenues to the extent that PERF and TRF sell investments in financial institutions that have been determined to be aggressive lenders at a different price than they would have sold them otherwise. Fund revenues could also be affected if PERF or TRF reinvest the money removed from aggressive lenders and the new investments bring in more or less revenue than was yielded by the original investment. The amount of this possible effect is indeterminable.

State Treasurer's Office: Financial institutions which are deemed to be aggressive lenders would become ineligible to receive public funds. The institutions would be removed from the Approved Depository List. This list contains approximately 200 financial institutions. The State Treasurer would no longer be able to deposit public funds with these institutions, which could affect fund revenues to the extent that the State Treasurer's office makes deposits in financial institutions that have been determined to be aggressive lenders at a different return than they would received otherwise. The amount of this possible effect is indeterminable.

Explanation of Local Expenditures:

Explanation of Local Revenues: Local units which use the Approved Depository List also would no longer be able to use depositories which are not approved to receive public funds. This bill could affect fund revenues to the extent that the local unit deposits funds in financial institutions that bring in more or less revenue than was received from the original financial institution. The amount of this possible effect is indeterminable.

State Agencies Affected: DFI; PERF; TRF.

Local Agencies Affected: Local units with investment responsibilities.

Information Sources: John Schroeder, DFI, 317-232-5836;*State of Indiana List of Appropriations Made by the 2009 Indiana General Assembly for the Biennium July 1, 2009, to June 30, 2011;* Gina Williams, DFI, 317-232-5841.

Fiscal Analyst: James Sperlik, 317-232-9866