COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Commerce, Economic Development and Technology, to which was referred House Bill No. 1084, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-6-12-3, AS AMENDED BY P.L.230-2007,
4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2013]: Sec. 3. (a) Beginning July 1, 2005, the unit shall do the
6 following:
7 (1) Investigate deceptive acts in connection with mortgage
8 lending.
9 (2) Investigate violations of IC 24-9.
10 (3) Institute appropriate administrative and civil actions to
11 redress:
12 (A) deceptive acts in connection with mortgage lending; and
13 (B) violations of IC 24-5-0.5 and IC 24-9.
14 (4) Cooperate with federal, state, and local law enforcement
15 agencies in the investigation of the following:
16 (A) Deceptive acts in connection with mortgage lending.
17 (B) Criminal violations involving deceptive acts in connection
18 with mortgage lending.
19 (C) Violations of IC 24-5-0.5 and IC 24-9.
20 (D) Violations of:
21 (i) the federal Truth in Lending Act (15 U.S.C. 1601 et

seq.);

(ii) the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.); and

(iii) any other federal laws or regulations concerning mortgage lending.

To the extent authorized by federal law, the unit may enforce compliance with the federal statutes or regulations described in this clause or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(5) Enforce violations of IC 32-25.5-3 by homeowners associations.

(b) The attorney general shall adopt rules under IC 4-22-2 to the extent necessary to organize the unit.".

Page 4, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 8. IC 32-25.5-1-1, AS AMENDED BY P.L.49-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. (a) This article applies to the following:

(1) A homeowners association established after June 30, 2009.

(2) A homeowners association established before July 1, 2009:

(A) if a majority of the members of the homeowners association elect to be governed by this article; or

(B) if the number of members required by the homeowners association's governing documents elect to be governed by this article if a different number of members other than the number established in clause (A) is required by the governing documents.

(b) IC 32-25.5-3-8 applies to all homeowners associations.

(c) IC 32-25.5-3-3(g) through IC 32-25.5-3-3(m) apply to all homeowners associations.

SECTION 9. IC 32-25.5-3-3, AS ADDED BY P.L.167-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 3. (a) A homeowners association shall prepare an annual budget.

(b) The annual budget must reflect:

(1) the estimated revenues and expenses for the budget year; and

(2) the estimated surplus or deficit as of the end of the current budget year.

(c) The homeowners association shall provide each member of the homeowners association with:

(1) a:

(A) copy of the proposed annual budget; or

(B) written notice that a copy of the proposed annual budget is available upon request at no charge to the member; and

(2) a written notice of the amount of any increase or decrease in a regular annual assessment paid by the members that would occur if the proposed annual budget is approved;

before the homeowners association meeting held under subsection (d).

(d) Subject to subsection (f), a homeowners association budget must be approved at a meeting of the homeowners association members by a majority of the members of the homeowners association in attendance at a meeting called and conducted in accordance with the requirements of the homeowners association's governing documents.

(e) For purposes of this section, a member of a homeowners association is considered to be in attendance at a meeting if the member attends:

(1) in person;

(2) by proxy; or

(3) by any other means allowed under:

(A) state law; or

(B) the governing documents of the homeowners association.

(f) If the number of members of the homeowners association in attendance at a meeting held under subsection (d) does not constitute a quorum as defined in the governing documents of the homeowners association, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred percent (100%) of the amount of the last approved homeowners association annual budget. However, the board may adopt an annual budget for the homeowners association for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget if the governing documents of the homeowners association allow the board to adopt an annual budget under this subsection for the ensuing year in an amount that does not exceed one hundred ten percent (110%) of the amount of the last approved homeowners association annual budget.

(g) Subject to subsection (k), the financial records, including all contracts, invoices, bills, receipts, and bank records, of a homeowners association must be available for inspection by each member of the homeowners association upon written request. A written request for inspection must identify with reasonable particularity the information being requested. A member's ability to inspect records under this section shall not be unreasonably denied or conditioned upon provision of an appropriate purpose

for the request.

(h) If there is a dispute between a homeowner and a homeowners association, the officers of the homeowners association must make all communications concerning the dispute available to the homeowner.

(i) A homeowners association must make all communications and information concerning a lot available to the owner of the lot or a home on the lot.

(j) Notwithstanding subsections (h) and (i), a homeowners association is not required to make:

(1) communications between the homeowners association and the legal counsel of the homeowners association; and

(2) other communications or attorney work product prepared in anticipation of litigation;

available to the owner of a lot or home.

(k) A homeowners association is not required to make available to a member for inspection:

(1) unexecuted contracts;

(2) records regarding contract negotiations;

(3) information regarding an individual member's association account to a person who is not a named party on the account;

(4) any other information that is prohibited from release under state or federal law; or

(5) any records that were created more than two (2) years before the request.

(l) Nothing in this chapter:

(1) abrogates or eliminates provisions in homeowners association agreements that permit or require additional disclosure or inspection rights not required by this chapter; or

(2) prevents a homeowners association from agreeing to make disclosures or to provide inspection rights not required by this chapter.

(m) A homeowners association may not charge a fee for the first hour required to search for a record in response to a written request submitted under this chapter. A homeowners association may charge a search fee for any time in excess of one (1) hour. The following provisions apply if a homeowners association charges a search fee:

(1) The homeowners association shall charge an hourly fee that does not exceed the lesser of:

(A) the hourly rate of the person making the search; or

(B) thirty-five dollars ($35) per hour.

(2) The homeowners association may charge the fee only for time that the person making the search actually spends in searching for the record.

(3) The homeowners association shall prorate the fee to reflect any search time of less than one (1) hour.

SECTION 10. [EFFECTIVE JULY 1, 2013] **(a) As used in this SECTION, "study committee" means either of the following:**

(1) A statutory committee established under IC 2-5.

(2) An interim study committee established by the legislative council.

(b) The legislative council is urged to assign to a study committee during the 2013 legislative interim the topic of homeowners associations, including mediation or arbitration of disputes involving homeowners associations and members of homeowners associations.

(c) If the topic described in subsection (b) is assigned to a study committee, the study committee shall, not later than November 1, 2013, issue a final report to the legislative council in an electronic format under IC 5-14-6. The final report must contain the study committee's findings and recommendations (including any recommended legislation concerning the topic).

(d) This SECTION expires December 31, 2013.".

Delete pages 5 through 6.

Renumber all SECTIONS consecutively.

(Reference is to HB 1084 as reprinted January 29, 2013.)

and when so amended that said bill do pass .

Committee Vote: Yeas 7, Nays 0.

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Senator Buck, Chairperson