

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6923**

**BILL NUMBER: SB 551**

**NOTE PREPARED:** Jan 19, 2009

**BILL AMENDED:**

**SUBJECT:** Mortgage and Real Estate Matters.

**FIRST AUTHOR:** Sen. Lawson C

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that certain notice of foreclosure requirements apply to all mortgagees. The bill requires a foreclosure consultant to retain certain records for a specific time. The bill allows certain licensing boards to require practitioners to pay real estate appraisal costs in certain administrative actions. The bill prohibits certain professional licensing boards from accepting the surrender of a practitioner's license if the Attorney General (AG) has filed a complaint against the practitioner and opposes the surrender.

The bill provides that a broker or salesperson licensee who violates the credit services organizations or mortgage rescue protection fraud provisions is subject to certain disciplinary actions. The bill prohibits a person from: (1) engaging in real estate transactions or consumer credit mortgage transactions without a permit or license; or (2) misrepresenting certain terms and characteristics of real estate transactions and consumer credit mortgages; and subjects a person who violates any of these prohibitions to certain penalties under the home loan practices law. The bill removes language prohibiting a person from engaging in a deceptive act in connection with certain loans.

**Effective Date:** July 1, 2009.

**Explanation of State Expenditures:** *Attorney General-* The AG may have an increased workload if more complaints and investigations occur as a result of the bill. The bill does not make an appropriation, therefore, the AG would have to carry out further investigations within their existing level of resources.

**Background Information-** The AG reverted \$173,490 at the close of FY 2008.

**Explanation of State Revenues:** *Civil Penalties-* A foreclosure consultant that fails to retain records as required by the bill could be subject to civil penalties for fraudulent acts if brought by the AG to a court of record.

*Penalty Provision:* A person can be charged with a crime for violating either the Home Loan Practices Act (A misdemeanor) or real estate brokers and salespersons law (A infraction). In the case of the misdemeanor, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum judgment for a Class A infraction is \$10,000, which would be deposited in the state General Fund. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Courts-* If more cases are brought by the AG as result of this bill, trial courts would experience an increase in workload.

*Penalty Provision:* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Attorney General, professional licensing boards.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** Indiana State Budget Agency: *General and Rainy Day Fund Summaries, June 30, 2008.*

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