

**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 6801**

**BILL NUMBER:** HB 1216

**NOTE PREPARED:** Jan 1, 2010

**BILL AMENDED:**

**SUBJECT:** Loan Broker and Securities Matters.

**FIRST AUTHOR:** Rep. Burton

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill expands the definition of "loan broker", for purposes of the law governing loan brokers, to include a person who assists in modifying an existing residential mortgage loan. It allows the Securities Commissioner (Commissioner) to bring a court action to enjoin violations of, and enforce compliance with, the law governing loan brokers. It provides that the court in such an action may, among other actions, order an asset freeze or the appointment of a receiver or conservator to take control of a respondent's property.

The bill provides that the Commissioner shall require each applicant for initial registration as an investment adviser representative to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. It requires the applicant to pay any fees or costs associated with the fingerprints and background check. It allows the Commissioner to award up to 10% of the amount recovered by the Securities Division as a penalty for a violation of the Uniform Securities Act to any person who provided information leading to the imposition of the penalty.

**Effective Date:** July 1, 2010.

**Explanation of State Expenditures:** This bill may increase the workload of the Securities Commissioner under the Secretary of State to maintain actions in a circuit or superior court for a violation of IC 23-2-5. Increases in workload will depend on the number of businesses that have previously, are currently, or about to engage in an act, practice, or course of business that is in violation of IC 23-2-5. Court caseload for state circuit and superior courts will also increase to the extent the Securities Commission files actions against violating individuals and businesses.

This bill will also increase the workload of the Indiana State Police (ISP) to provide additional national

criminal history background checks to individuals applying as investment advisors.

**Explanation of State Revenues:** *National Criminal History Background Check:* State revenue would increase if there is an increase in national criminal history background checks performed by ISP. For every national criminal history background check requested, \$15 is forwarded to the General Fund. According to the Secretary of State, an average of 621 individuals annually applied to be investment advisors in the state between CY 2006 and CY 2009. It is assumed that by requiring investment advisor applicants to obtain a national criminal history background check, revenue to the General Fund will increase by approximately \$9,300 per year.

*Court Action from the Securities Commissioner:* This bill adds conditions under which an individual may not collect or solicit a consideration (except for a third-party fee) in connection with a residential mortgage loan if a person assists in modifying an existing residential mortgage loan. Current law only specifies an individual cannot collect or solicit a consideration for any loan (nonspecific) until the loan has been closed. This bill adds a condition under which an individual might be subject to court action.

This bill (1) specifies judicial remedies available to the court and (2) specifies actions the Securities Commissioner can take regarding loan brokers found in violation of the provisions under IC 23-2-5. A court may order a civil penalty of up to \$10,000 per violation. Revenue collected from this penalty is required to be deposited in the Securities Division Enforcement Account created by IC 23-19-6-1(f). The bill also allows the Commissioner to award up to 10% of any penalties collected from violations to any person who provides information leading to imposition of a penalty. This will increase revenue in the Securities Division Enforcement Account with additional penalties sans any reward amount provided to informants. Increases in revenue are indeterminable and depend on the action of the Commission and final verdict by the court.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Circuit and Superior Courts; Securities Commission under the Secretary of State; ISP.

**Local Agencies Affected:**

**Information Sources:** ISP; Jeff Bush, Secretary of State, 234-2741.

**Fiscal Analyst:** Bill Brumbach, 317-232-9559.