

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6968
BILL NUMBER: HB 1332

NOTE PREPARED: Jan 28, 2010
BILL AMENDED: Jan 28, 2010

SUBJECT: Credit Services and Real Estate Transactions.

FIRST AUTHOR: Rep. Bardon
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill has the following provisions:

- (1) amends the definition of "credit services organization" for purposes of the law governing such entities to include a person that does or offers to do any of the following on behalf of a buyer: (a) obtain a lower interest rate with respect to a consumer loan or a residential mortgage loan and (b) provide debt settlement services,
- (2) provides that a "credit service organization" does not include: (a) a loan servicer acting on behalf of the holder of a consumer loan or a residential mortgage loan; or (b) a debt management company,
- (3) amends the law concerning the disclosures that a credit services organization must provide to a buyer to reflect changes in the federal Fair Credit Reporting Act concerning the circumstances under which a consumer is entitled to a consumer report without charge from a consumer reporting agency,
- (4) provides that before a credit services organization may do business in Indiana, it must file a copy of the required surety bond or irrevocable letter of credit with the Attorney General,
- (5) prohibits a person from maintaining an escrow account used to pay real estate taxes and insurance for residential real estate unless the person is a specified financial institution,
- (6) provides an exemption from prohibition against maintaining an escrow account if the person is: (a) the creditor in a mortgage transaction; or (b) a mortgage servicer acting on behalf of the creditor in a mortgage transaction,
- (7) provides that in a real estate transaction involving a land contract between the seller and the buyer, the seller must give to the buyer, at certain specified times, written notice of any encumbrance that affects the title to the real estate,
- (8) provides that upon the suspension of a principal broker's license, the Real Estate Commission

(Commission) shall take custody of each trust account maintained by the principal broker on behalf of others (Current law requires the commission to take custody of a principal broker's trust accounts upon only the expiration or revocation of the broker's license.),

(9) removes an incorrect cross-reference in the statute concerning real estate brokers and salespersons,

(10) corrects an incorrect cross-reference in the home loan practices act,

(11) provides that a person that knowingly or intentionally violates the statute concerning mortgage rescue fraud commits a Class A misdemeanor, and

(12) allows a county recorder to refuse to record a deed if the recorder has reason to believe the deed is fraudulent or has been altered in a way that makes it unreliable or inaccurate.

Effective Date: July 1, 2010.

Explanation of State Expenditures: This bill increases the requirements of what a credit services organization must file with the Attorney General in order to do business in the state. The bill also adds provisions to the list of prohibited lending practices. Individuals that are found in violation of these provisions are subject to criminal penalties which the Attorney General must enforce. These provisions will increase the workload of the Attorney General.

The bill also adds that the Indiana Real Estate Commission is to take custody of the trust accounts of principal brokers who have their license suspended. Current law only requires the Commission to take control of trust accounts of principal brokers who (1) pass away, (2) are terminated, (3) have their license revoked, or (4) let their license expire. The Indiana Real Estate Commission consists of 12 lay members and is an executive commission. This bill will increase the workload of the Commission, which may increase the frequency in which the Commission meets. If the Commission meets more frequently as a result of this bill, expenditures for per diem and travel reimbursement may increase. Commission members receive payment from the state General Fund. Increases in expenditures are indeterminable and would depend on the extent to which this bill increases the number of trust accounts the Commission takes into custody.

Explanation of State Revenues: *Penalty Provision:* This bill adds provisions to the list of prohibited lending practices. Violation of these provisions is punishable as a Class A misdemeanor. If additional court cases occur and fines are collected, 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. However, any additional revenue would likely be small.

Explanation of Local Expenditures: *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: Office of the Attorney General.

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

Information Sources: Matt Light, Office of the Attorney General.

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