

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 5466-01  
Bill No.: SB 1170  
Subject: Consumer Protection: Housing  
Type: Original  
Date: March 20, 2006

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**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 5 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
<b>FUND AFFECTED</b>	<b>FY 2007</b>	<b>FY 2008</b>	<b>FY 2009</b>
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**FISCAL ANALYSIS**

**ASSUMPTION**

Officials from the **Department of Economic Development - Division of Finance** and **Division of Credit Unions** and the **Department of Insurance** stated there would be no fiscal impact on their respective agencies.

Officials from the **Office of Prosecution Services** state this proposal will not have a significant fiscal impact on county prosecutors, although it may lead to an increase in prosecutions/caseloads.

According to officials from the **Department of Corrections (DOC)**, the DOC cannot predict the number of new commitments which may result from the creation of the offense(s) outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court.

If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC will incur a corresponding increase in operational cost through supervision provided by the Board of Probation and Parole (FY03 average of \$3.15 per offender, per day or an annual cost of \$1,150 per offender).

Penalty provisions for violations, the component of this proposal to have potential fiscal impact  
ASSUMPTION (continued)

for DOC, is for a class A misdemeanor.

In summary, supervision by the DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

**Officials from the Office of Attorney General and the Office of State Public Defender did not respond to a request for fiscal impact.**

<u>FISCAL IMPACT - State Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2007	FY 2008	FY 2009
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposed legislation creates statutory warranties for home buyers and homeowners and also prevents home solicitors from engaging in certain deceptive practices.

This proposal prohibits home solicitors from selling products financed by the consumer's home which would put the consumer in those types of situations. This proposal outlaws certain unfair or deceptive practices relating to home improvement loans to the consumer. It would prohibit home solicitations where a home improvement loan is made encumbering the person's home to pay the loan and where the practice violates federal law. Violation of this proposal's provisions would constitute a Class A misdemeanor.

The proposal also mandates warranties to protect new home purchasers from losses caused by faulty installation, major construction defects, and noncompliance with building standards. The proposal also mandates similar warranties to protect homeowners from losses caused by defects caused by home improvement contractors.

DESCRIPTION (continued)

There are three distinct new home warranties created by this proposed legislation. The first covers the home against faulty workmanship and defective materials due to noncompliance with building standards for a three year period. The second warranty covers new homes against faulty installation of plumbing, electrical, heating and cooling systems for a five-year period. The third warranty covers the home against major construction defects (foundation) for a ten-year period. These warranties are extended to subsequent purchasers of the home.

The second statutory warranty protects consumers against home improvement contractors. Under this warranty, the home improvement contract warrants that the home improvements made will be free from defects caused by faulty workmanship and defective materials for a two-year period. The home improvement warranty also guarantees that the home improvement will be free from major construction defects for a ten-year period. Improvements involving plumbing, electrical, heating and cooling systems are guaranteed to be free from defects for a period of two-years.

If the house vendor or the home improvement contractor violates these implied warranties then the homeowner may bring a cause of action against the person for actual damages. The court shall also award the homeowner court costs and reasonable attorney fees. If the breach of the warranties were willful or deceitful, then the court may assess punitive damages.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

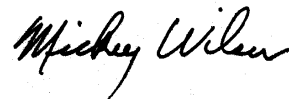
#### SOURCES OF INFORMATION

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Office of State Courts Administrator  
Department of Economic Development  
Division of Finance  
Division of Credit Unions  
Department of Corrections  
Department of Insurance  
Office of State Prosecution Services

**NOT RESPONDING**

**Office of Attorney General  
Office of State Public Defender**



Mickey Wilson, CPA  
Director  
March 20, 2006