

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4655-03
Bill No.: SCS for SB 1059
Subject: Banks and Financial Institutions; Licenses - Professional; Mortgages and Deeds
Type: Original
Date: March 5, 2008

Bill Summary: Creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
General Revenue	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)
Total Estimated Net Effect on General Revenue Fund	(Unknown less than \$100,000)	(Unknown less than \$100,000)	(Unknown less than \$100,000)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>Other</u> State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 6 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Total Estimated Net Effect on FTE	0	0	0

- Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).
- Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2009	FY 2010	FY 2011
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Office of State Courts Administrator** assume the proposal will have no fiscal impact on their organization.

Officials from the **Office of Administration (COA) - Administrative Hearing Commission** anticipate this legislation will not significantly alter its caseload. However, if other similar bills also pass, there are more cases, or the cases are more complex, there could be a fiscal impact.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration (DIFP)** state this legislation creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime.

The DIFP also states that having reviewed the proposed legislation and having sought the conclusion of the appropriate board(s), they are of the opinion that this proposal, in its present form, has no fiscal impact on their organization. However, should the number of complaints increase dramatically with the implementation of the legislation, additional appropriation and/or FTE may be requested.

Officials from the **Office of Secretary of State (SOS)** state the fiscal impact for this proposal for Administrative Rules is less than \$2,500. The SOS does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the SOS can sustain within its core budget. Therefore, the SOS reserves the right to request funding for the costs of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the Governor.

Officials from the **Department of Corrections (DOC)** state 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 either through incarceration (FY 07 average of \$41.21 per inmate per day, or an annual cost of \$15,040 per inmate) or through supervision provided by the Board of Probation and Parole (FY 07 average of

ASSUMPTION (continued)

\$2.43 per offender per day, or an annual cost of \$887 per offender). Supervision by the DOC through probation or incarceration would result in additional unknown costs to the DOC. Seven (7) persons would have to be incarcerated per fiscal year to exceed \$100,000 annually. Due to the narrow scope of this new crime, it is assumed the impact would be less than \$100,000 per year for the DOC.

Officials from the **Office of State Public Defender (SPD)** assume the new crime will create new cases for the SPD. The exact number of cases affected is too uncertain to provide a definitive dollar amount of fiscal impact. Nevertheless, there will some impact.

Since the amount of impact is so uncertain, the SPD is assuming existing staff will probably be able to provide representation in these cases initially. However, once the true fiscal impact is determined, the SPD will reassess the impact of the legislation. Passage of more than one bill increasing existing penalties or creating new crimes would require increased appropriations for the SPD.

Officials from the **Office of Prosecution Services (OPS)** did not respond to our request for a statement of fiscal impact.

Oversight assumes because of the narrow scope of the legislation, that the OPS and County Prosecutors would not encounter a significant increase in the number of cases referred to them for prosecution. Therefore, it is assumed the proposal would not have a significant direct fiscal impact on the OPS.

Oversight notes that various provisions of the proposal allow the court to impose civil penalties of \$2,500 per violation and up to \$5,000 for any contested case proceeding. **Oversight** assumes minimal penalties will be collected and, therefore, is not presenting them in the fiscal note.

<u>FISCAL IMPACT - State Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
---	---------------------	---------	---------

GENERAL REVENUE FUND

Costs - DOC

Increase in commitments/parole costs	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
--------------------------------------	--------------------------------------	--------------------------------------	--------------------------------------

**ESTIMATED NET EFFECT ON
 GENERAL REVENUE FUND**

	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>	<u>(Unknown less than \$100,000)</u>
--	---	---	---

<u>FISCAL IMPACT - Local Government</u>	FY 2009 (10 Mo.)	FY 2010	FY 2011
---	---------------------	---------	---------

	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
--	-------------------	-------------------	-------------------

FISCAL IMPACT - Small Business

The proposal may impact small businesses that violate the provisions of this proposal and lose their licenses or have to pay civil penalties.

FISCAL DESCRIPTION

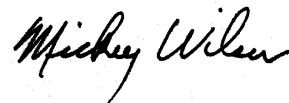
This proposal creates civil and criminal penalties for mortgage fraud and imposes sanctions upon certain licensed professionals and unlicensed individuals who commit the crime. Such acts constitute a Class C felony.

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

Office of Administration -
 Administrative Hearing Commission
Office of State Courts Administrator
Department of Insurance, Financial Institutions and Professional Registration
Department of Corrections
Office of Secretary of State
Office of State Public Defender

NOT RESPONDING: Office of Prosecution Services



Mickey Wilson, CPA
Director
March 5, 2008