

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 7428

BILL NUMBER: HB 1155

NOTE PREPARED: Jan 7, 2023

BILL AMENDED:

SUBJECT: Disclosures and Fair Practices in Sale of Homes.

FIRST AUTHOR: Rep. Clere

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires a prospective buyer, before completing a residential real estate transaction, to provide the owner with a notice of resale agreement form that discloses to the owner whether the buyer has entered into an agreement to resell or transfer the residential property. It provides that it is a deceptive act enforceable by the Attorney General for a buyer to make a materially misleading statement on a notice of resale agreement form.

Effective Date: July 1, 2023.

Explanation of State Expenditures: *Indiana Real Estate Commission* - This bill will require the agency to adopt a specific notice of resale agreement form, which will be used by a prospective buyer in a residential real estate transaction. The form will inform the owner whether the prospective buyer has entered into an agreement or intends to enter into an agreement to sell or transfer the owner's residential property to another person.

This requirement will cause a temporary increase in the agency's workload since the agency would have to go through the rule making process to adopt the form. However, the agency may be able to implement this requirement with no additional appropriations, assuming near customary agency staffing and resource levels.

Deceptive Acts: The bill provides that it is a deceptive act for a buyer to make a materially misleading statement on a notice of resale agreement form. Deceptive acts are actionable by either the Attorney General or the consumer. This may lead to a small workload increase for the Attorney General.

Explanation of State Revenues: *Deceptive Acts:* Violations of the bill's provisions concerning the notice of resale agreement form could potentially increase the number of deceptive acts. This bill may increase revenue to the state General Fund from civil penalties if the number of deceptive acts also increases. Under current law, a deceptive act is punishable with a civil penalty of \$500 per violation. Knowingly committing a deceptive act is punishable with a civil penalty of \$5,000 per violation. Actual increases in revenue are indeterminable.

Court Fee Revenue: If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana, and proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures:

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge, depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds. The document storage fee (\$5) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- o Document fees (\$1 per page) are charged for preparing transcripts or copies of record or certificate under seal.
- o A civil garnishee defendant service fee (\$10) is collected from the filing party for each defendant beyond the first three garnishee defendants cited in the lawsuit.

State Agencies Affected: Attorney General; Indiana Real Estate Commission.

Local Agencies Affected: Trial courts, city and town courts;

Information Sources:

Fiscal Analyst: James Johnson, 317-232-9869.