

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 2, 2009

**TO:** Honorable Jeff Wentworth, Chair, Senate Committee on Jurisprudence

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: SB2214** by Ellis (Relating to a filing fee imposed on a notice of foreclosure sale to fund civil legal services for indigents.), **Committee Report 1st House, Substituted**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB2214, Committee Report 1st House, Substituted: an impact of \$0 through the biennium ending August 31, 2011.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from Basic Civil Legal Services Account , Judicial Fund 573	Probable Revenue Gain/(Loss) from Counties
2010	\$5,235,000	\$276,000
2011	\$5,968,000	\$314,000
2012	\$5,669,000	\$298,000
2013	\$5,386,000	\$283,000
2014	\$5,117,000	\$269,000

Fiscal Analysis

The bill would amend Chapter 118 of the Local Government Code, regarding filing fees for notices of foreclosure charged by county clerks.

The bill would require a county clerk to collect a fee of \$150 for a foreclosure notice filed pursuant to Section 51.002(b)(2) of the Property Code. The county clerk may not collect more than one \$150 fee if there is more than one notice of sale filed for the property. Counties could retain not more than 5 percent of the fees collected to cover administrative costs. County treasurers would remit fee collections, minus the amount retained for administrative costs, to the Comptroller for deposit to the Basic Civil Legal Services Account in the Judicial Fund 0573.

Under the provisions of the bill a county treasurer would be required to refund the \$150 fee, no later than the 60th day after the refund is requested, if the foreclosure is canceled and the county clerk is provided with the proper documentation.

The bill would take effect immediately upon enactment if it receives the required two-thirds vote in each house. Otherwise, it would take effect September 1, 2009.

### **Methodology**

Information on calendar year 2008 foreclosure filings were obtained through a survey of county clerks' offices, and those results were extrapolated to an estimated statewide total. According to the Foreclosure Listing Service, approximately 35 percent of foreclosure filings ultimately result in a foreclosure; accordingly, the estimate assumes that 65 percent of the foreclosure filing fees collected would be refunded by counties. Estimated filings were adjusted to reflect the expectation of the current foreclosure pattern continuing into fiscal 2010, then receding, adjusted for a September 1, 2009 effective date and projected through fiscal 2014.

The estimate assumes that each county would retain a full 5 percent share of fee collections to cover administrative costs.

### **Local Government Impact**

A county would be permitted to retain not more than 5 percent of the fees collected to cover administrative costs associated with collecting the extra fee, maintaining separate records, and making quarterly submissions.

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** JOB, MN, SD, DB