

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**May 1, 2017**

**TO:** Honorable Kelly Hancock, Chair, Senate Committee on Business & Commerce

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: SB1994** by Zaffirini (Relating to the financing of residential real estate purchases by means of a wrap mortgage loan; creating an offense.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Finance Code relating to the financing of residential real estate purchases by means of a wrap mortgage loan and creates a related offense. The bill would provide a definition for "wrap mortgage loan" and would require an individual to obtain a license as a residential mortgage loan originator in order to make wrap mortgage loans. The bill would require a wrap lender to provide a copy of all written documents to the wrap borrower in a language other than English if the loan agreement was conducted in a language other than English. The bill would create a Class A misdemeanor if a person fails to provide the documents in a language other than English.

The bill would permit the Savings and Mortgage Lending Commissioner to conduct an inspection of a wrap lender as the commissioner determines necessary. Under the provisions of the bill, the Savings and Mortgage Lending Commissioner may conduct undercover or covert investigations under certain circumstances. The bill would require the Finance Commission, by rule, to provide guidelines to govern an inspection or investigation as established by the provisions of the bill. The bill would permit the Savings and Mortgage Lending Commissioner to provide information gathered during an investigation with a state or federal agency and to issue a subpoena under the provisions of the bill.

The Savings and Mortgage Lending Commissioner would be permitted to require reimbursement of expenses for each examiner for an on-site examination or inspection if the records of a registered wrap lender are located out of state. The bill would require the Finance Commission to set by rule the amount for reimbursement of expenses. The bill would permit the Savings and Mortgage Lending Commissioner to petition a district court in Travis County to issue an order requiring an individual to obey a subpoena. Under the provisions of the bill, the court would be required to set an application to enforce the subpoena for hearing and cause notice of the application and the hearing to be served on the affected person.

Department of Savings and Mortgage Lending is a self-directed, semi-independent agency and as a self-funding, self-leveling agency, the agency is required to collect revenues sufficient to cover their costs, so that any additional costs incurred in implementing the provisions of this bill would be offset by an equal amount of revenue and is not considered in this analysis.

The Office of Court Administration, Office of the Attorney General and the Comptroller of Public

Accounts, Department of Banking, Consumer Credit Commission, and the Credit Union Department anticipate any additional work resulting from the passage of the bill could be reasonably absorbed within current resources.

This analysis assumes the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

### **Local Government Impact**

A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 212 Office of Court Administration, Texas Judicial Council, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner, 469 Credit Union Department

**LBB Staff:** UP, CL, EH, EK, JGA