

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

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

**May 9, 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 residential mortgage loans, including the financing of residential real estate purchases by means of a wrap mortgage loan; providing licensing requirements; authorizing an administrative penalty.), **Committee Report 1st House, Substituted**

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

The bill would amend the Finance Code relating to residential mortgage loans, including the financing of residential real estate purchases by means of a wrap mortgage loan, providing licensing requirements and authorizing an administrative penalty.

The bill would provide a definition for "wrap mortgage loan", would require an individual to obtain a license as a residential mortgage loan originator in order to make wrap mortgage loans and would provide exceptions. 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 permit a wrap borrower to bring an action under certain circumstances and to recover court costs and reasonable attorney's fees if the wrap borrower prevails. The bill would permit the Finance Commission to adopt and enforce rules to ensure compliance with Subchapter C, Chapter 159, Finance Code.

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 Savings and Mortgage Lending Commissioner could impose an administrative penalty of up to \$1,000 for each day a violation occurs. The bill would permit the Savings and Mortgage Lending Commissioner to institute a suit for injunctive relief in a district court and collect the administrative penalty.

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, 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**

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

**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