

LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

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FISCAL IMPACT STATEMENT

LS 6891
BILL NUMBER: HB 1222

NOTE PREPARED: Jan 29, 2024
BILL AMENDED: Jan 29, 2024

SUBJECT: Residential Real Estate Service Agreements.

FIRST AUTHOR: Rep. Haggard
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill defines a "residential real estate service agreement" as an agreement:

(1) under which a service provider agrees to provide one or more services:

- (A) in connection with the maintenance, purchase, or sale of residential real estate; and
 - (B) that are not to be performed in their entirety within one year after the agreement is entered into;
- and

(2) that:

- (A) purports to run with the land or to be binding on future owners;
- (B) allows for the assignment of the right to provide one or more of the services under the agreement without the consent of the owner of the residential real estate; or
- (C) purports to create a lien or an encumbrance on, or a security interest in, the residential real estate.

This bill provides that a residential real estate service agreement that is entered into after March 14, 2024, is void and unenforceable. It prohibits a person from recording after March 14, 2024, a residential real estate service agreement in Indiana, regardless of when the residential real estate service agreement is entered into.

It also provides that a county recorder, or an employee of a county recorder, who records a residential real estate service agreement that is presented to the county recorder's office for recording is not civilly liable under the bill's provisions, regardless of when the recording occurs.

This bill provides that if a residential real estate service agreement (agreement) is recorded in Indiana after March 14, 2024, any person with an interest in the residential real estate that is the subject of the agreement may:

- (1) apply to a court in the county in which the agreement is recorded for a declaratory judgment declaring the agreement unenforceable; and
- (2) recover the person's actual damages against any service provider that:
 - (A) is a party to the agreement; and
 - (B) recorded, or caused to be recorded, the agreement.

This bill provides that a service provider that: (1) enters into a residential real estate service agreement with any person; or (2) records, or causes to be recorded, a residential real estate service agreement in Indiana; after March 14, 2024, commits a deceptive act that is subject to the remedies and penalties under the Deceptive Consumer Sales Act (act), including an action by the Attorney General under the act.

This bill provides that the bill's provisions do not apply to: (1) a residential real estate service agreement entered into before March 15, 2024 (except as otherwise provided in the bill); or (2) certain specified products, contracts, rights, agreements, services, or liens.

Effective Date: Upon passage.

Explanation of State Expenditures: *Office of Attorney General:* The bill provides that a service provider that: (1) enters into a residential real estate service agreement with any person; or (2) records, or causes to be recorded, a residential real estate service agreement in Indiana; after March 14, 2024, commits a deceptive act. Deceptive acts are actionable by either the Attorney General or the consumer. This may lead to a minor administrative workload increase for the Attorney General.

Explanation of State Revenues: (Revised) *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 cases occur as a result of any person of interest asking the court to issue a judgement declaring a residential real estate service agreement as unenforceable and court fees are collected, revenue to the state General Fund will increase. The total revenue per case would range between \$100 and \$122. The amount deposited will vary depending on whether the case is filed in a court of record or a municipal court. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in civil, probate, and small claims cases.](#)

Explanation of Local Expenditures: (Revised) *County Recorders:* This bill's provisions may result in a minor increase in the administrative workload for employees in the county recorder's office to the extent that they would need to record a court order declaring that a residential real estate service agreement, which had been previously recorded, is unenforceable.

Explanation of Local Revenues: (Revised) *Court Fee Revenue:* If additional civil cases occur as a result of any person of interest asking the court to issue a judgement declaring a residential real estate service agreement as unenforceable, revenue will be collected by certain local units. If the case is filed in a court of record, the county will receive \$32 and qualifying municipalities will receive a share of \$3. If the case is filed

in a municipal court, the county receives \$20, and the municipality will receive \$37. The following linked document describes the fees and distribution of the revenue: [Court fees imposed in civil, probate, and small claims cases.](#)

State Agencies Affected: Office of the Attorney General.

Local Agencies Affected: Trial courts, city and town courts; County Recorders.

Information Sources: Indiana Supreme Court, Indiana Trial Court Fee Manual.

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