



OFFICE OF LEGISLATIVE AUDITOR
Fiscal Note

Fiscal Note On: **SB 265** SLS 15RS 360
Bill Text Version: **ORIGINAL**
Opp. Chamb. Action:

Proposed Amd.:
Sub. Bill For.:

| | | |
|---|----------|------------------------------|
| Date: April 28, 2015 | 11:08 AM | Author: BROOME |
| Dept./Agy.: Clerks of Court’s | | |
| Subject: Recordation of certain instruments and related fees | | Analyst: Bobby Trahan |

IMMOVABLE PROPERTY OR INCREASE LF RV See Note Page 1 of 1
Requires the recordation of certain instruments regarding real property rights and provides for the allocation of fees and penalties concerning the recordation requirement. (8/1/15)
Purpose of Bill: Amends Article 3338 of the Civil Code to require the mandatory recording of an instrument or endorsement that transfers an interest in a note that is secured by a mortgage or a deed of trust on an immovable. The bill provides that the instrument shall be recorded in the parish where the property is located and provides for related timing of filing requirements. The bill allows for the assessment of filing fees and for a penalty of \$250 if the instrument documenting the assignment is not filed within the specified required number of days. Also enacts R.S. 13:844(F) that states the fees and penalties collected shall be allocated 60% to the ex officio recorder (Clerks of Court) and 40% to the La. Housing Trust Fund.

| EXPENDITURES | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 5 -YEAR TOTAL |
|----------------|-----------|-----------|-----------|-----------|-----------|---------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Annual Total | | | | | | |

| REVENUES | 2015-16 | 2016-17 | 2017-18 | 2018-19 | 2019-20 | 5 -YEAR TOTAL |
|----------------|-----------|-----------|-----------|-----------|-----------|---------------|
| State Gen. Fd. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Agy. Self-Gen. | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Ded./Other | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Federal Funds | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| Local Funds | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | SEE BELOW | |
| Annual Total | | | | | | |

EXPENDITURE EXPLANATION
There may be an increase in governmental expenditures by Clerks of Court and the Louisiana Housing Corporation. The increase for the Clerks would be due to any possible increase in operating cost to record and index the instruments documenting the assignment of the mortgage notes. Absorption of cost is possible in officers with more extensive resources (i.e., Jefferson Clerk). The Louisiana Housing Corporation could use the additional 40% allocation to increase the funding for its programs.
REVENUE EXPLANATION
There may be an increase in governmental revenues as a result of this measure. However, the exact impact on each of the 64 Clerks of Court is indeterminable at this time and will vary among each clerk’s office. If a typical assignment of a mortgage is one page, with two parties, the cost to file would be \$30 (\$25 to file/record the document and \$5 to index the second name). The increase in revenue for each Clerk’s Office will depend on the number of reassignments of instruments or endorsements that transfers an interest in a note that is secured by a mortgage or a deed of trust on property located in a parish and the number of reassignments that are not recorded within the required 30 day period and therefore would be subject to a civil penalty of \$250.

The fees and civil penalty will be split 60% to the Clerks and 40% to the Louisiana Housing Corporation (LHC). Therefore, if the filing fee is \$30, the Clerk would receive \$18 and the LHC \$12. If the civil penalty is assessed, the ex officio recorder would receive \$150 and the LHC \$100.

Lincoln Parish Clerk of Court’s Office - An official with this office stated that they can not determine the increase in revenue because there is no data to indicate the number of reassignments of mortgages for property located in the parish.

Jefferson Parish Clerk of Court’s Office - An official with this office stated it is difficult to anticipate how many assignment of mortgage would be recorded pursuant to the legislation. Factors affecting recording costs include number of pages, number of parties’ names to be indexed, and treatment of return copies. If is also difficult to determine how may of these documents would be assessed the \$250 penalty provided in the statute.

East Baton Rouge Parish Clerk of Court’s Office - An official with this office stated there is not exact way to tell the affect of the bill until it has passed.

Vernon Parish Clerk of Court’s Office - An official with this office stated that they can not determine the increase in revenue because there is no data to indicate the number of reassignments of mortgages for property located in the parish.