



Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 947

(Patron – Iaquinto)

LD#: 08-4302560

Date: 1/7/2008

Topic: Foreclosure protection

Fiscal Impact Summary:

- **State Adult Correctional Facilities:**
Cannot be determined
- **Local Adult Correctional Facilities:**
Cannot be determined
- **Adult Community Corrections Programs:**
Cannot be determined

- **Juvenile Correctional Centers:**
None (\$0)
- **Juvenile Detention Facilities:**
None (\$0)

Summary of Proposed Legislation:

The proposal adds Article 2.2 (§§ 55-66.15 through 55-66.27) to Chapter 4 of Title 55 of the *Code of Virginia* relating to the protection of homeowners during foreclosure proceedings. The proposal provides protection for homeowners during the foreclosure process by requiring persons who advertise services to assist persons in escaping foreclosure to disclose fully the nature of their services and the homeowners' right to rescind a contract entered into with such persons. The proposal also allows the Attorney General to enforce any violation of this article and provides that a violation of the article is a Class 5 felony. In addition to any action by the Attorney General and any other action otherwise authorized by law, a homeowner may bring an action for damages and reasonable attorney fees incurred as a result of a violation of this article. If the court finds that the defendant willfully or knowingly violated this article, the court may award damages equal to three times the amount of actual damages.

Analysis:

Certain criminal offenses related to real estate transactions may be covered under Title 6.1 (Banking and Finance) of the *Code of Virginia*. According to calendar year (CY) 2005 and CY2006 Local Inmate Data System (LIDS) data, there were no offenders held pre- or post-trial in jail for any violation of Title 6.1. Any person who fraudulently provides services related to a foreclosure proceeding, however, may be subject to civil liability under § 55-66.3.

Impact of Proposed Legislation:

State adult correctional facilities. Because it creates a new felony offense, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. The magnitude of the impact, however, cannot be quantified with existing data.

Local adult correctional facilities. The proposal may increase local-responsible (jail) bed space needs. The magnitude of the impact, however, cannot be quantified with existing data.

Adult community corrections resources. Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections resources cannot be quantified.

Virginia's sentencing guidelines. As new crimes, convictions under the proposed article would not be covered by the sentencing guidelines as the primary (most serious) offense at conviction. If enacted, however, convictions under this article may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

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