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F I S C A L I M P A C T R E P O R T

SPONSOR: Rawson DATE TYPED: 03/07/03 HB

SHORT TITLE: Availability of Funds at Real Estate Closings SB 315/aSCORC/aSFl#1

ANALYST: Gilbert

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	**FY04**	**FY03**	**FY04**		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)
Regulation and Licensing Department (RLD)

SUMMARY

Synopsis of SFl#1 Amendment

Senate Bill 315 specifies that financial institutions must make funds available at the time of real estate transaction closings. Senate Floor Amendment #1 to SB 315 clarifies that refinancing of existing loans is included in such transactions.

This amendment also clarifies that the "third-party fiduciary" charged with holding and disbursing funds shall be the third-party fiduciary actually conducting the closing.

Synopsis of SCORC Amendment

Senate Corporations and Transportation Committee amendment to Senate Bill 315 makes a correction to page 2, line 1, to clarify that a title company may disburse available funds whenever the deed and mortgage are recorded with the county clerk.

<u>Synopsis of Original Bill</u>

Senate Bill 315 requires financial institutions to make funds available at the time of real estate transaction closings. Title companies may disburse available funds when deeds are recorded with the county clerk.

<u>Significant Issues</u>

Financial institutions currently allow funds to be transferred with stipulation sheets listing items needing to be completed. Loans are closed with stipulations still outstanding. This bill will not allow closing until all of the stipulations have been addressed and completed, which may result in the loan closing at a later date. Additionally, delivery of funds to the seller will be delayed since funds can't be released to the seller until the deed has been recorded. Deed recording often does not occur for several days after the close of a real estate transaction.

SB 315 does not address situations where title companies are not involved in a real estate transaction.

OTHER SUBSTANTIVE ISSUES

Financial institutions release funds to a title company (third party fiduciary), expecting a return on their investment at prevailing interest rates from the moment of release. Interest does not begin accruing on the loan to the borrower until the borrower has closed on the loan and signed the mortgage documents. This timing differential between release of funds to the title company and closing of the loan may be anywhere from several hours to several days, depending on the circumstances.

AMMENDMENTS

The reference to a title company may be confusing in a situation where a title company is not involved in a real estate sales transaction. Thus, this bill could be redrafted to state: "*Available funds may be disbursed once the deed is recorded with the county clerk*."

RLG/ls