

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: House Bill 1523 (Third Edition)

SHORT TITLE: S.A.F.E. Mortgage Licensing Act.

SPONSOR(S): Senator Blue

<b>FISCAL IMPACT</b>					
	<b>Yes (X)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2009-10</u></b>	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>
<b>REVENUES</b>					
<b>NC Commissioner of Banks Office</b>	<b>(\$80,000)</b>	<b>(\$103,000)</b>	<b>(\$103,000)</b>	<b>(\$103,000)</b>	<b>(\$103,000)</b>
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED: NC Commissioner of Banks Office</b>					
<b>EFFECTIVE DATE: July 31, 2009</b>					

**BILL SUMMARY:**

House Bill 1523 establishes a new Article 19B of Chapter 53 of the General Statutes, to be cited as the North Carolina S.A.F.E. Mortgage Licensing Act. The bill includes the following provisions as required by the federal law:

- Provides for licensing of loan originators, as well as mortgage brokers, mortgage lenders and mortgage servicers through registration with the Nationwide Mortgage Licensing System and Registry. (G.S. 53-244.040)
- Provides effective supervision and enforcement of the law, including the suspension, termination, or nonrenewal of a license for a violation of the State or federal law. (G.S. 53-244.114)
- Provides for the regular reporting of violations as well as enforcement actions and other relevant information to the Nationwide Mortgage Licensing System and Registry. (G.S. 53-244.108)
- Provides a process for challenging information contained in the Nationwide Mortgage Licensing System and Registry. (G.S. 53-244.113)
- Provides a mechanism to assess civil penalties for individuals acting as mortgage originators without a valid license or registration. (G.S. 53-244.116)

- Provides for minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator. (G.S. 53-244.103, 104)

**Section 1** repeals Article 19A of Chapter 53 of the General Statutes, the Mortgage Lending Act.

**Section 2** establishes a new Article 19B to be cited as the North Carolina S.A.F.E. Mortgage Licensing Act, which includes:

- License and registration requirements for mortgage loan originators as well as mortgage brokers, mortgage lender, and mortgage servicers. Applications for licensure must be made through the Nationwide Mortgage Licensing System and Registry. Each individual applicant must be at least 18 years of age, have completed within 3 years, the mortgage lending preclicensing education, and have passed, within 3 years, a test developed and administered by the Nationwide Mortgage Licensing System and Registry. Each applicant for licensure as a mortgage broker, mortgage lender, or mortgage servicer must have at least three years of experience in residential mortgage lending or other experience required by the Commissioner. Applicants must submit to a criminal history background check, review of credit reports, and information related to administrative, civil or criminal findings by any governmental jurisdiction.
- License application fees of \$1,250.00 for mortgage brokers, mortgage lenders, and mortgage servicers, and \$125.00 for mortgage loan originators. Each additional branch office must pay a \$125.00 filing fee. The license application fee for exclusive mortgage brokers is \$300.00. In addition, applicants must pay any processing fees required by the Nationwide Mortgage Licensing System and Registry.
- Licenses must be renewed annually. The renewal fee for licensed mortgage brokers, mortgage lenders, and mortgage servicers is \$625.00, together with a \$125.00 fee for each branch office. The renewal fee for mortgage loan originators is \$67.50. The renewal fee for exclusive mortgage loan originators is 300.00. The late fee for mortgage brokers, mortgage lenders, and mortgage servicers is \$250.00 and for mortgage loan originators is \$100.00.
- Licensees must complete at least 8 hours of continuing education including State and federal laws, ethics, and training related to lending standards for nontraditional mortgage products/
- Loan originators must be covered by a surety bond through employment with a licensee. A mortgage broker must post a bond of \$75,000.00, but if the broker originates between \$10 million and \$50 million dollars in loans per year, the bond must be for \$125,000.00, and if the broker originates \$50 million or more per year, the bond must be for \$250,000.00. A mortgage lender or servicer must post a minimum surety bond of \$150,000.00. If the mortgage lender originates between \$10 million and \$50 million in loans per year, the bond shall be for \$250,000.00, and if the mortgage lender originates \$50 million or more in loans per year, the bond shall be for \$500,000.00. The bill also contains minimum net worth requirements.

- Imposes specific duties on mortgage brokers which are intended to protect the public. The Commissioner of Banks is given specific regulatory authority including authority to discipline licensees and impose civil penalties.
- The Commissioner also retains the authority contained in the repealed law to suspend a foreclosure proceeding when the Commissioner has evidence that a material violation of the law has occurred.
- The Banking Commission has authority to review any action taken by the Commissioner.
- The bill contains instructions for the transition of current licensees into the new system over a period of time.

*Source: Adopted from the bill analysis done by the Committee Counsel to Senate Commerce on June 1, 2009.*

#### **ASSUMPTIONS AND METHODOLOGY:**

House Bill 1523 repeals the North Carolina Mortgage Lending Act and replaces it with the Secure and Fair Enforcement Mortgage Licensing Act in order to conform to the requirements of Title V of the federal Housing and Economic Recovery Act of 2008. The Act requires that any residential mortgage loan originator must be either State or federally registered. States have until August 1, 2009 to conform their statutes to the federal standards. If they do not conform by that deadline, the loan originators in the states not conforming will be subject to the federal registration system.

House Bill 1523 establishes several licensing fees for different classes of lenders in the state. Many of these fees are established at the same level as previously under the North Carolina Mortgage Lending Act. The bill does, however, create a subcategory of mortgage brokers known as “exclusive mortgage brokers.” Under current law, these individuals pay a \$1,250 new license fee and a \$625 license renewal fee. The bill would only require them to pay \$300 both for new licensure and license renewal. In addition, however, they would have to perform the continuing education and the pay new license fee and renewal fees for the mortgage loan originators license.

According to the NC Commissioner of Banks Office, there are approximately 400 individuals in North Carolina who qualify as exclusive mortgage brokers. This number is not expected to change significantly in the next five years. These individuals are currently licensed with the Commissioner of Banks Office, and, therefore, under current law, would only be required to pay the \$625 mortgage broker license renewal fee. The bill would lower the license renewal fee for these 400 individuals by \$325. It would also require them to pay an additional \$125 new license fee for mortgage loan originators in FY 2009-10 and a \$67.50 annual fee to renew this license starting in FY 2010-11. Altogether, this would be a \$200 decrease in fees in FY 2009-10 and a \$257.50 decrease in fees starting in FY 2010-11. The fee decrease multiplied by the 400 exclusive mortgage brokers results in the revenue loss generated by this bill. This results in an \$80,000 revenue loss in FY 2009-10 and a \$103,000 revenue loss starting in FY 2010-11. While the bill makes many conforming changes, the fee changes are the only ones expected to have a fiscal impact.

**SOURCES OF DATA:** NC Commissioner of Banks Office

**TECHNICAL CONSIDERATIONS:** None

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