

GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 829 (Second Edition)

SHORT TITLE: Regulation of Appraisal Management Companies.

SPONSOR(S): Senator Jenkins

	FISCAL IMPACT (\$)				
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2009-10</u>	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>
REVENUES:					
NC Appraisal Board	\$150,000	\$75,000	\$75,000	\$75,000	\$75,000
Justice	\$480	\$0	\$0	\$0	\$0
EXPENDITURES:					
Correction		No fiscal impact anticipated			
Judicial		Indeterminate fiscal impact			
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Appraisal Board, NC Department of Justice, Judicial Branch					
EFFECTIVE DATE: Effective when bill becomes law					

BILL SUMMARY:

Senate Bill 829 creates a new Article 2 in Chapter 93E to regulate real estate appraisal management companies. The bill requires that beginning January 1, 2010, any person or business entity that acts as an appraisal management company must register with the North Carolina Appraisal Board. An appraisal management company is defined as any business entity that:

- Administers a network of independent contractor appraisers;
- Receives requests for appraisals from clients;
- Is paid a fee by the client for the appraisal; and
- Enters into an agreement with one or more appraisers in its network to perform the requested appraisal.

The definition does not include any government agency, any chartered financial institution, a real estate broker performing market analyses, or appraisal businesses that employ appraisers or that occasionally contract with independent appraisers because of the location or type of property.

The Appraisal Board is authorized to determine the qualifications of applicants for registration. The applicant must be of good moral character, submit an application and fee, and make a number of certifications about its operating procedure, including that it will only contract with North Carolina licensed appraisers in good standing.

Each appraisal management company must designate a managing principal who must be a certified general real estate appraiser. Failure to comply with this provision results in registration suspension.

The Appraisal Board is authorized to charge the following fees:

- Application fee \$5,000.
- Renewal fee \$2,500.
- Late fee \$20./month up to \$120.
- Replacement fee \$50.
- Registration history \$100.

No officer, agent, or employee of an appraisal management company shall influence or attempt to influence the development, reporting, result, or review of an appraisal through coercion, extortion, collusion, compensation, inducement, intimidation, bribery, or in any other manner. The bill lists a number of specific prohibited acts. However, this section does not prohibit an appraisal management company from requesting the appraiser to consider additional information, provide further details, or correct errors.

The Board has authority to deny, suspend, revoke, or refuse to issue or renew a registration, or restrict or limit activities of a person who owns or participates in the business if it finds that the company or any of its principals or employees has violated any of the provisions of the Act. The Board may also impose a civil penalty not to exceed \$10,000 for any violation of the Act and to impose a penalty of up to \$25,000 for failure to comply with an order to cease from a prohibited action.

Any person violating the act shall be guilty of a Class 1 misdemeanor. The Board may also seek injunctive relief.

The Board may require applicants or registrants to consent to a criminal history record check. Refusal to consent may be grounds for denial of the registration. If the record check reveals one or more convictions, the Board is not required to automatically bar registration, but may consider a number of factors to determine whether the criminal history disqualifies the applicant or registrant. The Board is granted immunity from civil liability for denying registration based on the criminal history record check, provided it acted in good faith.

Section 2 of the bill authorizes the Department of Justice to provide criminal histories to the Appraisal Board and allows the Department to charge a fee to offset the cost of conducting the record check.

Section 3 provides that a real estate appraisal management company established under federal law is not required to pay the initial fee required in this Act, but must pay subsequent registration renewal fees.

Source: Adopted from the Bill Analysis done by the Committee Counsel to Senate Commerce on June 29, 2009

ASSUMPTIONS AND METHODOLOGY:

Senate Bill 829 requires that any person or business that acts as an appraisal management company must register with the North Carolina Appraisal Board by January 1, 2010. In addition, the bill authorizes the Board to levy various fees. Among these fees is a \$5,000 new application fee. The NC Appraisal Board estimates that 30 business entities would be required to register as real estate appraisal management companies under the passage of this bill. The number of appraisal management companies is expected to remain constant in the next few years. Assuming that all of these businesses register by the January 1, 2010 deadline, this will cause a revenue increase equal to the 30 businesses multiplied by the \$5,000 new application fee. This results in a \$150,000 revenue increase in FY 2009-10.

Senate Bill 829 authorizes the NC Appraisal Board to levy a \$2,500 application renewal fee. This fee will cause a revenue increase starting in FY 2010-11 equal to the renewal fee multiplied by the 30 businesses. This results in a \$75,000 revenue increase starting in FY 2010-11.

Senate Bill 829 also authorizes the NC Appraisal Board to levy a late fee, license replacement fee, and registration history fee. The Board is not able to predict the behavior of its future members to the extent that they will incur these fees. Therefore, the impact of these fees on future revenues cannot be estimated.

Department of Justice

The Department of Justice (DOJ) charges a fee of \$38 to perform each criminal background check. Of this fee, \$22 is forward to the Federal Bureau of Investigation (FBI) for a check of federal databases, and the remaining \$16 is retained by DOJ. Of this \$16, \$14 goes to a check of NC databases and \$2 is used for the processing cost associated with the request. All individuals registering with the North Carolina Appraisal Board may be required to submit to this background check. Assuming that the 30 business will each receive a background check by the January 1, 2010 registration deadline, the fiscal impact to DOJ will be the \$16 retained multiplied by the 30 businesses. This results in a \$480 increase in revenues in FY 2009-10.

Department of Correction – Division of Prisons

Because the proposed bill creates a new offense, there is no historical data from which to estimate the impact of this bill on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed bill. In FY 2007-08, 21% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 30 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, Class 1 misdemeanor convictions for this proposed offense *would not be expected to have a significant impact on the prison population.* The Department of Correction

(DOC) reimburses county jails for misdemeanants, starting on the 31st day at a rate of \$18 per day. Because the average active sentences for Class 1 misdemeanors are less than 31 days, the State would incur no costs for convictions under the proposed bill. The impact on local jail populations is not known.

Judicial Branch

Because the proposed bill creates a new offense, there is no historical data from which to estimate the impact of this bill on the court system. It is not known how many offenders might be charged under the proposed bill. In FY 2007-08, a typical misdemeanor case took approximately 87 days to dispose in District Court. Any increase in judicial caseload without accompanying resources could be expected to further delay the disposition of cases.

SOURCES OF DATA: NC Appraisal Board, NC Department of Justice

TECHNICAL CONSIDERATIONS: None

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DATE: August 5, 2009



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