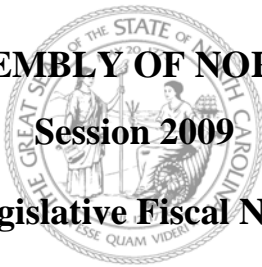


GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

Legislative Fiscal Note

BILL NUMBER: Senate Bill 829 (Fourth Edition)

SHORT TITLE: Regulation of Appraisal Management Companies.

SPONSOR(S): Senator Jenkins

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	<u>FY 2010-11</u>	<u>FY 2011-12</u>	<u>FY 2012-13</u>	<u>FY 2013-14</u>	<u>FY 2014-15</u>
REVENUES:					
NC Appraisal Board	\$262,500	\$150,000	\$150,000	\$150,000	\$150,000
Department of Justice (DOJ)	\$1,200	\$0	\$0	\$0	\$0
EXPENDITURES:					
Correction		No significant impact anticipated*			
Probation		No significant impact anticipated*			
Judicial		Exact amount cannot be determined; some fiscal impact anticipated*			
Department of Justice (DOJ)		No significant impact anticipated*			
<i>*See Assumptions and Methodology</i>					
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: NC Appraisal Board; Department of Justice; Department of Correction; Judicial Branch					
EFFECTIVE DATE: January 1, 2011 except the provision authorizing the Appraisal Board to adopt rules to implement the act becomes effective when it becomes law.					
<i>*This fiscal analysis is independent of the impact of other criminal penalty bills being considered by the General Assembly, which could also increase the projected prison population and thus the availability of prison beds in future years. The Fiscal Research Division is tracking the cumulative effect of all criminal penalty bills on the prison system as well as the Judicial Department.</i>					

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, 2011, 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 utilizes an appraisal panel and performs appraisal management services. An appraisal panel is a network of licensed or certified appraisers who are independent contractors to the appraisal management company. Appraisal management services include:

- Administering an appraisal panel;
- Recruiting and verifying licenses for potential members of the appraisal panel;
- Negotiating fee and service expectations with appraisers;
- Receiving orders for appraisals from clients and delivering them to appraisers on the panel;
- Taking and determining status of appraisal orders;
- Conducting quality control of completed appraisals; and
- Providing completed appraisals to clients.

The definition of an appraisal management company does not include any government agency, an appraiser who enters an agreement with another appraiser to perform an appraisal and the completed appraisal report is signed by both appraisers, any chartered financial institution, a real estate broker, an officer or employee of an exempt entity acting within the scope of employment, or an attorney or personal representative who orders an appraisal on behalf of a client.

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 compliance manager who must be a certified real estate appraiser under the laws of North Carolina or the comparable laws of another state. The appraisal management company must identify the compliance manager to the Board.

The Appraisal Board is authorized to charge the following fees:

- Application fee \$3,500
- Renewal fee \$2,000
- 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 through an established dispute process, 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 amends the law which creates the North Carolina Appraisal Board and designates the appointment of its nine members. The bill directs the Governor to use one of her five appointments to appoint a person representing either the real estate appraisal management industry or the banking industry.

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, 2011. In addition, the bill authorizes the Board to levy various fees. Among these fees is a \$3,500 new application fee. The NC Appraisal Board estimates that 75 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, 2011 deadline, this will cause a revenue increase equal to the 75 businesses multiplied by the \$3,500 new application fee. This results in a \$262,500 revenue increase in FY 2010-11.

Senate Bill 829 authorizes the NC Appraisal Board to levy a \$2,000 application renewal fee. This fee will cause a revenue increase starting in FY 2011-12 equal to the renewal fee multiplied by the 75 businesses. This results in a \$150,000 revenue increase starting in FY 2011-12.

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 75 businesses will each receive a background check by the January 1, 2011 registration deadline, the fiscal impact to DOJ will be the \$16 retained multiplied by the 75 businesses. This results in a \$1,200 increase in revenues in FY 2010-11.

In terms of expenditures, DOJ does not anticipate that the provisions captured within the proposed legislation will cause a material impact on the Department's operations. The fee language in the proposed legislation provides DOJ with adequate authority to recover any costs associated with processing checks requested by the professional licensing board.

General

The Sentencing and Policy Advisory Commission prepares prison population projections for each bill containing a criminal penalty. The Commission assumes for such bills that expanding existing, or creating new criminal offenses produces no deterrent or incapacitative effect on crime. Therefore, the Fiscal Research Division does not assume deterrent effects for any criminal penalty bill.

Department of Correction – Division of Prisons

Because the proposed section creates a new offense, the Sentencing Commission does not have any historical data from which to estimate the impact of this section on the prison population. It is not known how many offenders might be convicted and sentenced under the proposed section. In FY 2008-09, 22% of Class 1 misdemeanor convictions resulted in active sentences. The average estimated time served for Class 1 convictions was 29 days. Offenders serving active sentences of 90 days or less are housed in county jails. Therefore, convictions for this proposed offense would not be expected to have a significant impact on the prison population. The impact on local jail populations is not known.

Judicial Branch

The Administrative Office of the Courts (AOC) provides Fiscal Research with a fiscal impact analysis for most criminal penalty bills. For such bills, fiscal impact is typically based on the assumption that court time will increase due to anticipated increases in trials and corresponding increases in workload for judges, clerks, and prosecutors. This increased court time is also expected to result in greater expenditures for jury fees and indigent defense.

Because the proposed legislation 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 legislation; however, the affected population is similar to those affected by other licensing boards. For example, a similar law requiring a population of at least

7,500 barbers to register with a licensing board resulted in seven defendants charged with a Class 3 misdemeanor for Barbering Without a Certificate, and four charged with a Class 3 misdemeanor for No Barber Shop/School Permit, in calendar year 2009. For each Class 1 misdemeanor that may be charged as a result of the passage of this bill, AOC anticipates an average cost of \$296 per trial for district court in-court time and court personnel, or a cost of \$141 per plea. The average cost for indigent defense for a misdemeanor is \$225 per case. For each motion for injunctive relief AOC anticipates a cost of \$256 for one hour of a superior court civil non-jury trial.

The National Center for State Courts has developed workload standards for North Carolina's court personnel after extensive studies. For FY 2010-11, based on workload formulas, the court system has the following shortages statewide:

District Court Judges:	67
Deputy Clerks:	524
Assistant District Attorneys:	79
DA Victim Witness Legal Assistants:	54
Judicial support staff:	49
Magistrates:	160

Therefore, any increase in workload could not be absorbed by existing staff. In FY 2008-09, a typical misdemeanor case took approximately 88 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; Department of Justice; NC Sentencing and Policy Advisory Commission; Judicial Branch

TECHNICAL CONSIDERATIONS: None

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