NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 904 (Second Edition)

SHORT TITLE: Enact Mortgage Lending Act

SPONSOR(S): Senator Gulley

FISCAL IMPACT

Yes (X) **No ( )** **No Estimate Available ( )**

	FY 2001-02	FY 2002-03	FY 2003-04	FY 2004-05	FY 2005-06
REVENUES					
Special Fund – Banking Comm.					
Registration fees		($550,000)	($550,000)	($550,000)	($550,000)
License Fees		$1,250,750	$1,259,050	$1,266,800	$1,274,350
Net Revenue		$700,750	$709,050	$716,800	$724,350
EXPENDITURES					
Admin. Office of the Courts	No estimate available				
Department of Correction	No estimate available				
Banking Commission		$397,200	$347,200	$347,200	$347,200
POSITIONS:					
Banking Commission		8	8	8	8

PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Commissioner of Banks; Administrative Office of the Courts; Department of Correction

EFFECTIVE DATE: Sections 1 through 8 become effective July 1, 2002. Section 9 of the bill (LRC Commission study) is effective when the bill becomes law.

BILL SUMMARY:
The bill repeals the existing registration of mortgage bankers and brokers and replaces it with a licensing law for mortgage lenders and mortgage brokers.

ASSUMPTIONS AND METHODOLOGY:
Current Program
Section 1 of the bill repeals the authority of the Commissioner of Banks to register mortgage bankers and brokers on July 1, 2002. The Agency earns $550,000 in registration fees each year and will continue registration through FY 2001-02. This revenue will be lost once the

new license fees are instituted. It should be noted that the current $250 registration fee does not cover the administrative cost of the program. The Banking Commission projects spending $812,400 in FY 2001-02 on mortgage lending registration, but will receive only $580,000 in total revenues. (see below) The Commission subsidizes mortgage-lending registration with other receipts.

2001-2002 Operating Budget – Projected Expenses

#People in section	11
Salary & Benefits	$523,400
Travel	$33,000
Training	$5,500
Support Group	$117,600
Overhead	$132,900
Total	$812,400

2001-2002 Projected Revenues

Registration Fees	$550,000
Recapture of Expenses Investigations	$30,000
Total	$580,000
Difference	$232,400
Net Revenue (Expenses)	($232,400)

License Fees

Section 2 of the bill establishes license fees for mortgage bankers and brokers. The license fee for a new application for a mortgage banker/broker is $1,000, for a loan officer is $50, and for each office is $100. Current mortgage bankers/brokers and loan officers will not pay the application fee. All licensed mortgage bankers/brokers will pay an annual $500 renewal fee and $100 for each office. Loan officers will pay a $50 renewal fee. The chart below is the Banking Commission's best estimate of the number of future licensees.

	FY 00-01 current	**FY 01-02**	**FY 02-03**	**FY 03-04**	**FY 04-05**	**FY 05-06**
Mortgage Bankers	395/1,115 branches	415/1,000	625/1,052	634/1,052	642/1,053	649/1,054
Mortgage Brokers	787/618 branches	800/500	590/403	608/405	624/408	639/410
Total	**1,182/1,733**	**1,215/1,500**	**1,215/670**	**1,242/1,457**	**1,266/1,461**	**1288/1,464**
Total Offices	2,915	2,715	2,670	2,699	2,727	2,752
Loan Officers		5,430	5,340	5,398	5,454	5,504
New Applications			**FY 02-03**	**FY 03-04**	**FY 04-05**	**FY 05-06**

Bankers/branches			30/5	27/4	24/3	22/3
Brokers/branches			60/10	54/9	49/8	44/7
Total			**90/15**	**81/13**	**73/11**	**66/10**
Loan Officers			175	157	140	127

The revenue projected from the new and renewed licenses is shown below.

Projected License Fees

	FY 02-03	**FY 03-04**	**FY 04-05**	**FY 05-06**
New License ($1000 each)	$90,000	$81,000	$73,000	$66,000
New Office ($100 each)	$10,500	$9,400	$8,400	$7,600
New Loan Officers ($50 each)	$8,750	$7,850	$7,000	$6,350
Renew License ($500 each)	$607,500	$621,000	$633,000	$644,000
Renew Offices ($100 each)	$267,000	$269,900	$272,700	$275,200
Renew Loan Officers ($50 each)	$267,000	$269,900	$272,700	$275,200
Total	**$1,250,750**	**$1,259,050**	**$1,266,800**	**$1,274,350**

Expenditures – New Felony

G.S. 53-243.14 creates a new Class I felony to engage in mortgage brokering or mortgage banking without being licensed, unless exempted. According to the Commissioner of Banks, there are approximately 750 mortgage companies currently registered with them to do business, however it is not known how many additional individuals will be affected by this legislation.

Since the proposed bill creates a new offense, the Sentencing Commission does not have any historical data from which to estimate how many offenders might be sentenced under this bill or the fiscal impact of this bill on the prison population. However, Fiscal Research believes there could be some fiscal impact since offenders convicted of a Class I felony can receive an active prison sentence. The Sentencing Commission noted that 13% of Class I felons received an active sentence in FY 1999/2000, with an average sentence length of 6 months. If, for example, there were five Class I convictions for this offense per year, this bill would result in the need for one additional prison bed the first year and two additional prison beds the second year.

Since limited data is available on the number of persons who may engage in the proscribed activity in this bill, the Administrative Office of the Courts has no way of estimating the number of charges that may occur or the potential fiscal impact on the courts. In addition, this bill allows for the imposition of civil penalties and for appeals via the civil courts for some remedies for individuals whose licenses are suspended or revoked. AOC and Fiscal Research have no data available on which to base an estimate of this occurrence as well.

It is important to note that the Commissioner reports that there are approximately 1,000 mortgage related complaints a year. Moreover, the Attorney General has one pending indictment in Hoke County and has had 2 convictions over the past 3 to 4 years. Given these numbers and the new felony offense, Fiscal Research believes there may be some impact, but to what extent cannot be estimated.

Expenditures – Banking Commission

The Commissioner of Banks estimates that this bill will require the addition of eight new staff. It is anticipated that in FY 2002-03, licensing will require 4 clerical positions and 4 Examiners. These positions will join the 11 positions currently on staff. The estimate of administrative expenses is shown below.

# Additional people	8
Salary & Benefits	$306,200
Travel	$36,000
Training	$5,000
Total	$347,200

The Commission also expects to spend $50,000 in one-time costs for furniture, computers, supplies and telephones in FY 2002-03

Revenue from the new licenses is sufficient to pay for these additional costs, the existing staff used for registration, and will allow the Commission to end the operating subsidy to mortgage lending regulation.

TECHNICAL CONSIDERATIONS:

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