

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

FILED SENATE
May 17, 2012
S.B. 806
PRINCIPAL CLERK

S

D

SENATE DRS95202-ROfz-11* (03/27)

Short Title: Modify Mortgage Regulation Funding. (Public)

Sponsors: Senator Brown.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CHANGES TO THE LAW DEALING WITH THE ANNUAL
3 ASSESSMENTS OF MORTGAGE BANKERS, MORTGAGE BROKERS, AND
4 MORTGAGE SERVICERS, AS RECOMMENDED BY THE JOINT LEGISLATIVE
5 COMMISSION ON THE MODERNIZATION OF NORTH CAROLINA BANKING
6 LAWS.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. Article 19B of Chapter 53 of the General Statutes is amended by
9 adding a new section to read:

10 "§ 53-244.100A. Assessments.

11 (a) For the purpose of meeting the cost of regulation under this Article, each mortgage
12 lender, mortgage broker, and mortgage servicer licensed under this Article shall pay into the
13 OCOB an assessment as provided in this subsection. The annual assessment shall consist of a
14 base amount of two thousand dollars (\$2,000) for volumes of no more than one million five
15 hundred thousand dollars (\$1,500,000) plus an additional sum, calculated on the loan and
16 servicing dollar volume reported by the licensee to the OCOB for the previous calendar year. If
17 a licensee has both loan and servicing volume, those amounts shall be added together and the
18 assessment shall be calculated from the table below as follows:

| <u>Loan and/or Servicing Dollar Volume</u> | <u>Per Thousand</u> |
|--|---------------------|
| <u>\$1,500,001 to \$2,500,000</u> | <u>\$0.07</u> |
| <u>\$2,500,001 to \$5,000,000</u> | <u>\$0.06</u> |
| <u>\$5,000,001 to \$10,000,000</u> | <u>\$0.05</u> |
| <u>\$10,000,001 to \$30,000,000</u> | <u>\$0.04</u> |
| <u>\$30,000,001 to \$100,000,000</u> | <u>\$0.03</u> |
| <u>\$100,000,001 to \$1,300,000,000</u> | <u>\$0.02</u> |
| <u>More Than \$1,300,000,001</u> | <u>\$0.01</u> |

27 (b) The Commissioner may collect the assessment provided for in subsection (a) of this
28 section annually or in periodic installments as approved by the Commission."

29 SECTION 2. G.S. 53-244.101 reads as rewritten:

30 "§ 53-244.101. License renewal.

31 (a) All licenses issued by the Commissioner under the provisions of this Article shall
32 expire annually on the 31st day of December following issuance or on any other date that the
33 Commissioner may determine. The license is invalid after that date and shall remain invalid
34 unless renewed under subsection (b) of this section.



1 (b) A license may be renewed on or after November 1 of each year by complying with
2 the requirements of subsection (c) of this ~~section~~ section. A mortgage loan originator shall pay
3 a nonrefundable renewal fee of one hundred twenty-five dollars (\$125.00) and by paying to the
4 Commissioner, in addition to plus the actual cost of obtaining credit reports and State and
5 national criminal history record checks and ~~of~~ processing fees ~~of~~ for the nationwide system
6 Nationwide Mortgage Licensing System and Registry as the Commissioner shall ~~require,~~
7 ~~nonrefundable renewal fees as follows: require.~~

8 (1) ~~Licensed mortgage lenders, licensed mortgage brokers, and licensed~~
9 ~~mortgage servicers shall pay an annual renewal fee of six hundred~~
10 ~~twenty five dollars (\$625.00), licensed exclusive mortgage brokers shall pay~~
11 ~~an annual renewal fee of three hundred dollars (\$300.00), and licensed~~
12 ~~mortgage lenders and mortgage brokers shall pay three hundred dollars~~
13 ~~(\$300.00) for each licensed branch office.~~

14 (2) ~~Licensed mortgage loan originators shall pay an annual renewal fee of one~~
15 ~~hundred twenty five dollars (\$125.00).~~

16 (c) Licensees may apply to renew a mortgage loan originator, mortgage lender,
17 mortgage broker, and mortgage servicer license. The application for renewal shall demonstrate
18 that:

19 (1) The licensee continues to meet the initial minimum standards for licensure
20 under G.S. 53-244.060;

21 (2) The mortgage loan originator has satisfied the annual continuing education
22 requirements described in G.S. 53-244.102; and

23 (3) The licensee has paid all required fees ~~for renewal of the license and~~
24 ~~assessments.~~

25 (d) If a mortgage lender, mortgage broker, or mortgage servicer's license is not renewed
26 prior to the expiration date, then the licensee shall pay two hundred fifty dollars (\$250.00) as a
27 nonrefundable late fee ~~in addition to the renewal fee set forth in subsection (b) of this section.~~
28 fee. If a mortgage loan originator's license is not renewed prior to the expiration date, then the
29 licensee shall pay a nonrefundable late fee of one hundred dollars (\$100.00) in addition to the
30 renewal fee set forth in subsection (b) of this section. In the event a licensee fails to obtain a
31 reinstatement of the license prior to March 1, the Commissioner shall require the licensee to
32 comply with the requirements for the initial issuance of a license under the provisions of this
33 Article.

34 (e) When required by the Commissioner, each person shall furnish to the Commissioner
35 the person's consent to a criminal history record check and a set of the person's fingerprints in a
36 form acceptable to the Commissioner or to the Nationwide Mortgage Licensing System and
37 Registry. Refusal to consent to a criminal history record check shall constitute grounds for the
38 Commissioner to deny renewal of the license of the person as well as the license of any other
39 person by whom the person is employed, over which the person has control, or as to which the
40 person is the current or proposed qualifying individual or current or proposed branch manager."

41 **SECTION 3.** G.S. 53-244.115 reads as rewritten:

42 **"§ 53-244.115. Investigation and examination authority.**

43 (a) For purposes of initial licensing, license renewal, suspension, conditioning,
44 revocation, or termination, or general or specific inquiry, investigation, or examination to
45 determine compliance with this Article, the Commissioner ~~may, at the expense of the applicant~~
46 ~~or licensee, may~~ access, receive, and use any books, accounts, records, files, documents,
47 information, or evidence, including:

48 (1) Criminal, civil, and administrative history information, including
49 nonconviction data;

1 (2) Personal history and experience information, including independent credit
2 reports obtained from a consumer reporting agency described in section
3 603(p) of the Fair Credit Reporting Act; and

4 (3) Any other documents, information, or evidence the Commissioner deems
5 relevant to the inquiry, investigation, or examination regardless of the
6 location, possession, control, or custody of the documents, information, or
7 evidence.

8 (b) For purposes of investigating violations or complaints arising under this Article, or
9 for the purposes of examination, the Commissioner may review, investigate, or examine any
10 licensee, individual, or person subject to this Article as often as necessary in order to carry out
11 the purposes of this Article. The Commissioner may interview the officer, principals, person
12 with control, qualified individual, mortgage loan originators, employees, independent
13 contractors, agents, and customers of the licensee, individual, or person concerning their
14 business. The Commissioner may direct, subpoena, or order the attendance of and examine
15 under oath all persons whose testimony may be required about the loans or the business or
16 subject matter of any examination or investigation and may direct, subpoena, or order the
17 person to produce books, accounts, records, files, and any other documents the Commissioner
18 deems relevant to the inquiry. ~~The reasonable cost of the investigation or examination shall be~~
19 ~~charged against the licensee, individual, or person subject to this Article. The assessment set~~
20 forth in G.S. 53-244.100A is for the purpose of meeting the cost of regulation under this
21 Article. Any investigation or examination that, in the opinion of the Commissioner of Banks,
22 requires extraordinary review, investigation, or special examination shall be subject to the
23 actual costs of additional expenses and the hourly rate for the staff's time, to be determined
24 annually by the Banking Commission.

25 (c) Each licensee, individual, or person subject to this Article shall make available to
26 the Commissioner upon request the books and records relating to the operations of the licensee,
27 individual, or person. No licensee, individual, or person subject to investigation or examination
28 under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any
29 books, records, computer records, or other information. Each licensee, individual, or person
30 subject to this Article shall also make available for interview by the Commissioner the officers,
31 principals, persons with control, qualified individuals, mortgage loan originators, employees,
32 independent contractors, agents, and customers of the licensee, individual, or person
33 concerning their business.

34 (d) Each licensee, individual, or person subject to this Article shall make or compile
35 such reports or prepare other information as may be directed or requested by the Commissioner
36 in order to carry out the purposes of this section, including:

- 37 (1) Accounting compilations;
- 38 (2) Information lists and data concerning loan transactions in a format
39 prescribed by the Commissioner;
- 40 (3) Periodic reports, including:
- 41 a. Annual Report Questionnaire,
- 42 b. Servicer Activity Report,
- 43 c. Servicer Schedule of the Ranges of Costs and Fees,
- 44 d. Lender/Servicer Audited Statements of Financial Condition,
- 45 e. Broker Certified Statements of Financial Condition, and
- 46 f. Quarterly Loan Origination Reports.
- 47 (4) Any other information deemed necessary to carry out the purposes of this
48 section.

49 (e) In making any examination or investigation authorized by this Article, the
50 Commissioner may control access to any documents and records of the licensee or person
51 under examination or investigation. The Commissioner may take possession of the documents

1 and records or place a person in exclusive charge of the documents and records in the place
2 where they are usually kept. During the period of control, no individual or person shall remove
3 or attempt to remove any of the documents and records except pursuant to a court order or with
4 the consent of the Commissioner. Unless the Commissioner has reasonable grounds to believe
5 the documents or records of the licensee have been or are at risk of being altered or destroyed
6 for purposes of concealing a violation of this Article, the licensee or owner of the documents
7 and records shall have access to the documents or records as necessary to conduct its ordinary
8 business.

9 (f) In order to carry out the purposes of this section, the Commissioner may:

- 10 (1) Retain attorneys, accountants, or other professionals and specialists as
11 examiners, auditors, or investigators to conduct or assist in the conduct of
12 examinations or investigations;
- 13 (2) Enter into agreements or relationships with other government officials or
14 regulatory associations in order to improve efficiencies and reduce
15 regulatory burden by sharing resources, standardized or uniform methods or
16 procedures, documents, records, information, or evidence obtained under
17 this section;
- 18 (3) Use, hire, contract, or employ public or privately available analytical
19 systems, methods, or software to examine or investigate the licensee,
20 individual, or person subject to this Article;
- 21 (4) Accept and rely on examination or investigation reports made by other
22 government officials, within or without this State; or
- 23 (5) Accept audit reports made by an independent certified public accountant for
24 the licensee, individual, or person in the course of that part of the
25 examination covering the same general subject matter as the audit and may
26 incorporate the audit report in the report of the examination, report of
27 investigation, or other writing of the Commissioner.

28 (g) In addition to the authority granted by G.S. 53-244.113 and G.S. 53-244.115, the
29 Commissioner is authorized to take action, including summary suspension of the license, if the
30 licensee fails, within 20 days or a lesser time if specifically requested for good cause, to:

- 31 (1) Respond to inquiries from the Commissioner or the Commissioner's
32 designee regarding any complaints filed against the licensee that allege or
33 appear to involve violation of this Article or any law or rule affecting the
34 mortgage lending business;
- 35 (2) Respond to and cooperate fully with notices from the Commissioner or the
36 Commissioner's designee relating to the scheduling and conducting of an
37 examination or investigation under this Article; or
- 38 (3) Consent to a criminal history record check. The refusal shall constitute
39 grounds for the Commissioner to deny licensure to the applicant as well as to
40 any entity:
 - 41 a. By whom or by which the applicant is employed,
 - 42 b. Over which the applicant has control, or
 - 43 c. As to which the applicant is the current or proposed qualifying
44 individual or a current or proposed branch manager.

45 (h) The authority of this section shall remain in effect, whether a licensee, individual, or
46 person subject to this Article acts or claims to act under any licensing law of the State, or
47 claims to act without such authority."

48 **SECTION 4.** G.S. 53-244.119(e) is repealed.

49 **SECTION 5.** This act becomes effective October 1, 2012.