

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION**

**March 24, 2009**

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2774** by Truitt (Relating to the licensing and regulation of certain persons involved in mortgage lending; providing a penalty.), **As Introduced**

**Estimated Two-year Net Impact to General Revenue Related Funds** for HB2774, As Introduced: an impact of \$0 through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

**General Revenue-Related Funds, Five-Year Impact:**

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	\$0
2011	\$0
2012	\$0
2013	\$0
2014	\$0

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1	Probable Revenue Gain from <i>General Revenue Fund</i> 1	Change in Number of State Employees from FY 2009
2010	(\$211,370)	\$211,370	1.0
2011	(\$487,395)	\$487,395	1.0
2012	(\$87,395)	\$87,395	1.0
2013	(\$87,395)	\$87,395	1.0
2014	(\$88,370)	\$88,370	1.0

**Fiscal Analysis**

The bill amends the Finance Code so that any amounts in the Mortgage Broker Recovery Fund 0848 over \$3.5 million would be available for the Finance Commission to use toward offsetting the cost of participating in the Nationwide Mortgage Licensing System and Registry (NMLSR). The commissioner of the Department of Savings and Mortgage Lending will administer the mortgage broker recovery fund. Additionally, the mortgage advisory committee would be amended to become the mortgage industry broker advisory committee.

Fees amended in the Finance Code associated with the bill include a \$50 fee for any returned check or credit card charge back, the removal of the \$200,000 ceiling for the private finance service company

annual registration fee, an increase from \$175 to \$275 for loan officer license renewals, changing the fee for an original or renewal license from \$20 to up to \$20, and an administrative penalty not to exceed \$1,000 for violators of a cease and desist order.

The bill would take effect immediately with a vote of two-thirds of all the members elected to each house. If the bill does not receive a two-thirds vote, it will take effect on September 1, 2009.

## **Methodology**

The analysis is based on information provided by the Department of Savings and Mortgage Lending, the Office of Consumer Credit Commissioner, the Department of Banking, and the Comptroller of Public Accounts and includes the following assumptions:

The Department of Savings and Mortgage Lending would require 1.0 Legal Assistant III position at \$52,419 each fiscal year from 2010-2015 with a benefits cost of \$14,976 each fiscal year due to the significant increase in legal workload that would occur as a result of moving the Recovery Funds claim process in house. Also included is \$3,000 each fiscal year for travel and operating expenses. The Department of Savings and Mortgage Lending would also be required to pay a \$500,000 one-time buy-in fee to the Conference of State Bank Supervisors (CSBS), \$100,000 in 2010 and \$400,000 in 2011, for use of the NMLSR. Additional technology costs include \$40,000 in 2010 and \$17,000 for each fiscal year from 2011-2015 for a contract software developer from CSBS to upgrade the current database, and \$975 in fiscal year 2010 and fiscal year 2014 for computer equipment for the new 1.0 FTE.

The Comptroller of Public Accounts estimates the removal of the \$200,000 ceiling for the private finance service company annual registration fee would have a positive effect on revenue collections, totaling up to an additional \$300,000 each fiscal year from 2010-2014. However, the Department of Savings and Mortgage Lending is a self-leveling agency and is statutorily required to generate revenues sufficient to cover its cost of operation. Based on this requirement, this analysis assumes the levels of other fees would be adjusted accordingly by the commissioner. In addition, the amounts for administrative penalties are unknown and cannot be estimated at this time.

Based on information provided by the Department of Banking and the Office of Consumer Credit Commissioner, it is assumed that duties and responsibilities associated with implementing the provisions of the bill for these agencies could be accomplished by utilizing existing resources. Like the Department of Savings and Mortgage Lending, the Department of Banking, and the Office of Consumer Credit Commissioner are self-leveling agencies and are also statutorily required to generate revenues sufficient to cover all of the agency's direct and indirect costs.

## **Technology**

The bill would require a new computer and software for an additional 1.0 FTE, 1 database upgrade, and a contract developer for an initial total cost of \$40,975 in fiscal year 2010 and \$17,000 in fiscal years 2011-2015, with an additional \$975 in fiscal year 2014 for computer replacement.

## **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts, 450 Department of Savings and Mortgage Lending, 451 Department of Banking, 466 Office of Consumer Credit Commissioner

**LBB Staff:** JOB, JRO, MW, ACa