

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 18, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

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 residential mortgage lending; providing a penalty.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB2774, Committee Report 2nd House, Substituted: 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 would amend 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 bill would require the commissioner of the Department of Savings and Mortgage Lending to administer the mortgage broker recovery fund. Additionally, the mortgage advisory committee would be amended to become the mortgage industry broker advisory committee, effective April 1, 2010.

Fees amended in the Finance Code associated with the bill include a \$50 fee for any returned check or credit card charge back, 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 \$200,000 annual registration fee for the private finance service companies would include an increase in the fee based on the number of exclusive agents acting in the state. The fee for loan officer license renewals would increase from \$175 to \$275, and after January 1, 2011, the fee would increase not to exceed \$375.

The bill takes effect on September 1, 2009. Subsection (b-1) of Section 5 would take effect on April 1, 2010. Subsection (c) in Section 7 and Subsection (a) and (b) of Section 10 would expire on January 1, 2011. Subsection (c-1) of Section 8 would take effect on January 1, 2011. Subsections (a-1) and (b-1) of Section 11 would take effect January 1, 2011. Sections 1, 2, and 17 of this bill take effect only if House Bill 10 or another similar bill of the Regular Session of the 81st Legislature relating to the licensing of residential mortgage loan originators is enacted and becomes law.

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 increasing the \$200,000 ceiling for the private finance service company annual registration fee would have a positive effect on revenue collections. 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