

# GENERAL ASSEMBLY OF NORTH CAROLINA



Session 2009

## Legislative Fiscal Note

**BILL NUMBER:** Senate Bill 1216 (Fifth Edition)

**SHORT TITLE:** Extend Emergency Foreclosure Program.

**SPONSOR(S):** Senator Blue

<b>FISCAL IMPACT (\$ in millions)</b>					
	<b>Yes (x)</b>	<b>No ( )</b>	<b>No Estimate Available ( )</b>		
	<b><u>FY 2010-11</u></b>	<b><u>FY 2011-12</u></b>	<b><u>FY 2012-13</u></b>	<b><u>FY 2013-14</u></b>	<b><u>FY 2014-15</u></b>
<b>REVENUES (\$million)</b>					
State Home Foreclosure Prevention Trust Fund	<b>\$6.3</b>	<b>\$4.2</b>	<b>\$3.85</b>	<b>\$0</b>	<b>\$0</b>
NCCOB	<b>\$ .8</b>	<b>\$ .8</b>	<b>\$ .8</b>	<b>\$ .8</b>	<b>\$ .8</b>
<b>EXPENDITURES (\$millions)</b>					
NCCOB Admin Expenses	<b>\$1.4</b>	<b>\$2.3</b>	<b>\$2.2</b>	<b>\$0</b>	<b>\$0</b>
Counselor Funding grants	<b>\$2.7</b>	<b>\$1.8</b>	<b>\$1.7</b>	<b>\$0</b>	<b>\$0</b>
Legal Services grants	<b><u>\$ .9</u></b>	<b><u>\$ .6</u></b>	<b><u>\$ .6</u></b>	<b><u>\$0</u></b>	<b><u>\$0</u></b>
NCCOB Total	<b>\$5.1</b>	<b>\$4.7</b>	<b>\$4.5</b>	<b>\$0</b>	<b>\$0</b>
AOC	<b>See Assumptions and Methodologies</b>				
<b>POSITIONS (cumulative):</b>					
NCCOB	<b>15</b>	<b>15</b>	<b>15</b>	<b>0</b>	<b>0</b>
AOC	<b>See Assumptions and Methodologies</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b> Office of the Commissioner of Banks; Administrative Office of the Courts					
<b>EFFECTIVE DATE:</b> Sections 1 through 3 become effective on November 1, 2010; Sections 4 through 8 become effective September 1, 2010; Section 9 becomes effective when it becomes law.					

**BILL SUMMARY:**

Section 1 to 3 of this bill would amend and extend the Emergency Program to Reduce Home Foreclosures Act (the "Act"). Under current law, the Act requires pre-foreclosure notices to be filed with regard to subprime mortgages. This notice must be sent to the homeowner and filed with the Administrative Office of the Courts. The bill would extend the requirement to all home

loans. The bill would also require the mortgage servicer to pay a \$75 fee when filing a pre-foreclosure notice. Such fee would be deposited with the State Home Foreclosure Prevention Trust Fund.

The State Home Foreclosure Prevention Trust Fund is an account that is established by the bill and managed and maintained by the Office of the Commissioner of Banks (the “NCCOB”). The bill requires that the NCCOB allocate the funds in the State Home Foreclosure Prevention Trust Fund to (i) the administrative costs of operating the program, (ii) grants and reimbursements to non-profit housing counseling agencies for providing foreclosure prevention counseling services, and (iii) grants and reimbursements to non-profit legal service providers for certain services related to foreclosure avoidance. Any funds remaining upon the expiration of the State Home Foreclosure Prevention Project will be directed to the North Carolina Housing Trust Fund.

Section 4 and 5 of the bill would increase the filing and renewal fee for each principal and each branch office of a mortgage broker or mortgage lender as follows:

	<b>Current Fee</b>	<b>Proposed Fee</b>
Initial Filing Fee	\$125	\$300
Annual Renewal Fee	\$125	\$300

Section 5 of the bill would also increase the annual renewal fee of mortgage loan originators as follows:

	<b>Current Fee</b>	<b>Proposed Fee</b>
Mortgage Loan Originator – Renewal Fee	\$67.50	\$125

Section 6 of the bill would require a licensee to pay, through the National Mortgage Licensing System, an administrative processing fee, not to exceed \$75, for the following licensing status changes:

- 1) A change in the name of the licensee;
- 2) A change in address of the licensee’s principal office;
- 3) Change in sponsor of mortgage loan originators;
- 4) A change in control of a mortgage lender, mortgage broker or mortgage servicer;
- 5) A change in the identity of the manager of a branch; or
- 6) A change in the identity of the licensee’s qualified individual

Section 7 of the bill amends the definition of “Points and fees” and Section 8 of the bill amends the definition of “Threshold”. These two definitions modify the limitations on fees that can be charged in originating a mortgage. Section 9 extends the original Act until May 31, 2013.

**BACKGROUND:**

The Act went into effect on November 1, 2008 in response to a substantial increase in mortgage foreclosures. The purpose of the Act was to bring borrowers and lenders together to avoid foreclosures where possible. The requirements of the Act are limited to subprime loans.

The Act requires mortgage servicers to send a notice to homeowners with certain subprime loans 45 days prior to the filing of a foreclosure proceeding (the “Notice”). In addition, the Act requires the mortgage servicer to file such Notice with the Administrative Office of the Courts. The Notice is entered into a database and allows the NCCOB to contact homeowners and encourage them to take steps to avoid foreclosure including referrals to a non-profit housing counselor who can contact the mortgage servicer. Mortgage servicers and housing counselors report that once they are in contact, two out of three homeowners are able to avoid foreclosure. The NCCOB has also made a series of grants to nonprofit housing counseling agencies to expand the availability of foreclosure prevention counselors.

The Secure and Fair Enforcement Mortgage Licensing Act (the “Licensing Act”), which is codified in Chapter 53, Article 19B, requires that certain mortgage lenders, brokers, originators and servicers receive a license from the NCCOB and pay an applicable licensing fee. The NCCOB determines the fitness of applicants for licensure and has investigative and disciplinary authority to ensure that the licensees comply with the Licensing Act.

**ASSUMPTIONS AND METHODOLOGY:**

I. Revenue – Pre-foreclosure filings

NCCOB has estimated that the following number of pre-foreclosure filings will be made between November 1, 2010, which is the effective date of the bill, and May 31, 2013, which is the expiration of the bill. Their estimates are based on delinquency data from the Mortgage Bankers Association as well as economic forecasts regarding future delinquencies and foreclosure activity.

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-2013</b>
Number of Pre-Foreclosure Filings	84,000	56,000	51,333

Each mortgage servicer will pay a fee of \$75 for each pre-foreclosure notice filed, which will lead to the following revenue:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-2013</b>
Revenue	\$6,300,000	\$4,200,000	\$3,850,000

II. Revenue – License and Processing Fee Changes

Under the bill, annual license fees will increase by \$57.50 for each mortgage loan originator and \$175 for each branch office of each mortgage broker or mortgage lender. This increase in fees is expected to increase revenue as follows:

<b>License Fee Revenue</b>			
	<b># of licensees</b>	<b>Fee Increase</b>	<b>Revenue</b>
Mortgage loan originators	6,600	\$57.50	\$379,500
Branch offices	680	\$175.00	\$119,000
<b>Total</b>			<b>\$498,500</b>

In addition, the bill authorizes the NCCOB to charge an administrative processing fee for certain licensee status changes. The bill provides that the fee may not exceed \$75 for any of the status changes. The NCCOB expects, though, to charge less than the \$75 maximum established by the bill for most status changes. The expected fees and revenue related to status changes are as follows:

<b>Processing Fees</b>			
	<b># of changes</b>	<b>Expected fee</b>	<b>Revenue</b>
Address Change	500	\$25	\$12,500
Sponsorship Change	3,000	\$75	\$225,000
Change of Control	50	\$50	\$2,500
Name Change	500	\$25	\$12,500
Branch Manager Change	500	\$25	\$12,500
Qualified Individual Change	1,200	\$25	\$30,000
<b>Total Processing Revenue</b>			<b>\$295,000</b>

The total revenue expected from license and processing fees is:

License Fees	\$295,000
Processing Fees	\$498,500
<b>Total Revenue</b>	<b>\$793,500</b>

### III. Administrative Expense – Foreclosure Prevention Program

Staff needed for the administration of the bill will include 15 time limited employees in the State Home Foreclosure Prevention Project (“SHFPP”) as well as permanent staff from the NCCOB that will be partially allocated to the project. The SHFPP staff sends out an initial letter to each homeowner that receives a Notice. They also act as an intermediary between counselors and mortgage servicers, especially with regard to more difficult workout situations. In addition, they conduct legal reviews of certain loans, including the investigation of fraudulent situations, and respond to homeowner concerns and complaints with regard to the program.

The annual cost for the 15 employees in the SHFPP based on FY 2010-11 expected costs will be as follows:

	<b>Salary</b>	<b>Health Insurance</b>	<b>Retirement</b>	<b>SS &amp; Medicare</b>	<b>Total Per Employee</b>	<b>Number of Employees</b>	<b>Total</b>
Director	\$90,000	\$4,929	\$9,450	\$6,885	\$111,264	1	\$111,264
Foreclosure Prevention Fellows	\$78,000	\$4,929	\$8,190	\$5,967	\$97,086	5	\$485,430
Foreclosure Prevention Paralegals	\$42,000	\$4,929	\$4,410	\$3,213	\$54,552	8	\$436,416
Audit	\$50,000	\$4,929	\$5,250	\$3,825	\$64,004	1	\$64,004
						<b>15</b>	<b>\$1,097,114</b>

In addition, seven employees from NCCOB will be partially allocated to the foreclosure prevention program. These seven employees earn \$220,159 per year inclusive of benefits and will be allocated 70% to the program which will bring about an allocated annual cost of \$154,111.

Since the bill will only be in effect for 8 months of FY 2010-11 and 11 month of FY 2012-13, and these amounts will be increased by inflation each year, we expect the following staff expenses:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
SHFPP Staff Expense	\$731,409	\$1,187,516	\$1,197,303
NCCOB Staff Expense	\$102,741	\$166,810	\$168,185
<b>Total Staff Expense</b>	<b>\$834,150</b>	<b>\$1,354,326</b>	<b>\$1,365,488</b>

In addition to the staff mentioned above, NCCOB has contracted with Connectinc. to operate a call center. The initial letter sent to each homeowner instructs them to call a 1-800 number for assistance. Connectinc. receives the initial call and makes the initial referral to a housing counseling agency. NCCOB is also planning an outreach campaign that will include primarily public service radio advertisements, but may also include television advertisements and a door to door campaign to contact especially hard to reach borrowers. We are expecting the following additional annual administrative expenditures which are based on expected FY 2010-11 costs:

IT	\$119,028
Postage and supplies	\$352,961
Telephone and call center	\$243,516
Outreach	\$175,000
Travel/registrations/training	\$25,000
<b>Annual other administrative expense</b>	<b>\$915,505</b>

Since the bill will only be in effect for 8 months of FY 2010-11 and 11 months of FY 2012-13, and these amounts will be increased by inflation each year, we expect the following other administrative expenses:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
<b>Total other administrative expenses</b>	<b>\$610,337</b>	<b>\$939,675</b>	<b>\$883,764</b>

Based on the above, we expect the following total administrative expenses:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Total staff expense	\$834,150	\$1,354,326	\$1,365,488
Total other administrative expenses	\$610,337	\$939,675	\$883,764
<b>Total Administrative Expense</b>	<b>\$1,444,487</b>	<b>\$2,294,001</b>	<b>\$2,249,252</b>

#### IV. Counselor Funding Grants

Currently, about 10% of the homeowners that receive a pre-foreclosure notice receive counseling. The cost to counsel each homeowner is estimated at \$325. Based on these assumptions, we expect the following grant schedule to counselors:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-13</b>
Estimated pre-foreclosure filings	84,000	56,000	51,333
Estimated number to counselors (10%)	8,400	5,600	5,133
<b>Cost to counsel (\$325)</b>	<b>\$2,730,000</b>	<b>\$1,820,000</b>	<b>\$1,668,333</b>

#### V. Legal Services Grants

The SHFPP will also make grants for legal services. After deducting administrative and counseling costs, the program has approximately \$2.1 million left to allocate to legal services. This amount will likely be distributed over the three years in proportion to pre-foreclosure filings and we expect grants as follows:

	<b>FY 2010-11</b>	<b>FY 2011-12</b>	<b>FY 2012-2013</b>	<b>Total</b>
Number of pre-foreclosure filings	84,000	56,000	51,333	191,333
Percent of total	44%	29%	27%	100%
<b>Funds for legal service grants</b>	<b>\$941,238</b>	<b>\$627,492</b>	<b>\$575,197</b>	<b>\$2,143,927</b>

#### VI. Effects on the Administrative Offices of the Courts

The bill would likely also increase the number of pre-foreclosure filings that the Administrative Offices of the Courts would receive since these notices would be required as a part of all home loan foreclosures rather than only subprime loans. Currently, though, clerks must review foreclosure filings to determine whether a loan is subprime. This can require a relatively

sophisticated calculation. Under the bill, the clerks would no longer be required to determine if a loan is subprime since all home loans will be subject to the Act. These two effects will, to some extent, offset one another.

In addition, the court system currently has a shortage of deputy clerks statewide. Any increase in workload could not be absorbed by existing staff and any decrease in workload would not permit position reductions. As a result, we expect that the bill will not have a significant fiscal impact on the Administrative Offices of the Courts.

**SOURCES OF DATA:** North Carolina Office of the Commissioner of Banks; North Carolina Administrative Office of the Courts; Moody's economy.com

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION: (919) 733-4910**

**PREPARED BY:** David Nachman

**APPROVED BY:** Marilyn Chism, Director  
Fiscal Research Division

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