

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 105

Short Title: Reduce Mortgage Lender Surety Bonds. (Public)

Sponsors: Representatives J. Bell and Jordan (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Banking.

February 27, 2015

A BILL TO BE ENTITLED

AN ACT TO REDUCE THE SURETY BOND REQUIREMENT FOR LICENSEES UNDER THE SECURE AND FAIR ENFORCEMENT MORTGAGE LICENSING ACT (NC S.A.F.E. ACT), AS RECOMMENDED BY THE LEGISLATIVE RESEARCH COMMISSION STUDY COMMITTEE ON BANKING LAW AMENDMENTS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 53-244.103 reads as rewritten:

"§ 53-244.103. Surety bond requirements.

(a) Each mortgage loan originator or transitional mortgage loan originator shall be covered by a surety bond through employment with a licensee in accordance with this section. The surety bond shall provide coverage for each mortgage loan originator or transitional mortgage loan originator employed by the licensee in an amount as prescribed by subsection (b) of this section and shall be in a form prescribed by the Commissioner. The Commissioner may adopt rules with respect to the requirements for the surety bonds as needed to accomplish the purposes of the Article.

(b) Licensees shall be required to post a surety bond with the Commissioner at application to be subsequently adjusted as follows:

(1) A mortgage broker shall post a minimum surety bond of ~~seventy five thousand dollars (\$75,000)~~ twenty-five thousand dollars (\$25,000). Provided, however, if a mortgage broker has originated mortgage loans in North Carolina in a 12-month period ending December 31 in excess of ~~ten million dollars (\$10,000,000)~~ twenty-five million dollars (\$25,000,000) but less than ~~fifty million dollars (\$50,000,000)~~ one hundred million dollars (\$100,000,000), then the mortgage broker's minimum bond amount shall be ~~one hundred twenty five thousand dollars (\$125,000)~~ seventy-five thousand dollars (\$75,000), and if a mortgage broker has originated mortgage loans in North Carolina in a 12-month period ending December 31 of ~~fifty million dollars (\$50,000,000)~~ one hundred million dollars (\$100,000,000) or more, the mortgage broker's minimum bond shall be ~~two hundred fifty thousand dollars (\$250,000)~~ one hundred fifty thousand dollars (\$150,000).

(2) A mortgage lender or mortgage servicer shall post a minimum surety bond of ~~one hundred fifty thousand dollars (\$150,000)~~ one hundred thousand dollars (\$100,000). Provided, however, if a mortgage lender has originated mortgage loans in North Carolina in a 12-month period ending December 31 in excess of ~~ten million dollars (\$10,000,000)~~ but less than fifty million



1 ~~dollars (\$50,000,000), then the mortgage lender's minimum bond amount~~
2 ~~shall be two hundred fifty thousand dollars (\$250,000), and if a mortgage~~
3 ~~lender has originated mortgage loans in North Carolina in a 12-month period~~
4 ~~ending December 31 of fifty million dollars (\$50,000,000) of one hundred~~
5 ~~million dollars (\$100,000,000) or more, then the mortgage lender's minimum~~
6 ~~bond shall be five hundred thousand dollars (\$500,000). one hundred fifty~~
7 ~~thousand dollars (\$150,000).~~

- 8 (3) Any increased surety bond required under subdivision (1) or (2) of this
9 subsection shall be filed with the Commissioner on or before May 31
10 immediately following the end of the 12-month December 31 period.

11 (c) The surety bond shall be in a form satisfactory to the Commissioner and shall run to
12 the State for the benefit of any claimants against the licensee to secure the faithful performance
13 of the obligations of the licensee under this Article. The aggregate liability of the surety shall
14 not exceed the principal sum of the bond. A party having a claim against the licensee may bring
15 suit directly on the surety bond, or the Commissioner may bring suit on behalf of any
16 claimants, either in one action or in successive actions. Consumer claims shall be given priority
17 in recovering from the bond. When an action is commenced on a licensee's bond, the
18 Commissioner may require the filing of a new bond. In this case, the licensee shall file a
19 replacement bond in the required amount within 30 days. Immediately upon recovery upon any
20 action on the bond the licensee shall file a new bond.

21 (d) In the Commissioner's discretion and upon written request of the licensee, the
22 Commissioner may waive the requirement of the bond for any licensee, if:

- 23 (1) The licensee has been licensed by the Commissioner for at least three years;
24 (2) The licensee can demonstrate a net worth, according to the most recent
25 ~~audited~~ financial statement, of at least ~~four times~~ the required bond amount,
26 and the licensee certifies that its net worth will be maintained at or above
27 this level at all times and agrees to notify the Commissioner and to secure an
28 appropriate bond in the event the net worth falls below this level;
29 (3) The Commissioner believes the licensee has a satisfactory history of
30 resolving complaints from consumers and responding to findings of
31 investigations or examinations by the Commissioner; and
32 (4) The Commissioner has no reason to believe the licensee will be unable to
33 resolve complaints, respond to examination or investigative findings, or
34 fulfill financial obligations under this Article.

35 (e) If the Commissioner has waived the bond requirement of a licensee based on
36 subsection (d) of this section, the Commissioner may summarily reinstate the bond requirement
37 on any licensee if the Commissioner has reason to believe the licensee no longer meets the
38 standards in subsection (d) of this section. In this event, the licensee shall submit a bond, as
39 required in subsection (b) of this section, within 30 days. Failure to submit a bond as directed
40 by the Commissioner shall be grounds for summary suspension."

41 **SECTION 2.** This act is effective when it becomes law.