

**State Corporation Commission
2009 Fiscal Impact Statement**

1. Bill Number: HB1776

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: McClellan

3. Committee: Passed Both Houses

4. Title: **Mortgage Lender and Broker Act; broker duties and liability.**

5. Summary: Mortgage Lender and Broker Act; broker duties and liabilities; prohibited practices. Prohibits a mortgage broker from failing to use reasonable skill, care, and diligence in exercising the broker's duty, which is created hereby, to make reasonable efforts to secure a mortgage loan that is in the best interests of the applicant, considering the applicant's circumstances and loan characteristics. A borrower who suffers a loss as a result of a breach of such duty may bring an action to recover actual damages.

6. Fiscal Impact Estimates: Not available, see Item 8.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: Exact figures cannot be determined without further analysis and consideration. The fiscal impact will depend on how the State Corporation Commission's Bureau of Financial Institutions will be expected to enforce the duties and requirements found on Lines 66-69 (of the enrolled bill). For example, if supervised solely through investigations and examinations from consumer complaints received, there may be minimal fiscal impact on the Bureau, assuming the number of complaints received by the Bureau does not increase dramatically. However, it is possible that enactment of the bill may result in an increase of consumer complaints, thus the impact will depend on whether investigation, examination and resolution of those complaints can be absorbed by existing personnel. If handled through statutorily required examinations of mortgage licensees, with new review procedures incorporated into the examination process, the examination processing time would increase with a commensurate increase in Bureau costs. Given the ongoing reduction in the number of mortgage licensees over the past year due to deteriorating economic conditions, and the related reduction in the number of loans made by mortgage licensees, it is possible such an examination review could be accomplished by existing examination staff, with no significant increase in costs.

9. Specific Agency or Political Subdivisions Affected: State Corporation Commission and its Bureau of Financial Institutions

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10. Technical Amendment Necessary: No.

11. Other Comments: Senate Bill 1020 appears to be a duplicate of this bill.

Date: 2/23/09 E.J. Face, Jr.

cc: Secretary of Commerce and Trade