State Corporation Commission
2009 Fiscal Impact Statement

1. **Bill Number:** SB1020

   House of Origin X Introduced ___ Substitute ___ Engrossed

   Second House ___ In Committee ___ Substitute ___ Enrolled

2. **Patron:** McEachin

3. **Committee:** Commerce and Labor

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

5. **Summary:** Mortgage Lender and Broker Act; broker duties and liability. Imposes upon mortgage brokers the duties to (i) act in the borrower's best interest and in the utmost good faith toward the borrower and not to compromise a borrower's right or interest in favor of another's right or interest, including a right or interest of the mortgage broker; (ii) make reasonable efforts to secure a loan that is in the best interests of the borrower considering borrower circumstances and loan characteristics, including the product type, rates, charges, and repayment terms of the loan; and (iii) use reasonable skill, care, and diligence. The measure authorizes a borrower who has suffered a loss as a result of any violation of the Mortgage Lender and Broker Act to bring an action to recover actual damages, attorney fees, and court costs. If the violation was willful, the damages may be increased up to treble the amount of damages sustained.

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 Bureau of Financial Institutions will be expected to enforce the duties and requirements found on Lines 74-83. 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

10. Technical Amendment Necessary: No.

11. Other Comments: None.

Date: 1/20/09 E.J. Face, Jr.
Cc: Secretary of Commerce and Trade