

State Corporation Commission 2008 Fiscal Impact Statement

1. Bill Number: HB1487

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

2. Patron: Suit

3. Committee: Commerce and Labor

4. Title: **Home ownership protection.**

5. Summary: Home ownership protection. Authorizes the State Corporation Commission to impose a fine not exceeding \$2,500 upon a mortgage lender or mortgage broker that is required to be licensed under the Mortgage Lender and Broker Act for violating any other law or regulation applicable to the conduct of the lender's or broker's business. The Housing Commission is directed to study all new federal legislation pertaining to mortgage lending and brokering, and to determine if they require changes to Virginia law. The measure authorizes the Commission to suspend or revoke a mortgage lender's or broker's license upon its failure promptly to pay when due reasonable fees to a licensed appraiser for appraisal services performed in connection with the origination or closing of a mortgage loan for a customer of the mortgage broker or lender. Other amendments to the Mortgage Lender and Broker Act (i) remove the element of the definition of a mortgage loan that has required the property securing the loan to be owner-occupied; (ii) require the Commission to conduct background checks on every member, senior officer, director, and principal of a licensee; (iii) require licensees to conduct background checks on employees who may have access to or process personal identifying or financial information from a member of the public; (iv) require licensees to ensure that employees are properly trained in applicable state and federal mortgage lending laws and regulations; (v) authorize the Insurance Commissioner to bring actions to enforce specific provisions of the federal RESPA that, pursuant to the federal law, may be enforced by the federal Department of Housing and Urban Development, a state Attorney General, or a state insurance commissioner; and (vi) prohibit the making or brokering of certain types of mortgage loans unless the borrower has completed an approved homeownership education course.

6. Fiscal Impact Estimates: Preliminary. See Item 8.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: Estimates are preliminary since it is difficult to ascertain the number of entities that will require licensing as a result of amending the definition of "mortgage loan." The Bureau of Financial Institutions examination processes and procedures will be adapted to incorporate new requirements under the proposed legislation. Additionally, the Bureau estimates having to conduct several thousand background checks each year at an approximate cost of \$25 per transaction. The Bureau estimates that at a minimum, an additional three examiner positions will be required at a total cost of \$195,000 (salary,

benefits and travel costs) and an additional two clerical positions will be required at a total cost of \$80,000 (salary and benefits). Pursuant to § 6.1-420 of the Code of Virginia, mortgage licensees pay an annual fee to the State Corporation Commission to defray all costs of examination, supervision and regulation.

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

10. Technical Amendment Necessary: The patron has received a communication from the State Corporation Commission regarding a possible technical amendment regarding the enforcement of the Real Estate Settlement Procedures Act of 1974 (RESPA). The amendment would either strike lines 382-384 (eliminating the need for § 38.2-220 in the bill) or strike “The Commission, acting through the Commissioner of Insurance,” and insert “The Attorney General.” The Attorney General is already authorized to enforce RESPA (Real Estate Settlement Procedures Act of 1974).

11. Other Comments: None

Date: 1/31/2008 ejf

cc: Secretary of Commerce and Trade