

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE BILL DRH10201-MU-26 (03/14)

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

Sponsors: Representatives Hardister, Jordan, and Goodman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE SURETY BOND REQUIREMENT FOR LICENSEES UNDER
3 THE SECURE AND FAIR ENFORCEMENT MORTGAGE LICENSING ACT (NC
4 S.A.F.E. ACT).

5 The General Assembly of North Carolina enacts:

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

7 "§ 53-244.103. Surety bond requirements.

8 (a) Except as provided in subsection (a1) of this section, each mortgage loan originator
9 or transitional mortgage loan originator shall be covered by a surety bond through employment
10 with a licensee in accordance with this section. The surety bond shall provide coverage for each
11 mortgage loan originator or transitional mortgage loan originator employed by the licensee in
12 an amount as prescribed by subsection (b) of this section and shall be in a form prescribed by
13 the Commissioner. The Commissioner may adopt rules with respect to the requirements for the
14 surety bonds as needed to accomplish the purposes of the Article.

15 (a1) The requirements of subsection (a) of this section shall not apply to a mortgage loan
16 originator or transitional mortgage loan originator employed only by a registrant for the sole
17 purpose of supervising and controlling loan processors or underwriters.

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

20 (1) A mortgage broker shall post a minimum surety bond of ~~seventy-five~~
21 ~~thousand dollars (\$75,000)~~ twenty-five thousand dollars (\$25,000).
22 Provided, however, if a mortgage broker has originated mortgage loans in
23 North Carolina in a 12-month period ending December 31 in excess of ~~ten~~
24 ~~million dollars (\$10,000,000)~~ twenty-five million dollars (\$25,000,000) but
25 less than ~~fifty million dollars (\$50,000,000)~~, one hundred million dollars
26 (\$100,000,000), then the mortgage broker's minimum bond amount shall be
27 ~~one hundred twenty-five thousand dollars (\$125,000)~~, seventy-five thousand
28 dollars (\$75,000), and if a mortgage broker has originated mortgage loans in
29 North Carolina in a 12-month period ending December 31 of ~~fifty million~~
30 ~~dollars (\$50,000,000)~~ one hundred million dollars (\$100,000,000) or more,
31 the mortgage broker's minimum bond shall be ~~two hundred fifty thousand~~
32 ~~dollars (\$250,000)~~ one hundred fifty thousand dollars (\$150,000).

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



1 in excess of ten million dollars (~~\$10,000,000~~) but less than fifty million
2 dollars (~~\$50,000,000~~), then the mortgage lender's minimum bond amount
3 shall be two hundred fifty thousand dollars (~~\$250,000~~), and if a mortgage
4 lender has originated mortgage loans in North Carolina in a 12-month period
5 ending December 31 of fifty million dollars (~~\$50,000,000~~) of one hundred
6 million dollars (\$100,000,000) or more, then the mortgage lender's minimum
7 bond shall be ~~five hundred thousand dollars (\$500,000)~~ one hundred fifty
8 thousand dollars (\$150,000).

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

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

22 (d) In the Commissioner's discretion and upon written request of the licensee, the
23 Commissioner may waive the requirement of the bond for any licensee, ~~if~~ if all of the following
24 are true:

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

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

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