



North Carolina Association of Mortgage Professionals

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REPORT ON THE PROPOSED NC MLA BOND REVISIONS *

Proposed Changes

Moreover, the proposed Mortgage Lending Act:

- No longer allows audited net worth in lieu of a bond. Both will be required under this proposal.
- Change the bond requirements from a flat amount to a tiered approach
- Establishes low thresholds to move to the next tier. \$10MM in loan production is close to an average annual production total for a single LO which means that almost all brokers will be forced into a \$250K bond. \$50MM annual production (a midsize office) requires a bond of \$500K.
- Triple minimum bond amount for broker. \$50K to \$150K
- At the request of Sandy McCurdy, Don Fader, past President of the North Carolina Association of Mortgage Professionals and current member of the NAMB Board of Directors spoke with one of the largest bond writers in the nation. This bond writer indicated that North Carolina is already one of the most difficult states in which to write bonds due to the requirement that North Carolina requires all bonds to remain in force 5 years after the broker ceases operations – even though claims are almost unheard of after the first 12 months.

Underwriting Requirements for Bonds

The \$50K is a simplified issue product based on credit score and costs \$300 - \$400 dollars.

Above \$100K then the bond companies are requiring full applications and are looking for company net-worth's with a 1:1 or a 2:1 ratio. That means under worse case scenarios a \$50MM broker operation will have to show a \$1MM net worth. Higher bond amounts are much tougher to write, he asserted. He observed that he is not seeing claims activity that are even approaching the \$50K level much less the \$500K level. The cost of this bond, if available, could be \$6,000 or more per year compared to \$300 dollars today.

Historical Data

New legislation passed that went into effect mid 2008 and are effective for all renewals in 2009 & introduced in the following states: Connecticut, Iowa, and Maryland which have all increased the required bond amounts.

- Connecticut has increased their required bond amount from \$40,000 to \$80,000 effective August 1st, 2009.
- Iowa increased the required bond amount from \$50,000 to \$100,000 effective 12/31/08.

* This report is a compilation of separate reports prepared by Don Fader and Bill Bost. These reports were merged and edited by Tom Estes at the request of Neill Fendly, the North Carolina Association of Mortgage Professionals Legislative Chair.

- Maryland has made increases in the bond amounts based on the volume of loans. Their \$25,000 requirement has increased to \$50,000, the \$50,000 requirement has increased to \$100,000, and their \$75,000 requirement has increased to \$150,000.
- In addition, four (4) other states attempted to pass legislation that would increase the required bond amount and impose tighter requirements for mortgage brokers and lenders in 2008. Those states included Hawaii, Missouri, Oregon, and South Carolina, all which rejected the proposed increases and thereby postponing any decisions at this time. These states have concluded to revisit this legislation in 2009 once the economic situation is further determined for 2009. The state of Alabama had a proposal on the table to enact legislation requiring a bond for mortgage brokers and bankers for the 2009 license period. This legislation did not pass and will be revisited in mid 2009.

Recommendations on the Bond Issue

- Advocate for the current either bond vs. net worth.
- Create a tier approach but increase the thresholds and reduce the coverage. Mr. Bost suggested that bonds start at \$75,000 for mortgage brokers who do less than \$50,000,000; \$100,000 for brokers between \$50,000,000 and \$100,000,000 start at \$75,000 for mortgage brokers who do less than \$50,000,000; \$100,000 for brokers between \$50,000,000 and \$100,000,000
- Drop the tail to 24 months or prove claims beyond that period.
- Remove the \$250K+ bond since it eliminates most brokers.
- Don Fader noted that Wisconsin requires bonds for in-state brokers of \$25K and out-of-state is \$300K. He wondered if a similar approach might work in NC?

Conclusions

The tiered approach is required by the SAFE Mortgage Licensing Act but the North Carolina Association of Mortgage Professionals believes the production thresholds should be changed to a more realistic amount such as those outlines above. In any case, the result of the current proposal will increase the loan costs to North Carolina consumers and put many mortgage originators out of business.

Supporting Documents

- (1) Federal Reserve Board *Report No. 2007-2, A Compilation of State Mortgage Broker Laws and Regulations, 1996–2006*
- (2) A list of Current Bond Requirements from South Coast Security
- (3) The *2006 Mortgage Broker Regulation Matrix*