

SENATE BILL 1628

By Norris

AN ACT to amend Tennessee Code Annotated, Title 45, Chapter 1; Title 45, Chapter 13; Title 45, Chapter 15; Title 45, Chapter 17; Title 45, Chapter 18; Title 45, Chapter 5 and Title 56, Chapter 37 relative to regulation and supervision of certain non-depository financial institutions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 45-1-118, is amended by adding the following as a new, appropriately designated subsection (i):

(i) Persons regulated and supervised by the department's compliance division shall be assessed an annual supervision fee as described in this subsection.

(1) The commissioner shall determine an annual budget for the department. The commissioner shall determine the amount of the budget attributable to the regulation and examination of the persons regulated by the compliance division.

(2) Mortgage loan originators shall not be assessed the annual supervision fee, but mortgage loan originators shall continue to pay the licensing, renewal and any other fees required in title 45, chapters 5 and 13. The total number of mortgage loan originators licensed with the department at the end of the previous fiscal year shall be multiplied by the annual renewal fee for mortgage loan originators, and the product shall be deducted from the compliance division's budget. The remaining amount of the compliance division's budget shall be allocated as described in subdivision (i)(3).

(3)

(A) The commissioner shall periodically determine the per diem costs of conducting a routine examination of persons regulated and supervised by the compliance division.

(B) After deducting the amounts referenced in subdivision (i)(2), the remaining budget shall be assessed as a supervision fee among all licensed and registered locations based on the relative complexities of examining and regulating each industry.

(C) Payment of the supervision fee calculated in this subsection shall be a condition of licensure or registration renewal. The supervision fee shall be nonrefundable and no abatement of the supervision fee shall be made if the license or registration is surrendered, cancelled, revoked or suspended prior to the expiration of the period for which it was issued.

(D) The supervision fee includes annual licensing and registration fees and the costs for a routine examination or investigation of a licensee or registrant regulated by the compliance division.

(4) In addition to the supervision fee, a licensee or registrant shall pay the actual expenses incurred for out-of-state examinations and inspections of books, records, and papers maintained out-of-state.

(5) In addition to the supervision fee, the commissioner may impose a special assessment upon a licensee or registrant for the purpose of recovering costs in excess of those costs normally incurred for conducting a routine examination.

(6) A person who applies for a new license or registration shall pay, as a condition of licensure or registration, the same supervision fee for each licensed or registered location as a person holding the same license or registration type has paid as a supervision fee during that fiscal year. If the supervision fee for a fiscal year has not yet been determined, the person applying for a new license or

registration shall pay, as a condition of licensure or registration, the supervision fee required to obtain the license or registration type in the previous fiscal year, except as designated in subdivision (i)(7).

(7) A person submitting an application to the compliance division for a new license or registration from July 1, 2015 through September 30, 2015 shall pay a supervision fee of five hundred dollars (\$500). Thereafter, the supervision fee shall be an amount determined by the commissioner pursuant to subdivision (i)(3).

(8) All funds collected by the department's compliance division shall be used for the administration of that division.

SECTION 2. Tennessee Code Annotated, Section 45-5-202, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b) Upon the filing of an application and payment by the applicant of a nonrefundable supervision fee, as provided in § 45-1-118(i), the commissioner shall investigate the facts concerning the application and the information contained therein. If the commissioner finds that the applicant meets the qualifications specified in this chapter for registration, the commissioner shall approve the application.

SECTION 3. Tennessee Code Annotated, Section 45-5-202(h), is amended by deleting in the last sentence the language "investigative and application".

SECTION 4. Tennessee Code Annotated, Section 45-5-203, is amended by deleting the section in its entirety and substituting instead the following:

(a) A certificate of registration issued pursuant to this chapter shall expire on March 31. A certificate of registration may be renewed for the ensuing twelve-month period upon application by the registrant showing continued compliance with the requirements of § 45-5-201 and payment of the nonrefundable supervision fee, as

provided in § 45-1-118(i). A registrant making timely and complete application and payment for renewal of its certificate of registration shall be permitted to continue to operate under its existing certificate of registration until its application is approved or denied. The completed renewal application and the payment of the annual supervision fee shall be sent to the department on or before March 1 of each year. A certificate of registration issued under the former provisions of this chapter shall expire on March 31, 2016.

(b) A registrant submitting an application for renewal of a certificate of registration from April 15, 2015 through June 1, 2015 shall not pay a supervision fee but shall instead pay a renewal fee of two hundred forty-four dollars (\$244). A renewal certificate of registration with a beginning effective date of July 1, 2015 shall expire on March 31, 2016. A surety bond presented with a renewal certificate of registration submitted from April 15, 2015 through June 1, 2015 shall have a bond expiration date no sooner than March 31, 2016. A registered location examined from April 15, 2015 through March 31, 2016 shall pay the actual and reasonable costs of the examination.

(c) As a condition of renewal of a certificate of registration for a registrant that makes or proposes to make residential mortgage loans, the registrant shall file with its renewal application evidence that its surety bond is adjusted in accordance with § 45-5-202(c).

(d) As a condition of renewal of a certificate of registration for a registrant that makes or proposes to make residential mortgage loans, the commissioner may adopt rules to require that any of the individuals identified pursuant to § 45-5-202(e) successfully complete continuing education course requirements. The rules pertaining to continuing education requirements, as well as those pertaining to any testing or education requirements, or both, under § 45-5-202, may include criteria for content,

accreditation of sponsors and programs, computation of credit, special cases and exemptions, general compliance procedures and sanctions for noncompliance.

(e) The commissioner may establish a biennial registration arrangement for the filing of the application for renewal of the certificate of registration, but in no case shall the supervision fee be payable for more than one (1) year at a time.

SECTION 5. Tennessee Code Annotated, Section 45-5-205(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) Failed to pay any fees or assessments imposed by the commissioner under the authority of this chapter; or

SECTION 6. Tennessee Code Annotated, Section 45-5-502, is amended by deleting the section in its entirety and substituting instead the following:

The costs for an examination or investigation of registrants shall be assessed pursuant to § 45-1-118(i). An unregistered person subject to the certificate of registration requirements of this chapter, that is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

SECTION 7. Tennessee Code Annotated, Section 45-13-202, is amended by deleting subsection (b) in its entirety and redesignating the remaining subsections and all cross-references to provisions within this section accordingly, and by deleting from the last sentence of subsection (e) the language “application and investigative”.

SECTION 8. Tennessee Code Annotated, Section 45-13-203(a)(1), is amended by deleting subdivision (C) in its entirety and substituting instead the following:

(C) Has paid a nonrefundable supervision fee, as provided in § 45-1-118(i).

SECTION 9. Tennessee Code Annotated, Section 45-13-203, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) On or before December 31 of each year, a person holding a license issued under this part shall pay a nonrefundable supervision fee, as provided in § 45-1-118(i), to the commissioner for the following year, commencing January 1, together with such renewal application as the commissioner may require, including the surety bond adjusted in accordance with § 45-13-204. Failure to timely pay the supervision fee or to timely submit a completed renewal application shall cause the license to expire at the close of business on December 31.

(1) As a condition of licensure renewal, the commissioner may by rule establish continuing education requirements for each of the individuals identified in § 45-13-202(b). The rules for pre-licensure and continuing education requirements under this part may include criteria for content, accreditation of sponsors and programs, computation of credit, special cases and exemptions, general compliance procedures and sanctions for noncompliance.

(2) A licensee making timely and proper application for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied. Should the commissioner deny the renewal application, the licensee may make written demand to the commissioner for a hearing on the question of whether the license should be renewed; provided, that the request for hearing be received by the commissioner within thirty (30) days from the date of denial; and provided, further, that the failure to timely request a hearing shall cause the license to be automatically revoked without further notice or hearing at the end of the thirty-day period. If a hearing is timely requested under this subdivision (c)(2), it shall be conducted under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, and the license

shall not expire until resolution of the appeal in accordance with the Uniform Administrative Procedures Act.

SECTION 10. Tennessee Code Annotated, Section 45-13-203, is amended by deleting in subsection (d) the language “license fee” and substituting instead “supervision fee” and by adding the following language as a new, appropriately designated subsection:

( ) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

SECTION 11. Tennessee Code Annotated, Section 45-13-404, is amended by deleting subsection (f) in its entirety and substituting instead the following:

(f) A mortgage lender, mortgage loan broker, mortgage loan servicer or registrant that is investigated or examined under this section from July 1, 2015 through December 31, 2015 shall pay to the commissioner the reasonable and actual expenses of the investigation or examination. After December 31, 2015, the costs for an examination or investigation of licensees or registrants shall be assessed pursuant to § 45-1-118(i). An unlicensed person subject to the licensing requirements of this chapter, that is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

SECTION 12. Tennessee Code Annotated, Section 45-13-404, is amended by deleting subsection (g) in its entirety and redesignating the remaining subsections accordingly.

SECTION 13. Tennessee Code Annotated, Section 45-15-106(d), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) A nonrefundable supervision fee, as provided in § 45-1-118(i). The supervision fee shall be applicable to each location;

SECTION 14. Tennessee Code Annotated, Section 45-15-106(e), is amended by deleting the language "the remainder of the fiscal year ending October 31 after the date of issuance of the license" and substituting instead the language "December 31 in the year it was issued".

SECTION 15. Tennessee Code Annotated, Section 45-15-106, is amended by deleting subsection (i) in its entirety and substituting instead the following:

(i) Licenses issued pursuant to this chapter shall expire on December 31. A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of this section and the payment to the commissioner annually, on or before December 1, of a nonrefundable supervision fee, as provided in § 45-1-118(i). A licensee making timely and complete application for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied. Licenses issued under the former provisions of this chapter with an expiration date of October 31, 2015 shall instead expire on December 31, 2015. A licensed location examined from July 1, 2015 through December 31, 2015 shall pay the actual and reasonable costs of the examination.

SECTION 16. Tennessee Code Annotated, Section 45-15-106(j), is amended by deleting the language "the license fee" and substituting instead "the supervision fee".

SECTION 17. Tennessee Code Annotated, Section 45-15-107(a), is amended by deleting subdivision (3) in its entirety and substituting instead the following:

(3) Failed to pay any fees or assessments imposed by the commissioner under the authority of this chapter;

SECTION 18. Tennessee Code Annotated, Section 45-15-108, is amended by deleting subsection (b) in its entirety and substituting instead the following:



(b) To assure compliance with the provisions of this chapter, the commissioner may examine the relevant business, books and records of any title pledge lender. The costs for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i). An unlicensed person subject to the licensing requirements of this chapter, who is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

SECTION 19. Tennessee Code Annotated, Section 45-15-109 (c)(1), is amended by deleting the language "October 1, 2007" and substituting instead the language "December 1, 2015".

SECTION 20. Tennessee Code Annotated, Section 45-17-106(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) A nonrefundable supervision fee, as provided in § 45-1-118(i); and

SECTION 21. Tennessee Code Annotated, Section 45-17-106(b), is amended by deleting the language "filing fee" and substituting instead the language "supervision fee".

SECTION 22. Tennessee Code Annotated, Section 45-17-110, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) Licenses issued pursuant to this chapter shall expire on December 31. A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 45-17-104 and the payment to the commissioner annually, between November 1 and December 31, of the nonrefundable supervision fee, as provided in § 45-1-118(i). A licensee making timely and complete application and payment for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied.

SECTION 23. Tennessee Code Annotated, Section 45-17-110, is amended by adding the following language as a new, appropriately designated subsection:

( ) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

SECTION 24. Tennessee Code Annotated, Section 45-17-111, is amended by deleting subsection (c) in its entirety and substituting instead the following:

(c) A licensee that is examined or investigated from July 1, 2015 through December 31, 2015, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination. After December 31, 2015, the costs for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i). An unlicensed person subject to the licensing requirements of this chapter, that is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

SECTION 25. Tennessee Code Annotated, Section 45-17-114(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following language:

(1) Failed to pay any fees or assessments imposed by the commissioner under the this chapter;

SECTION 26. Tennessee Code Annotated, Section 45-18-107, is amended by deleting subsection (1) in its entirety and substituting instead the following:

(1) A nonrefundable supervision fee, as provided in § 45-1-118(i). The supervision fee shall be applicable to each location; and,

SECTION 27. Tennessee Code Annotated, Section 45-18-107, is amended by deleting "; and" at the end of subsection (2) and substituting instead "." and by deleting subsection (3) in its entirety.

SECTION 28. Tennessee Code Annotated, Section 45-18-108(a), is amended by deleting in the first sentence, the language “the nonrefundable application fee, the nonrefundable investigation fee” and substituting instead “the nonrefundable supervision fee, as provided in § 45-1-118(i),” and by deleting in the third sentence, the language “September 30” and substituting instead “March 31”.

SECTION 29. Tennessee Code Annotated, Section 45-18-109, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a)

(1) A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the qualifications for a license, filing of the completed renewal form, and the payment to the commissioner of the nonrefundable supervision fee, as provided in § 45-1-118(i). A licensee making timely and complete application and payment for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied. The completed renewal application and the payment of the annual supervision fee shall be sent to the department on or before March 1 of each year. Licenses issued under the former provisions of this chapter shall instead expire on March 31, 2016.

(2) License holders submitting renewal applications pursuant to this chapter from April 15, 2015 through September 1, 2015 shall not pay a supervision fee, as provided in § 45-1-118(i). A renewed license issued under this chapter with a beginning effective date of October 1, 2015 shall expire on March 31, 2016. The renewal fee for a renewal application submitted from April 15, 2015 through September 1, 2015 shall be two hundred fifty dollars (\$250). A

licensed location examined from April 15, 2015 through March 31, 2016 shall pay the actual and reasonable costs of the examination.

SECTION 30. Tennessee Code Annotated, Section 45-18-109, is amended by deleting subsections (c) and (d) in their entirety.

SECTION 31. Tennessee Code Annotated, Section 45-18-109, is amended by adding the following language as a new, appropriately designated section:

( ) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

SECTION 32. Tennessee Code Annotated, Section 45-18-113(a), is amended by deleting the last sentence and substituting instead the following:

The cost for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i).

SECTION 33. Tennessee Code Annotated, Section 45-18-113(b), is amended by adding the following sentence to the end of the subsection:

An unlicensed person subject to the licensing requirements of this chapter, who is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the examination or investigation.

SECTION 34. Tennessee Code Annotated, Section 56-37-103, is amended by deleting subsection (b) in its entirety and substituting instead the following:

(b)

(1) Licenses issued pursuant to this chapter shall expire on March 31. A license may be renewed for the ensuing twelve-month period upon application by the license holder showing continued compliance with the requirements of § 56-37-104, and payment of the nonrefundable supervision fee, as provided in § 45-

1-118(i). The supervision fee shall be applicable to each location. A licensee making timely and complete application and payment for renewal of its license shall be permitted to continue to operate under its existing license until its application is approved or denied. The completed renewal application and the payment of the annual supervision fee shall be sent to the department on or before March 1 of each year. Licenses issued under the former provisions of this chapter shall instead expire on March 31, 2016.

(2) Licensees submitting renewal applications pursuant to this chapter from April 15, 2015 through June 30, 2015, shall not pay a supervision fee, as provided in § 45-1-118(i). A renewed license issued under this chapter with a beginning effective date of July 1, 2015, shall expire on March 31, 2016. The renewal fee for a renewed license submitted from April 15, 2015 through July 1, 2015 shall be three hundred dollars (\$300). A licensed location examined from April 15, 2015 through March 31, 2016 shall pay the actual and reasonable costs of the examination.

SECTION 35. Tennessee Code Annotated, Section 56-37-103, is amended by adding the following language as new, appropriately designated subsections:

( ) The commissioner may employ persons as necessary to examine or investigate and make reports on alleged violations of this chapter or compliance with the other provisions of this chapter. The costs for an examination or investigation of licensees shall be assessed pursuant to § 45-1-118(i). An unlicensed person subject to the licensing requirements of this chapter, who is examined or investigated in accordance with this chapter, shall pay to the commissioner the reasonable and actual expenses of the investigation or examination.

( ) The commissioner may establish a biennial license arrangement for the filing of the application for licensure renewal, but in no case shall the supervision fee be payable for more than one (1) year at a time.

SECTION 36. Tennessee Code Annotated, Section 56-37-104(a), is amended by deleting the language "license fee" and substituting instead the language, "nonrefundable supervision fee, as provided in § 45-1-118(i)".

SECTION 37. Tennessee Code Annotated, Section 56-37-106(a), is amended by deleting the language "The commissioner shall collect the proper charges incurred in the examination in accordance with § 56-1-413."

SECTION 38. If any provision of this act or the application of any provision of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are declared to be severable.

SECTION 39. For the purpose of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. Section 4 (b), Section 29 (a)(2), and Section 34 (b)(2) of this act shall take effect April 15, 2015, and Section 29(a)(1) of this act shall take effect October 1, 2015, the public welfare requiring it. All other sections of this act shall take effect July 1, 2015, the public welfare requiring it.