

**JBC STAFF FISCAL ANALYSIS
HOUSE APPROPRIATIONS COMMITTEE**

CONCERNING MEASURES TO PREVENT MORTGAGE FRAUD, AND, IN CONNECTION THEREWITH, EXTENDING THE PROHIBITION AGAINST CERTAIN ACTS TO INCLUDE MORTGAGE LENDERS, MORTGAGE LOAN APPLICANTS, REAL ESTATE BROKERS, REAL ESTATE AGENTS, REAL ESTATE APPRAISERS, AND CLOSING AGENTS; PROHIBITING CERTAIN PRACTICES; AND CHANGING THE MENTAL STATE REQUIRED TO BE PROVEN AS AN ELEMENT OF A VIOLATION.

Prime Sponsors: Representative Marshall
Senator Groff

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Summary of Amendments Made to the Bill After the 03/09/07 Legislative Council Staff Fiscal Note was Prepared (Amended by the Business Affairs and Labor Committee 03/12/07)

1. The printed bill covers "chattel" loans on modular and manufactured homes. The Business Affairs and Labor amendment excludes such loans.
2. The printed bill requires the disclosure of fees and costs associated with a loan and states that disclosures that are in compliance with the federal Truth in Lending Act are deemed to comply with these disclosure requirements. The Business Affairs and Labor amendment removes the provision that compliance with the Truth in Lending Act constitutes compliance with state law.
3. The Business Affairs and Labor amendment requires the disclosure of commissions paid to a broker and disclosure of the way in which such commissions affect the borrower's loan payments.

The Business Affairs and Labor amendment does not alter the fiscal impact of the bill as delineated in the March 9, 2007 Legislative Council Staff Fiscal Note. Legislative Council staff agrees with this analysis.

JBC Staff Concurrence with Legislative Council Staff Fiscal Note

Concurs Does Not Concur Updated Analysis

Reason for the Non-Concurrence / Update

1. The March 9, 2007 Legislative Council Staff Fiscal Note indicates that this bill requires a direct appropriation of \$238,670 from the Mortgage Broker Cash Fund to the Department of Law for enforcement of the bill's consumer protection provisions. This appropriation is similar to the

existing appropriations to the Insurance Fraud and Securities Fraud units in the Department of Law. Both the Insurance Fraud and Securities Fraud programs are supported by two-step appropriations, with the first step an appropriation in the Department of Regulatory Agencies and the second step a transfer appropriation to the Department of Law. For example, in the Department of Regulatory Agencies, Division of Insurance, there is a cash funds appropriation for "Insurance Fraud Prosecution." Corresponding cash funds exempt transfer appropriations occurs in the Department of Law. Without a two step appropriation of this sort, it will be difficult for the Department of Regulatory Agencies to set the mortgage broker registration fee because it will not know the amount that the Department of Law will expend on central appropriations from the Mortgage Broker Registration Cash Fund until the end of each fiscal year. An analogous two-step appropriation is required for the mortgage broker appropriation.

2. The March 9, 2007 Legislative Council Staff Fiscal Note states that the Department of Law requires an appropriation of 1,750 hours of legal services, which equates to 1.0 FTE. However, the fiscal note omits this 1.0 FTE in the appropriations summary. JBC staff has added this 1.0 FTE to the appropriation.
3. Due to a technical error by the Department of Law, the March 9, 2007 Legislative Council Staff Fiscal Note omitted the following expenditures:

Item	Amount
Vehicle lease and operating expenses for 1 vehicle	\$5,688
Capital Complex Leased Space	8,250
Capital outlay	12,000
Total	\$25,938

This means that the \$238,670 appropriation to the Department of Law for consumer protection indicated in the fiscal note, should in fact equal \$264,608.

The following table summarizes the changes for the Department of Regulatory Agencies and for the Department of Law:

Item	Fiscal Note	Update	Change
Department of Regulatory Agencies - Total	230,476	495,084	264,608
Personal Services	104,618	104,618	0

Item	Fiscal Note	Update	Change
FTE	2.5	2.5	0.0
Operating Expenses and Capital Outlay	7,260	7,260	0
Legal Services	118,598	118,598	0
Appropriation for Deceptive Trade Practice Enforcement -- for transfer to the Department of Law	0	264,608	264,608
Department of Law	238,670	264,608	25,938
Personal Services	220,472	220,472	0
FTE	3.0	4.0	1.0
Operating Expenses, Capital Outlay, Miscellaneous	18,198	44,136	25,938

Staff has spoken with Legislative Council Staff, who agrees with the above analysis. Note that the increase in the cash funds exempt appropriations is a transfer appropriation; it does not represent an increase in net expenditures by the state.

Amendments/Appropriation Status

This bill requires an appropriation clause. Staff has prepared amendment **J.001** (attached), which contains the following appropriations:

Recipient of Appropriation (Source)	Amount	FTE
(1) Department of Regulatory Agencies - Total	\$495,084	
Executive Director's Office (Mortgage Broker Registration Cash Fund)	118,598 CF	
Division of Real Estate (Mortgage Broker Registration Cash Fund)	376,486 CF	2.5
(2) Department of Law - Total	383,206	
Legal Services to State Agencies (Out of the appropriation to the Executive Director's Office in (1) above)	118,598 CFE	1.0
Consumer Protection (Out of the appropriation to the Division of Real Estate in (1) above)	264,608 CFE	3.0
(3) Department of Public Safety, Colorado Bureau of Investigation - Total	297,288	
Processing of fingerprint-based criminal history checks (From fees collected by the CBI)	86,088 CF	1.7

Recipient of Appropriation (Source)	Amount	FTE
Pass through to the Federal Bureau of Investigation for fingerprint-based national criminal history checks (From fees collected by the CBI)	211,200 CFE	
Total, All Departments	\$1,175,578	8.2
Cash Funds	581,172	
Cash Funds Exempt	594,406	

Sponsor Amendments

Staff is not aware of any sponsor amendments to be offered.

Points to Consider

1. Three related bills are currently moving through the legislature: S.B. 07-216, S.B. 07-203 and H.B. 07-1322. These bills can stand alone or they can stand in combination. As a broad generalization, H.B. 07-1322 deals with fraud, prohibited acts and the relationship of mortgage brokers to their customers; S.B. 07-203 changes the current mortgage broker registration system to a licensing system; and S.B. 07-216 deals with the marketing of nontraditional mortgage products to people for whom those products may be unsuitable. The fiscal note for S.B. 07-216 is not yet available, but the Department of Law indicates that one appropriation will be required to implement any combination of these bills; i.e. the total cost of implementing two or three of these bills will be equal to the cost of implementing a single bill. The Department of Regulatory Agencies also indicates that the appropriations interact, but it has not stated how much savings will occur if more than one bill becomes law. A single appropriation for the Colorado Bureau of Investigation will also be required if H.B. 07-1322 and/or S.B. 07-302 become law. As these bills move further through the legislative process and all the relevant fiscal notes become available, it will be necessary to harmonize the appropriations in the bills.

2. A point of clarification: The March 9, 2007 Legislative Council Staff Fiscal Note states that the increase in revenue to the Mortgage Broker Registration Cash fund will equal \$1.9 million in FY 2007-08 and \$0 thereafter. A mortgage broker's registration lasts for 3 years, so there is a surge of revenue in the first year and no revenue in the next two years.