


Colorado Legislative Council Staff Fiscal Note
STATE
REVISED FISCAL IMPACT
 (Replaces fiscal note dated January 28, 2007)

Drafting Number: LLS 07-0518	Date: April 19, 2007
Prime Sponsor(s): Sen. Veiga Rep. Massey	Bill Status: Senate Second Reading
	Fiscal Analyst: David Porter (303-866-4375)

TITLE: CONCERNING ADDITIONAL CONSUMER PROTECTIONS RELATING TO REAL ESTATE TRANSACTIONS.

Fiscal Impact Summary	FY 2007-2008	FY 2008-2009
State Revenue		
General Fund - Fines (Civil Penalties)	< \$ 5,000	< \$ 5,000
State Expenditures		
Cash Funds - Mortgage Broker Registration Cash Fund	56,696	104,301
FTE Position Change	0.6 FTE	1.2 FTE
Effective Date: Applies to all acts occurring on or after the date of signature by the Governor.		
Appropriation Summary for FY 2007-2008: See State Appropriations section.		
Local Government Impact: None.		

Summary of Legislation

The Division of Real Estate in the Department of Regulatory Agencies is responsible for registering mortgage brokers and licensing real estate appraisers. This bill, **as amended by the Senate Appropriations Committee**, addresses the relationship between mortgage brokers and real estate appraisers and modifies the powers and duties of the director of the Division of Real Estate. The bill also removes the \$200 cap on mortgage broker registration fees.

Mortgage brokers are prohibited from trying to influence the independent judgement of a real estate appraiser through coercion, intimidation, or compensation. If the director has reason to believe that a broker is trying to influence an appraisal he or she must initiate an investigation.

The powers and duties of the director addressed by the bill are as follows:

- the director must refuse or revoke registration of brokers who have been prohibited from practicing in any other state in the past five years;
- the director is given rule-making authority; and
- administrative proceedings finding broker misconduct will result in fines of not less than \$1,000 for a first offense and between \$1,000 and \$2,000 for subsequent offenses.

The bill makes “influencing a real estate appraiser” a deceptive trade practice under the Colorado Consumer Protection Act (CCPA). This classification allows the Office of the Attorney General to pursue a civil enforcement action.

State Revenue

Fine Revenue. This bill authorizes the director of the Division of Real Estate or an administrative law judge to administer a fine for persons found in violation of the Mortgage Broker Registration Act. Fines of up to \$1,000 for a first offense, and between \$1,000 and \$2,000 for a second offense, will be credited to the General Fund. Since the fine amount is discretionary, the impact to state revenue from administrative proceedings cannot be determined. However, a minimum amount of fine revenue (<\$5,000 per year) is assumed under the bill.

Influencing a real estate appraiser is also added to the Colorado Consumer Protection Act, allowing the Office of the Attorney General to pursue civil and criminal actions. Civil penalties under the CCPA are up to \$2,000 per violation or up to \$10,000 per violation if the victim is over the age of 60. CCPA fine revenue is credited to the General Fund. While compliance with the bill's requirements is expected to be high, moderate fine revenue is expected. However, the increase in fine revenue cannot be quantified.

Fee Revenue. Costs to the Department of Regulatory Agencies are borne by participants in the regulatory program. The current fee charged is \$200 per registrant. Typically, the costs of investigating complaints and pursuing disciplinary action described in the State Expenditures section of the fiscal note would cause an increase to the mortgage broker fees. However, the roughly 3,500 mortgage brokers registered with the department exceeds predicted participation level and is expected to provide enough extra revenue to support the program without needing a fee adjustment. Should the number of brokers registered with the department continue to exceed expectations and more than fully fund the expenditures of the program, the fee schedule will be adjusted accordingly.

State Expenditures

Total state expenditures for SB07-085 are \$56,696 and 0.6 FTE in FY 2007-08 and \$104,301 and 1.2 FTE in FY 2008-09. Costs are for complaint investigation, and administrative hearings. Table 1 and the discussion that follows explain the cost components of the bill.

Table 1. Total Costs Under SB07-085		
Cost Components - Department of Regulatory Agencies	FY 2007-08	FY 2008-09
Personal Services (Compliance Investigator I)	\$ 14,471	\$ 24,119
Operating Expenses	0	552
Capital Outlay	1,563	0
Legal Services	40,662	79,630
Mortgage Broker Registration Cash Fund Total	\$ 56,696	\$ 104,301
FTE	0.3	0.5

Department of Regulatory Agencies. The Division of Real Estate is responsible for investigating complaints that are generated by this bill. The amount of resources required is based on the number of complaints. Using the number of complaints filed against real estate appraisers to estimate the number of complaints that will be filed against mortgage brokers, 48 complaints per year are expected (with 24 in the first year). Complaints will be received and evaluated by a Compliance Investigator I at 0.3 FTE in the first year and 0.5 FTE in out years. The investigator’s workload is expected to increase as complaints are filed and work their way through the investigation process to hearings.

Complaints may lead to dismissal, denial of registration, revocation of registration, or administrative fines. The division will require legal services from the Department of Law for all hearings. The division will also need legal services to advise in the rule-making process.

Department of Law. The Department of Law is responsible for assisting the Department of Regulatory Agencies in promulgating rules for the complaint process and for legal representation in the hearings with mortgage brokers. With 24 complaints in the first year and 48 complaints in the second year and with 25 hours of rule-making assistance each year, legal services of 600 and 1175 hours are required. This is equivalent to 0.3 FTE in FY 2007-08 and 0.7 FTE in FY 2008-09.

The Department of Law is also responsible for prosecuting violations of the Colorado Consumer Protection Act. The addition of “influencing a real estate appraiser” to the act may result in additional case filings by the department. The number of cases brought by the Office of the Attorney General is unknown, and this fiscal note assumes that the workload will be absorbed. If more resources are required, the need will be addressed through the budget process.

Department of Personnel and Administration. The workload of the Office of Administrative Courts within the Department of Personnel and Administration (DPA) is impacted by any hearings that result from this bill. However, this bill alone does not generate the need for more administrative law judges. Should a number of bills pass this session and significantly impact the DPA, it is assumed that any additional resources will be addressed through the annual budget process.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, funding for the items noted below will not be included in fiscal note expenditure estimates. However, indirect costs are calculated for the purpose of identifying the "per applicant" cost of a new or revised fee to reflect the total direct and indirect costs required to support a particular program.

- group health, life and dental insurance
- inflation indices
- amortization equalization disbursements
- supplemental amortization equalization disbursements
- short-term disability
- leased space
- indirect costs

State Appropriations

This fiscal note indicates a cash funds exempt appropriation of \$56,696 and 0.3 FTE from the Mortgage Broker Registration Cash Fund to the Division of Real Estate, Department of Regulatory Agencies, in FY 2007-08. Of this amount, the Department of Law needs \$40,662 cash funds exempt and authorization for 0.3 FTE.

Departments Contacted

Corrections
Judicial
Public Safety

District Attorneys Council
Law
Regulatory Agencies