

*Colorado Legislative Council Staff Fiscal Note*  
**STATE and LOCAL**  
**CONDITIONAL FISCAL IMPACT**

**Drafting Number:** LLS 08-0710  
**Prime Sponsor(s):** Rep. Kefalas  
 Sen. Boyd

**Date:** March 3, 2008  
**Bill Status:** House Finance  
**Fiscal Analyst:** Ron Kirk (303-866-4753)

**TITLE:** CONCERNING THE ESTABLISHMENT OF THE COLORADO HOUSING INVESTMENT FUND, AND, IN CONNECTION THEREWITH, INCREASING THE DOCUMENTARY FEE ON REAL ESTATE TRANSACTIONS SUBJECT TO VOTER APPROVAL TO FUND AFFORDABLE HOUSING.

Fiscal Impact Summary	FY 2008-2009	FY 2009-2010
<b>State Revenue</b>	\$0	\$0
<b>Transfers or Diversions</b>		
Transfers from county treasuries to the Colorado Housing Investment Fund	\$5,981,204	\$11,962,408
<b>State Expenditures</b>		
Cash Funds		
Colorado Housing Investment Cash Fund*	\$5,981,204	\$11,962,408
<b>FTE Position Change</b>	0.7 FTE	1.3 FTE
<b>Effective Date:</b> August 6, 2008, assuming the General Assembly adjourns sine die as scheduled on May 7, 2008, unless a referendum petition is filed. Sections 3 and 4* of the bill shall only take effect if the voters approve the question at the November 2008 general election.		
<b>Appropriation Summary for FY 2008-2009:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

\* This assumes the adoption of the amendment L.001 that inserts the missing Section 4 in the bill regarding the disposition of revenue and original intent of the sponsor.

**Summary of Legislation**

This bill refers a measure to voters in November 2008 to approve an increase in the county documentary fee on real estate transactions. The additional money will be used for affordable housing. The bill creates the Colorado Housing Investment Fund in the State Treasury. The fund will be administered by the State Division of Housing in the Department of Local Affairs. The division will process grants and loans to local governments and other eligible recipients. Fund money must be used to support the creation and maintenance of affordable housing for the following purposes:

- new construction, transitional and rental housing;
- the acquisition of existing real estate for conversion to shelter, transitional, or affordable housing;

- defraying the cost of affordable housing in conformity with local housing ordinances;
- the rehabilitation of a substandard shelter or transitional housing;
- assistance with down payment or closing costs;
- energy efficiency and improvements;
- the preservation of manufactured housing communities;
- the development of special needs housing that conforms to any of the purposes or uses specified in the act; or
- foreclosure prevention.

This bill directs the revenue generated by increased documentary fees to be made available, either through grants or loans, to local governments or eligible fund recipients. Revenue from increased fees must be directed as follows:

- 50 percent to local governments; and
- 50 percent to other eligible fund recipients (although local governments would also be eligible to compete for all or a portion of this fund allocation).

Aside from local governments, eligible fund recipients include:

- any local housing authority;
- any public or private nonprofit corporation;
- a special district formed by a local government for certain costs related to low-income housing; or
- a private for-profit corporation.

This bill also creates an 11-member advisory board to provide advice, counsel, and recommendations to the division on matters concerning the administration of the fund. Local governments that receive money from the fund are required to report annually by February 15 of each year on how the money was distributed in the prior calendar year.

## **Background**

Whenever title to real property is conveyed from one party to another, state law requires the buyer to pay a fee to the county clerk and recorder in the county in which the property is located to record the deed of trust. The recording fee is based on the valuation (sales price) of the property. For property valued over \$500, the fee is equal to one cent for every \$100 (\$10 for every \$100,000). For valuations of \$500 or less, there is no fee. Documentary fees are currently used to defray the costs incurred by county administrators for filing, recording, and releasing title or lien on real property. The purpose of imposing a documentary fee on the conveyance of real property is to develop a continuing, county-by-county record to compare properties for assessment purposes.

**Transfers or Diversions**

The bill transfers an estimated \$12 million annually from the counties to the Colorado Housing Investment Fund for purposes of making grants and loans for affordable housing projects. One-half of the money will be available for local governments and one-half will be available for eligible recipients, including local governments, local housing authorities, public or private nonprofit corporations, special districts, or private corporations. In FY 2008-09, the transfer will only occur for one-half of the year, estimated at \$6 million.

**State Expenditures**

The costs identified in this fiscal note are conditional based on the measure being adopted by the voters at the 2008 general election. In FY 2008-09, state expenditures are expected to increase by \$6 million and 0.7 FTE (half-year impact). In subsequent years, state expenditures are expected to total \$12 million annually and require 1.3 FTE.

**Department of Local Affairs.** The department will incur increased costs in the Colorado Division of Housing, as indicated in Table 1. Division expenses will result from the need for a General Professional IV to review applications and process grants or loans from the Colorado Housing Investment Fund. This will require a total of 2,080 hours each year. Based on the job rate of \$29.17 per hour for a General Professional IV, \$60,666 will be required annually. In addition, it will take an Administrative Assistant III 564 hours each year to prepare and copy materials for the Advisory Board and fund administrator. Based on the job rate of \$17.97 per hour for an Administrative Assistant III, \$10,135 will be required annually. Annual board expenses for travel and operating expenses are estimated at \$3,140 and one-time operating expenses are estimated to be \$3,455 in FY 2008-09.

In addition, the Division of Housing will provide grants and loans from the money that is transferred into the Colorado Housing Investment Fund. It is estimated that the increased documentary fees will generate \$5.9 million and \$11.9 million in new loans and grants in FY 2008-09 and FY 2009-10, respectively.

<b>Table 1. Department of Local Affairs Expenditures Under HB08-1340</b>		
<b>Cost Components</b>	<b>FY 2008-09</b>	<b>FY 2009-10</b>
Personal Services	\$35,400	\$70,801
<i>FTE</i>	<i>0.7</i>	<i>1.3</i>
Operating Expenses	\$320	\$640
Travel/Training Expenses	\$1,250	\$2,500
Capital Outlay (one-time cost)	\$3,455	\$0
New grants and loans	\$5,940,779	\$11,888,467
<b>TOTAL</b>	<b>\$5,981,204</b>	<b>\$11,962,408</b>

**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

**Election Expenditure Impacts (For Informational Purposes Only)**

The bill refers a measure to the voters at the November 2008 general election. This measure will be published in newspapers and an analysis of the measure will be included in the Blue Book mailed to all registered voter households prior to the election. Under current law, costs for these functions will be paid through a General Fund line item in the Long Appropriations Bill. Table 2 below identifies the anticipated costs for the 2008 Blue Book.

Printing	\$350,000
Postage	\$370,000
Translation	\$20,000
Newspaper Publication (English & Spanish)	\$600,000
<b>Total Cost (12 issues)</b>	<b>\$1,340,000</b>
<b>Average Cost per Issue</b>	<b>\$111,667</b>

**Local Government Impact**

Documentary fees are currently used to defray costs incurred by county administrators for filing, recording, and releasing title or lien on real property. This bill increases the county documentary fee from 1 cent to 5 cents for residential real property and from 1 cent to 2 cents for commercial and industrial real property and vacant land.

*New fee revenue.* When statewide county-by-county real estate transaction data for 2004 were used to calculate an estimate for documentary fees, counties collected about \$5.1 million in total documentary fees under current law. This bill is estimated to increase county documentary fees from \$5.1 million to \$17.1 million. Thus, the Colorado Housing Investment Fund will receive about \$12.0 million from increased documentary fees. Table 3 summarizes this information. Legislative

Council Staff have contacted county assessors to update the transaction data to 2006, but those estimates have not been collected and analyzed. The fiscal note will be revised once those estimates are received from counties.

**Table 3: Data on Documentary Fees**

Documentary Fees	Residential	Commercial	Land	Totals
Current Law*	2,280,470	436,203	2,404,326	5,120,999
HB-08-1340	11,402,348	872,407	4,808,652	17,083,407
Increase	9,121,878	436,203	2,404,326	11,962,408

\*Real estate transaction data used to calculate documentary fees under current law: Economic & Planning Systems.

**Programming and administrative costs.** This bill will require counties to track documentary fees by transaction type. Currently, most counties do not track these fees by residential or commercial sales transaction. For example, when a deed is recorded by county clerks, the deed does not indicate the type of real property that the deed is tied to. Thus, county clerks may need to work together with county assessors to make some programming changes that will allow deeds to be identified with the real property that is being recorded on the deed. To comply with the provisions of this bill, county administrative costs will also increase by an indeterminate amount.

**State Appropriations**

The Department of Local Affairs, Division of Housing, will require an appropriation of \$5,981,204 from the Colorado Housing Investment Fund and 0.7 FTE for FY 2008-09.

**Departments Contacted**

Local Affairs	Secretary of State
Legislative Council Staff	State Treasurer

**Omissions and Technical or Mechanical Defects**

Section 4 of the bill was inadvertently missing from the introduced bill. Amendment L.001 adds the language that the sponsor had intended for Section 4. The fiscal note assumes passage of this amendment.