

**STATE and LOCAL
REVISED CONDITIONAL FISCAL IMPACT**

(replaces fiscal note dated March 3, 2008)

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

Date: April 1, 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
State Revenue	\$0	\$0
Transfers or Diversions Transfers from County Treasuries to the Colorado Housing Investment Fund	\$12,341,674	\$24,683,348
State Expenditures Cash Funds Colorado Housing Investment Cash Fund*	\$12,341,674	\$24,683,348
FTE Position Change	0.7 FTE	1.3 FTE
Effective Date: 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.		
Appropriation Summary for FY 2008-2009: See State Appropriations section.		
Local Government Impact: 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.

Note: This fiscal note has been revised to reflect new documentary fee data supplied by county clerks and recorders and updated county-by-county real estate sales transaction data.

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 \$24.7 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 \$12.3 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 \$12.3 million and 0.7 FTE (half-year impact). In subsequent years, state expenditures are expected to total \$24.7 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 \$12.3 million and \$24.7 million in new loans and grants in FY 2008-09 and FY 2009-10, respectively.

Table 1. Department of Local Affairs Expenditures Under HB08-1340		
Cost Components	FY 2008-09	FY 2009-10
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	\$12,341,674	\$24,683,348
TOTAL	\$12,382,099	\$24,757,289

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.

Table 2. Cost to Produce and Distribute the 2008 Blue Book to All Registered Voter Households	
Printing	\$350,000
Postage	\$370,000
Translation	\$20,000
Newspaper Publication (English & Spanish)	\$600,000
Total Cost (12 issues)	\$1,340,000
Average Cost per Issue	\$111,667

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. County clerks and recorders reported that total statewide documentary fees collected were \$6.3 million in 2006 based upon the current fee of \$10 per \$100,000 of a real estate transaction. Statewide real estate transaction data indicates that about 90 percent of all land transfers for which documentary fees are collected, are residential as many commercial, industrial, and vacant land transactions are exempt from documentary fees. For example, commercial land conveyances

that are exempt from documentary fees include land transfers from the state or local governments to another party, and other conveyances for foreclosures, leases, court decrees, and easements (partial list of exemptions). For purposes of estimating the fee impact in this fiscal note, 90 percent of the fee impact is weighted toward residential sales transactions; the remaining 10 percent impact is attributed to documentary fee increases applied to commercial, industrial, and vacant land. These impacts are grown by 5 percent to account for some transaction growth through 2009 despite the contraction in the housing market. This bill is estimated to increase county documentary fees from \$6.6 million to \$31.3 million. Thus, the Colorado Housing Investment Fund will receive about \$24.7 million from fees. Table 3 summarizes this information.

Table 3: Data on Documentary Fees
 (in millions)

Documentary Fees	Residential	Commercial and Other	Totals
Current Law	\$ 6.0	\$0.6	\$ 6.6
HB 08-1340	30.1	1.2	31.3
Increase	\$24.1	\$0.6	\$24.7

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 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 \$12,341,674 from the Colorado Housing Investment Fund and 0.7 FTE for FY 2008-09.

Departments Contacted

County Clerks and Recorders	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.