

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

Drafting Number: LLS 11-0501
Prime Sponsor(s): Rep. Williams A.

Date: February 4, 2011
Bill Status: House Local Government
Fiscal Analyst: Harry Zeid (303-866-4753)

TITLE: CONCERNING THE ESTABLISHMENT OF A FUND TO FINANCE FORECLOSURE PREVENTION ACTIVITIES ADMINISTERED BY HOUSING COUNSELING AGENCIES APPROVED BY THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Fiscal Impact Summary	FY 2011-2012	FY 2012-2013
State Revenue		
Cash Funds		
Foreclosure Prevention Counseling Fund	up to \$9.6 million	up to \$9.6 million
State Expenditures		
Cash Funds		
Foreclosure Prevention Counseling Fund	up to \$9.6 million	up to \$9.6 million
FTE Position Change	1.0 FTE	1.0 FTE
Effective Date: Upon signature of the Governor, or upon becoming law without his signature.		
Appropriation Summary for FY 2011-2012: See the State Appropriations section.		
Local Government Impact: See Local Government Impact section.		

Summary of Legislation

HB11-1136 authorizes the establishment of a foreclosure counseling and outreach program within the Division of Housing in the Department of Local Affairs.

Beginning July 1, 2011, a foreclosure counseling surcharge of \$240 will be assessed by the public trustee at the time the trustee is notified that posting is required under foreclosure deferment statutes. The public trustee may collect and retain an additional fee of \$10 for the costs of collecting and processing the surcharge. The public trustee shall waive the surcharge under certain conditions.

The surcharge will be transmitted from the public trustee to the State Treasurer for deposit in the Foreclosure Prevention Counseling Fund. Moneys in the fund, including revenue from the collection of the surcharge, as well as any gifts, grants, or donations collected from public and private sources, may be used by the Division of Housing for the following purposes:

- to make grants to approved housing counseling agencies;
- to support evaluations conducted under the state's foreclosure deferment program; and
- to support other foreclosure prevention activities administered by approved housing counseling agencies.

Before March 1, 2016, the Division of Housing will report to the House Local Government Committee and the Senate Local Government and Energy Committee. The report will include an analysis of moneys received per county, and how the money from the fund was spent to support approved agencies engaged in foreclosure prevention efforts. The program is repealed, effective July 1, 2016. Any unexpended and unencumbered moneys remaining in the fund at that time will be transferred to the General Fund.

State Revenue

The Foreclosure Prevention Counseling Fund will experience a revenue increase equal to \$240 each time a public trustee is notified that posting is required under foreclosure deferment statutes unless waived by the public trustee. Assuming that 40,000 foreclosures are affected annually, as much as \$9.6 million may be credited to the cash fund per year beginning in FY 2011-12.

State Expenditures

Assuming that 40,000 foreclosures annually are subject to the two surcharges provided in the bill, as much as \$9.6 million will be credited to the Foreclosure Prevention Counseling Fund annually beginning in FY 2011-12. As shown in Table 1, the Department of Local Affairs requires \$69,206 and 1.0 FTE in FY 2011-12, and \$63,465 and 1.0 FTE in FY 2012-13 to cover the administrative costs of implementing the bill. The remaining money of approximately \$9.53 million in the fund will be available to the Division of Housing for grants to housing counseling agencies and for other functions of the state's foreclosure deferment program.

Table 1. Expenditures Under HB11-1136		
Cost Components	FY 2011-12	FY 2012-13
Personal Services	\$61,965	\$61,965
FTE	1.0 FTE	1.0 FTE
Operating Expenses and Capital Outlay	6,653	1,500
Legal Services	588	0
Grant Awards	9,530,794	9,536,535
TOTAL	\$9,600,000	\$9,600,000

Moneys in the Foreclosure Prevention Counseling Fund are continuously appropriated to the Division of Housing for grants to approved housing counseling agencies and to support other foreclosure prevention activities, including the administrative costs to operate the foreclosure deferment program authorized under Part 8 of Article 38 of Title 38, C.R.S.

Expenditures Not Included

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. The centrally appropriated costs subject to this policy are summarized in Table 2.

Table 2. Expenditures Not Included Under HB11-1136*		
Cost Components	FY 2011-12	FY 2012-13
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$7,737	\$7,737
Supplemental Employee Retirement Payments	2,868	3,266
Indirect Costs	16,310	16,310
Leased Space	0	0
TOTAL	\$26,915	\$27,313

*More information is available at: <http://colorado.gov/fiscalnotes>

Fee Impact on Business

Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. As shown in Table 3, the bill establishes two fees to be collected by public trustees. The Foreclosure Counseling Surcharge is transmitted to the state, while the Public Trustee Processing Fee is retained locally to cover the cost of processing the surcharge. Assuming that 40,000 foreclosures are affected annually, Table 3 identifies the total potential fee impact of HB11-1136.

Table 3. Local Fee Impact					
Type of Fee	Current Fee	Proposed Fee	Fee Change	Number Affected	Total Fee Impact
Foreclosure Counseling Surcharge (transmitted to the state)	\$0	\$240	\$240	40,000	\$9,600,000
Public Trustee Processing Fee (retained by the public trustee)	0	10	10	40,000	400,000
TOTAL					\$10,000,000

Local Government Impact

In addition to the foreclosure counseling surcharge of \$240 assessed by the public trustee that is transmitted to the State Treasurer, the public trustee is also authorized to collect and retain a \$10 fee for the costs of collecting and processing the \$240 foreclosure counseling surcharge. The \$10 fee may not be sufficient to cover the additional administrative expenses required of the public trustee to handle the processing of the surcharge.

State Appropriations

The bill provides that moneys in the Foreclosure Prevention Counseling Fund are continuously appropriated to the Division of Housing in the Department of Local Affairs. Therefore, no further appropriation is required.

Departments Contacted

Local Affairs

Judicial

State Treasury