



*Colorado Legislative Council Staff Fiscal Note*  
**FINAL**  
**FISCAL NOTE**

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<b>Drafting Number:</b> LLS 12-0545	<b>Date:</b> August 16, 2012
<b>Prime Sponsor(s):</b> Rep. Williams A. Sen. Carroll	<b>Bill Status:</b> Signed into Law
	<b>Fiscal Analyst:</b> Josh Abram (303-866-3561)

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**TITLE:** CONCERNING THE REGULATION OF APPRAISAL MANAGEMENT COMPANIES, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
<b>State Revenue</b>		
Cash Funds		
Division of Real Estate Cash Fund*	\$228,000	\$228,000
Fines Collection Cash Fund	< 10,000	< 10,000
Identification Unit Cash Fund	23,700	23,700
<b>State Expenditures</b>		
Cash Funds		
Division of Real Estate Cash Fund	\$265,104	\$155,698
Identification Unit Cash Fund	23,700	23,700
<b>FTE Position Change</b>	2.5 FTE	2.5 FTE
<b>Effective Date:</b> The bill was signed into law by the Governor on June 8, 2012, and takes effect on July 1, 2013.		
<b>Appropriation Summary for FY 2012-2013:</b> See State Appropriations section.		
<b>Local Government Impact:</b> See Local Government Impact section.		

\* Fee revenue in the Division of Real Estate Cash Fund exceeds state expenditures in order to pay for costs noted in the Expenditures Not Included section of this fiscal note.

**Summary of Legislation**

This bill redefines the legal meaning of appraisal management companies (AMC) and establishes a licensure program for AMCs in the Division of Real Estate (division) in the Department of Regulatory Agencies (DORA). An AMC license may be given to an individual or any third party entity that, in connection with an appraisal for a mortgage transaction, oversees a network or panel of certified appraisers. The composition of the Board of Real Estate Appraisers (board) is modified to include a representative of an AMC. To receive a license, AMCs must:

- follow application procedures established by the board and pay a fee;
- designate a controlling appraiser to be responsible for the licensed activities of the entity;
- maintain errors and omissions insurance;

- post a surety bond in the amount of \$25,000 with the board; and
- submit to a fingerprint-based criminal history check for the controlling appraiser and each principal owner of the entity.

The board may deny a license application based on the outcome of the background check, or based on past disciplinary actions against a controlling appraiser or principal owners. The bill details prohibited acts for licensees and gives the division the authority to investigate and take disciplinary actions, including imposing fines up to \$2,500 per offense. The bill establishes misdemeanor penalties for both persons and entities that operate without a valid license.

The bill also requires that applicants for a real estate appraiser license, registration, or certification submit to a fingerprint-based criminal history background check and pay the fee. The board may deny the authority to practice based on the outcome of the background check.

## **State Revenue**

***In both FY 2012-13 and FY 2013-14, this bill will increase state revenue from fees by an estimated \$251,700 each year. The total two-year increase in fee revenue is estimated at \$503,400.***

***Fee impact on appraisal management companies.*** Section 2-2-322, C.R.S., requires legislative service agency review of measures that create or increase any fee collected by a state agency. Fee calculations are based on the estimated costs of the bill and the estimated number of licenses provided. Information on costs are detailed in the State Expenditures section of this fiscal note. The total number of AMCs is estimated by the division after consulting with industry and surveying existing AMCs. The total number of real estate appraisers licenses, registrations, and certifications are the anticipated new and renewal applications annually.

The controlling appraiser for AMCs and all regulated real estate appraisers are required to pay a separate fee to the Colorado Bureau of Investigation (CBI) in the Department of Public Safety for conducting fingerprint-based criminal history checks. The current fee for the record check is \$39.50, and additional fee revenue in FY 2012-13 and FY 2013-14 is \$23,700, annually. The anticipated volume of checks does not require the authorization of new FTE. Moneys in the cash fund are continuously appropriated to the department. Table 1 identifies the fee impact of this bill.

<b>Table 1. Fee Impact on Appraisal Management Companies and Real Estate Appraisers</b>			
<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
<i>Division of Real Estate Cash Fund</i>			
FY 2012-13 Initial Registration	\$2,280	100	\$228,000
FY 2013-14 Renewal Registration	\$2,280	100	\$228,000
<b>2-YEAR TOTAL</b>			<b>\$456,000</b>
<i>Colorado Bureau of Investigations*</i>			
FY 2012-13 Criminal History Check	39.50	600	23,700
FY 2013-14 Criminal History Check	39.50	600	23,700
<b>2-YEAR TOTAL</b>			<b>\$47,400</b>
<b>2-YEAR TOTAL FEE IMPACT</b>			<b>\$503,400</b>

*\*Assumes background checks are performed on initial or renewal applications beginning FY 2012-13*

**Fines.** The bill may increase state revenue from fines, although *less than \$10,000* in new state revenue is expected per year. For persons, the bill sets an unclassified misdemeanor penalty of up to 6 months imprisonment in a county jail, a fine up to \$500, or both. For entities, the penalty is a fine up to \$5,000. Second violations by persons are punishable by up to 6 months imprisonment, a fine up to \$1,000, or both. Fine revenue that is not otherwise appropriated is deposited into the Fines Collection Cash Fund. Because the courts have the discretion to impose a sentence of incarceration, a fine, or both, the precise impact to state revenue cannot be determined.

**State Expenditures**

*In FY 2012-13, this bill will result in total costs of \$288,804 and 2.5 FTE. State expenditures will be in the Department of Regulatory Agencies and the Department of Public Safety. In FY 2013-14, total costs are \$179,398 and 2.5 FTE.* Major cost components are summarized in Table 2 and discussed below.

<b>Table 2. Total Expenditures Under HB 12-1110</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Personal Services	\$90,959	\$90,959
FTE	2.5	2.5
Operating Expenses and Capital Outlay	11,306	1,900
Legal Services	62,839	62,839
Information Technology System Modifications	100,000	-
Fingerprint-Based Criminal History Check	23,700	23,700
<b>TOTAL</b>	<b>\$288,804</b>	<b>\$179,398</b>

**Program administration.** The DORA requires 2.0 FTE beginning in FY 2012-13. Operational staff is needed to design the program administration and to assist the board in adopting rules. This staff will also handle licensing inquiries, coordinate background checks and information gathering, and assist with enforcement activities. Investigative staff is required to monitor compliance with the bill and to initiate disciplinary action.

**Legal services.** The Department of Law will provide legal services to the DORA to assist in establishing rules and procedures for the program, and to prosecute violators referred by the DORA. It is estimated that the department will provide 830 hours of legal services in both FY 2012-13 and in FY 2013-14 at a blended rate of \$75.71 per hour. This amount of legal services requires 0.5 FTE in each year. Legal services FTE is in the Department of Law.

**Information technology.** This bill requires a new licensing type and changes to existing information technology (IT) systems for enforcement, reporting, and licensing in the Division of Real Estate. These changes are necessary to update the records management system and allow existing license types for real estate appraisers to be correlated with the new AMC license type. Total estimated IT cost for these changes is \$100,000.

**Fingerprint-based criminal history checks.** The CBI is responsible for conducting background checks. This fiscal note assumes that criminal history checks will be required for all initial and renewal registrations, certifications, and licenses; real estate appraisers with an active registration, certification, or license need not submit to a background check until renewing an existing license. It is estimated that 600 additional background checks will be performed annually by the CBI at a cost of \$39.50 per applicant.

### **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 3.

<b>Table 3. Expenditures Not Included Under HB 12-1110*</b>		
<b>Cost Components</b>	<b>FY 2012-13</b>	<b>FY 2013-14</b>
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$12,245	\$12,245
Supplemental Employee Retirement Payments	4,849	5,583
<b>TOTAL</b>	<b>\$17,094</b>	<b>\$17,828</b>

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

### **Local Government Impact**

The misdemeanor penalties in the bill include possible imprisonment in a county jail, a fine, or both. Because the courts have the discretion to impose a sentence of incarceration or a fine, the impact at the local level cannot be determined. The cost to house an offender in county jails varies from \$45 to \$50 per day in smaller rural jails to \$62 to \$65 per day for larger Denver-metro area jails. It is assumed that the impact of this new misdemeanor will be minimal and will not create the need for additional county jail space.

### **Departmental Differences**

The Division of Real Estate in the DORA has estimated that IT costs to implement the bill, are \$400,000. This estimate was provided to the division by the current IT vendor; however, no explanation was provided concerning how updating the records management system drives this IT cost. In the 2009 legislative session, the General Assembly considered Senate Bill 09-077, a bill to regulate AMCs that is very similar to House Bill 12-1110. In that analysis, the estimated IT costs were \$100,000. No additional justification was offered by the division or the vendor to explain why IT costs increased 300 percent since that 2009 bill.

This fiscal note rejects the \$400,000 IT estimate, and instead defaults to the original analysis and estimate of \$100,000.

### **State Appropriations**

Consistent with this fiscal note, the bill contains a cash funds appropriation of \$265,104 and 2.0 FTE from the Division of Real Estate Cash fund to the Department of Regulatory Agencies. Of this amount, the Department of Law is reappropriated \$62,839, and 0.5 FTE. Finally, the Department of Public Safety is appropriated \$23,700 from the Identification Unit Cash Fund.

### **Departments Contacted**

Law

Public Safety

Regulatory Agencies