

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0855	Date: March 24, 2015
Prime Sponsor(s): Sen. Woods Rep. Arndt	Bill Status: Senate Business, Labor, & Technology Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: TITLE INSURANCE COMMISSION

Fiscal Impact Summary*	FY 2015-2016	FY 2016-2017
State Revenue	\$0	\$0
State Diversions		
General Fund	(144,084)	(143,116)
Cash Funds	144,084	143,116
State Expenditures	\$164,028	\$164,236
General Fund	10,920	10,920
Cash Funds	144,084	143,116
Centrally Appropriated Costs**	9,024	10,200
FTE Position Change	0.8 FTE	0.8 FTE
Appropriation Required: \$155,004 – Department of Regulatory Agencies (FY 2015-16).		

* This summary shows changes from current law under the bill for each fiscal year. Diversions result in no net change to state revenue. Parentheses indicate a decrease in funds.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

The bill creates the Title Insurance Commission in the Division of Insurance (division) in the Department of Regulatory Agencies (DORA) as a Type 1 agency for the purposes of:

- proposing, advising, and recommending rules, subject to approval by the Commissioner of Insurance (commissioner), for the implementation and administration of the business of title insurance;
- proposing, advising, and recommending bulletins and position statements concerning any title insurance-related subject for issuance by the commissioner;
- conducting administrative hearings related to the licensing of applicants, the conduct of a title licensee, continuing education program approval, and to advise the commissioner;
- recommending disciplinary actions following the investigation of a complaint by the commissioner; and
- proposing rules to the commissioner for establishing a licensing examination.

The commission consists of seven Governor-appointed members whose credentials are outlined in the bill. No more than one commission member may be appointed from a single company or an affiliate or subsidiary of that company. Terms are initially staggered so that

approximately half the commission serves two-year terms, and the remainder and each appointment thereafter serve four-year terms expiring June 30. The Governor must fill vacancies on the board and may remove any member for misconduct, neglect of duty, or incompetence.

Commission members are not compensated, but may receive travel expenses for travel in excess of 50 miles, paid from the General Fund. A chair must be selected by commission members annually. The commission must meet at least monthly in person. The chair may call additional meetings at his or her discretion, or upon the request of the commissioner or of at least three or more commission members. Five commission members constitute a quorum. Regular commission business is indemnified against civil action.

The commissioner in DORA is required, personally or by designee, to:

- administer and enforce title insurance standards, procedures, and processes, including rates, fees, and licensing, and the regulation of the business of title insurance;
- aid in the commission's administration, perform commission duties as prescribed, and act on behalf of the commission on occasion as directed; and
- provide a written report to the commission recommending disciplinary action and fines following an investigation of a complaint.

The commissioner may establish rules, subject to the concurrence of the commission. Rules promulgated by the commissioner prior to the bill's effective date remain intact until repealed or modified by the commission. Any imposition of a disciplinary action or fine requires the concurrence of the commission and the commissioner.

The commission is repealed on September 1, 2025, following a sunset review.

Background

Type 1 agencies. A Type 1 agency is administered under the direction and supervision of its principal department; however, a Type 1 agency exercises its statutory powers, duties, and functions, including rulemaking, independently of the executive director of its principal department. Any functions of a Type 1 agency not specifically established in statute, including all budgeting, purchasing, planning, and related management functions, are conducted under the direction and supervision of the executive director of its principal department. Examples of Type 1 agencies include the State Personnel Board in the Department of Personnel and Administration and the Public Utilities Commission in DORA.

State Diversions

This bill diverts from the General Fund **\$144,084 in FY 2015-16, and \$143,116 in FY 2016-17 and each year thereafter.** This revenue diversion occurs because the bill increases costs in the Department of Regulatory Agencies, Division of Insurance, which is funded with premium tax revenue that would otherwise be credited to the General Fund.

State Expenditures

The bill will increase expenditures in DORA. Expenditures are outlined in Table 1 and detailed below.

Table 1. Expenditures Under SB15-210		
Cost Components	FY 2015-16	FY 2016-17
Personal Services	\$40,394	\$44,066
FTE	0.7 FTE	0.8 FTE
Operating Expenses and Capital Outlay Costs	5,400	760
Travel (Mileage and Lodging)*	10,920	10,920
Legal Services	98,290	98,290
Centrally Appropriated Costs**	9,024	10,200
TOTAL	\$164,028	\$164,236

* Under the bill, travel costs are required to be paid with General Fund.

** Centrally appropriated costs are not included in the bill's appropriation.

Division of Insurance. In order to support the work of the commission, the division will require administrative and managerial support. An assistant at 0.5 FTE will provide general support, respond to inquiries, manage documents, provide meeting support, assist with travel arrangements, and draft agendas and other relevant documents. An analyst at 0.3 FTE will work as the commissioner's designee, serving as the liaison between the division and the commission. The analyst will prepare and present the division's position on title investigations and other commission matters, and will coordinate with legal support when necessary. In FY 2015-16, the personal services are prorated to account for the bill's effective date.

Title Insurance Commission. It is assumed that 14 in-person commission meetings will take place a year and that two commission members will travel from Grand Junction and Durango for these meetings. Travel costs for those two commission members includes an approximate mileage reimbursement for 600 miles roundtrip and two-nights lodging. Under the bill, travel costs are required to be paid from the General Fund.

Legal services. The commission is expected to require 1040 hours legal services at the rate of \$94.51. Legal services for the commission include: attending meetings, providing counsel for enforcement actions against members of the title insurance industry, and supporting the commission in conflicts with division policies or positions. In addition, the likelihood is high that the division will require legal services when conflicts arise with the commission over interpretations and the implementation of state law and regulations. The fiscal note does not quantify this potential legal services expense; however, if incurred, these costs may be significant. The fiscal note assumes that any adjustments to the division's legal services appropriations as a result of additional expenses will be addressed during the annual budget process.

Centrally appropriated costs. 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 estimated in the fiscal note for informational purposes and summarized in Table 2.

Table 2. Centrally Appropriated Costs Under SB15-210*		
Cost Components	FY 2015-16	FY 2016-17
Employee Insurance (Health, Life, Dental, and Short-term Disability)	\$5,893	\$6,429
Supplemental Employee Retirement Payments	3,131	3,771
TOTAL	\$9,024	\$10,200

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

Effective Date

The bill takes effect August 5, 2015, if the General Assembly adjourns on May 6, 2015, as scheduled, and no referendum petition is filed.

State Appropriations

In FY 2015-16, the Department of Regulatory Agencies requires a cash fund appropriation of \$144,084 from the Division of Insurance Cash Fund, an allocation of 0.8 FTE, and a General Fund appropriation of \$10,920. Of the cash fund appropriation, \$98,290 and an additional 0.6 FTE is reappropriated to the Department of Law.

State and Local Government Contacts

Governor's Office
Regulatory Agencies

Law

Personnel and Administration