



**Colorado
Legislative
Council
Staff**

HB16-1090

FISCAL NOTE

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0532
Prime Sponsor(s): Rep. McCann
Sen. Jahn

Date: February 2, 2016
Bill Status: House Finance
Fiscal Analyst: Erin Reynolds (303-866-4146)

BILL TOPIC: EXCESS FORECLOSURE PROCEEDS LIMIT FINDER'S FEES

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	Potential minimal increase.	
State Expenditures	Potential minimal workload increase.	
Appropriation Required: None.		
Future Year Impacts: Ongoing potential minimal revenue and workload increase.		

Note: While all agencies were canvassed for this analysis, not all agencies were able to respond with complete information within the time frames provided. The fiscal note will be updated if more information becomes available.

Summary of Legislation

The bill limits the premium (commonly referred to as a "finder's fee") that a person may charge for offering assistance in recovering the balance of the purchase price of a foreclosed property after all liens and claims against the property have been satisfied. It reduces the period during which the public trustee must hold these funds before transferring the funds to the Unclaimed Property Division of the State Treasurer's office from five years to two years.

The bill also voids any contract for finder's fee payments during the first six months of the public trustee's custody of the funds and during the first two years of the State Treasurer's custody of the funds, and caps the finder's fee at 20 percent of the amount recovered once these periods expire. For amounts that have been in the custody of the State Treasurer for three years or more, the finder's fee is capped at 30 percent. Finally, the bill also imposes additional contract requirements for finders, such as disclosing that the owner of the funds may obtain the funds free of charge without a finder's assistance.

Background

The Unclaimed Property Division of the State Treasurer's office holds lost or forgotten assets of individuals and businesses in Colorado in perpetuity or until claimed. The Unclaimed Property Trust Fund consists of all moneys collected under the Unclaimed Property Act and interest earned on the account. The Unclaimed Property Trust Fund is TABOR-exempt. Up until recent years, the division has not received a notable amount of money from unclaimed foreclosure balances.

State Revenue

The bill is expected to minimally increase state revenue from interest in the Unclaimed Property Trust Fund in the State Treasurer's office. Under the bill, unclaimed foreclosure balances are transferred from public trustee offices to the fund after two years; three years earlier than under current law which stipulates a transfer after five years. Earlier transfer of these moneys may increase total interest earnings in the fund. Because the fund is TABOR-exempt, this potential state revenue increase from interest will not have a TABOR impact.

State Expenditures

Workload in the Unclaimed Property Division of the State Treasurer's office may increase in FY 2016-17 and by a minimal amount each year thereafter. Because of the bill's enacting clause, which retroactively applies to proceeds of all foreclosure sales up to five years before the bill's effective date, it is expected that a large amount of unclaimed foreclosure balances will immediately transfer from the state's public trustees to the division, causing an initial increase in workload to account for these moneys in FY 2016-17. Minimal workload increases will continue in subsequent years due to the earlier possession of unclaimed foreclosure balances. The division is expected to absorb this workload impact within existing appropriations.

Local Government Impact

The bill may minimally decrease county revenue from interest due to the earlier transfer of unclaimed foreclosure balances to the State Treasurer by three years. Public trustee offices in each county may also experience workload increases to transfer these funds on an earlier schedule. These offices are also expected to see a workload reduction because of the reduction of time public trustees are required to hold these funds. Overall, the impact to county workloads is expected to be neutral.

Effective Date

The bill takes effect August 10, 2016, if the General Assembly adjourns on May 11, 2016, as scheduled, and no referendum petition is filed. Sections 2 and 3 of the bill apply to proceeds of foreclosure sales conducted on or after the bill's effective date. Section 1 of the bill applies to proceeds of foreclosure sales on, after, or up to five years before the bill's effective date.

State and Local Government Contacts

Counties	Judicial	Law
Local Affairs	Municipalities	Office of Information Technology
Public Trustees	Regulatory Agencies	Secretary of State
Sheriffs	Treasury	