



Legislative Council Staff
Nonpartisan Services for Colorado's Legislature

Final Fiscal Note

Drafting Number: LLS 22-0372
Prime Sponsors: Rep. Titone

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Bill Status: Postponed Indefinitely
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Bill Topic: REGULATE COMMUNITY ASSOCIATION MANAGERS

- Summary of Fiscal Impact:
[X] State Revenue
[X] State Expenditure
[X] TABOR Refund
[X] Local Government
[] State Transfer
[] Statutory Public Entity

The bill would have created a licensure program for community association managers. It would have increased state revenue and expenditures beginning in FY 2022-23.

Appropriation Summary: For FY 2022-23, the bill would have required appropriations of \$80,558 to various state agencies. See State Appropriations section for details.

Fiscal Note Status: The fiscal note reflects the introduced bill, as amended by the House Transportation and Local Government Committee. This bill was not enacted into law; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 22-1239

Table with 4 columns: Category, Sub-category, Budget Year FY 2022-23, and Out Year FY 2023-24. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund).

Summary of Legislation

The bill requires that community association managers, defined as businesses that perform services for home owners' associations (HOAs), be licensed by the Division of Real Estate in the Department of Regulatory Agencies (DORA) by July 1, 2023. In order to be eligible for a license, an entity's controlling manager must pay a fee, submit to a fingerprint-based background check, and comply with other requirements, including having adequate insurance coverage and having no past, adverse credentialing actions. Licenses are valid for up to two years, with the fee amount and expiration schedule established by the department. It must also publish a list of licensed community association managers on its website, along with an assessment of disciplinary actions.

DORA may promulgate rules to enforce the license's requirements, conduct audits or investigations of community association managers, and seek a court order to remedy a violation. Violations are subject to penalties which may include a fine, censure, probation, or revocation of a license. A community association manager who operates without a license commits a class 2 misdemeanor.

The licensure program repeals September 1, 2027, following a sunset review by DORA.

Background

DORA licensed and regulated community association managers from 2013 until 2019. The former program underwent a sunset review in 2018 and was not renewed. The following year, the legislature passed House Bill 19-1212, which would have recreated the program for one year before it expired at the end of FY 2018-19. However, the Governor vetoed the bill and the regulatory program ended.

This bill regulates a different population than the former program did, resulting in lower overall revenue and expenditures compared to House Bill 19-1212.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. This section outlines data on crimes comparable to the offense in this bill and discusses assumptions on future rates of criminal conviction for those offense.

Prior conviction data and assumptions. This bill creates the new offense of practicing as a community association manager without a license, a class 2 misdemeanor. To form an estimate on the prevalence of this new crime, the fiscal note analyzed the existing offense of practicing as an appraisal management company without a license as a comparable crime. From FY 2018-19 to FY 2020-21, zero offenders have been sentenced and convicted for this existing offense; therefore, the fiscal note assumes that there will be minimal or no additional case filings or convictions for the new offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice-related expenditures or revenue at the state or local levels, these potential impacts are not discussed further in this fiscal note.

Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

The bill increases state revenue by \$599,208 in FY 2022-23, primarily to the Division of Real Estate Cash Fund. Fee revenue is subject to TABOR.

Fee impact on community association managers. Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of licenses subject to the fee. The table below identifies the fee impact of this bill.

The bill proposes a tiered fee based on the size of the company to be licensed. Because the adoption of such a fee structure will be determined by rule, Table 2 shows an average application fee. As licenses are valid for two years, renewal fees will be collected beginning in FY 2024-25, and are not shown in the table. The number of licensed seekers is estimated based on the number of management companies licensed under the former licensure program.

Fingerprint-based background checks – Department of Public Safety (CDPS). This bill increases state cash fund revenue from fingerprint-based criminal history background checks to the CBI Identification Unit Cash Fund in by \$25,873 in FY 2022-23. This assumes 655 checks will be conducted. The current fee for background checks is \$39.50, which includes \$11.25 for a Federal Bureau of Investigation (FBI) fingerprint based check, which is passed on to that federal agency. The federal portion of this fee is excluded from the state TABOR limit.

Table 2
Fee Impact on Community Association Managers

| Fiscal Year | Type of Fee | Proposed Fee | Number Affected | Total Fee Impact |
|--------------------|-------------------------|---------------------|------------------------|-------------------------|
| | Initial License Fee | \$875.32 | 655 | \$573,335 |
| FY 2022-23 | Background Check | \$39.50 | 655 | \$25,873 |
| | FY 2022-23 Total | | | \$599,208 |

Fine revenue. To the extent that the Division of Real Estate imposes administrative fines on licensees up to \$5,000 per offense, revenue to the Division of Real Estate Cash Fund will increase. Based on the low numbers of fines imposed under the former program and the assumption that community association managers will generally comply with the bill, the fiscal note estimates that any fine revenue will be minimal.

State Expenditures

The bill increases state expenditures, primarily in DORA, by \$85,753 in FY 2022-23 and \$265,525 in FY 2023-24 from various cash funds. Expenditures are shown in Table 3 and detailed below.

Table 3
Expenditures Under HB 22-1239

| Cost Components | FY 2022-23 | FY 2023-24 |
|---|-------------------|-------------------|
| Department of Regulatory Agencies | | |
| Personal Services | - | \$127,666 |
| Operating Expenses | - | \$2,700 |
| Capital Outlay Costs | - | \$12,400 |
| Legal Services | \$35,485 | \$70,970 |
| Computer Programming | \$19,200 | - |
| Centrally Appropriated Costs ¹ | \$5,195 | \$51,789 |
| FTE – Personal Services | - | 2.0 FTE |
| FTE – Legal Services | 0.2 FTE | 0.4 FTE |
| DORA Subtotal | \$59,880 | \$265,525 |
| Department of Public Safety | | |
| Background Checks | \$25,873 | - |
| CDPS Subtotal | \$25,873 | - |
| Total | \$85,753 | \$265,525 |
| Total FTE | 0.2 FTE | 2.4 FTE |

¹ Centrally appropriated costs are not included in the bill's appropriation.

Department of Regulatory Agencies. The new licensure program requires 2.0 FTE to respond to complaints, conduct investigations, and conduct audits on community association managers, beginning in FY 2023-24. Standard operating and capital outlay costs are included. Workload in the first year to handle applications for licensure do not require additional appropriations.

- **Legal services.** DORA will require 360 hours of legal services in FY 2022-23 to conduct rulemaking and 720 hours in subsequent years to address violations. Legal services are provided by the Department of Law at a rate of \$98.57 per hour.
- **Computer programming.** The bill requires new license credentials and posting of licensed entities on DORA's website. Updates to the Division of Real Estate's licensing system and to the website require an estimated 160 hours of application development at \$120 per hour, which is provided by the Office of Information Technology.

Fingerprint-based background checks — CDPS. The bill increases cash fund expenditures for fingerprint-based criminal history background checks by \$25,873 in FY 2022-23 from the CBI Identification Unit Cash Fund in CDPS. This covers the costs of conducting additional background checks and includes the pass through costs of the FBI component of the background check. These costs are based on an estimated 655 checks. The workload associated with conducting the checks can be accomplished within current staffing levels.

Department of Personnel and Administration. To the extent that cases adjudicating violations are referred to the Office of Administrative Courts, workload will increase. The fiscal note assumes that this workload can be accomplished within existing appropriations. If caseload increases substantially, the department will seek additional resources through 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. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 3.

Other Budget Impacts

TABOR refunds. The bill is expected to increase the amount of state revenue required to be refunded to taxpayers by the amounts shown in the Table 1. This estimate assumes the December 2021 LCS revenue forecast. A forecast of state revenue subject to TABOR is not available beyond FY 2023-24. Because TABOR refunds are paid from the General Fund, increased cash fund revenue will reduce the amount of General Fund available to spend or save.

Effective Date

This bill was postponed indefinitely by the House Finance Committee on March 21, 2022.

State Appropriations

For FY 2022-23, the bill requires the following appropriations:

- \$54,685 to the Department of Regulatory Agencies from the Division of Real Estate Cash Fund. Of this, \$35,485 is reappropriated to the Department of Law and 0.2 FTE, and \$19,200 is reappropriated to the Office of Information Technology; and
- \$25,873 from the CBI Identification Unit Cash Fund to the Department of Public Safety.

State and Local Government Contacts

District Attorneys
Personnel
Secretary of State

Judicial
Public Safety

Law
Regulatory Agencies