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Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated)

Drafting Number: LLS 21-0508 Date: May 21, 2021
Prime Sponsors: Rep. Weissman Bill Status: Senate Finance
Sen. Gonzales Fiscal Analyst: Sonia Hatfield | 303-866-5851
Sonia.Hatfield@state.co.us

Bill Topic: ADD CONSUMER PROTECTIONS REGUL MORTGAGE SERVICERS

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

This bill creates the Colorado Nonbank Mortgage Servicers Act, and places some mortgage servicers under the oversight of the administrator of the Consumer Credit Code. This bill will increase state and local revenue and expenditures beginning in FY 2021-22.

Appropriation Summary: For FY 2021-22, the bill requires an appropriation of \$51,783 to the Department of Law.

Fiscal Note Status: This fiscal note reflects the reengrossed bill.

Table 1
State Fiscal Impacts Under HB 21-1282

Table with 4 columns: Category, Sub-category, Budget Year FY 2021-22, and Out Year FY 2022-23. Rows include Revenue (Cash Funds, Total Revenue), Expenditures (Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and TABOR Refund.

Summary of Legislation

This bill creates the Colorado Nonbank Mortgage Servicers Act and places certain types of nonbank mortgage servicers that service residential mortgage loans under the oversight of the administrator of the Consumer Credit Code.

Oversight and regulation. Beginning January 31, 2022, nonbank mortgage servicers as defined in this bill must register with the Department of Law (DOL) and pay an annual fee. The bill requires that these servicers abide by requirements related to record-keeping, reporting, record requests, examinations, and inspections. The DOL will respond to complaints and conduct investigations and examinations to determine compliance with the bill. The DOL shall include in its annual presentation to the General Assembly information about complaints, enforcement actions, and fees collected.

Violations and enforcement. The department may impose penalties on mortgage servicers that do not comply with certain requirements, including bringing civil actions, ordering them to cease and desist violating the bill and ordering them to refund individuals.

Background

Since the 2008 recession and housing crisis, nonbank mortgage servicers have grown substantially, and today service over half of all mortgages in the United States. Compared to banks, these mortgage servicers have liquidity and capital requirements that are typically less strict than those for banking institutions.

State Revenue

This bill will increase state cash fund revenue to the Uniform Consumer Credit Code Cash Fund in DOL by \$126,250 annually beginning in FY 2021-22. This revenue is from initial notification fees and renewal fees and is subject to TABOR. In addition, state General Fund revenue may increase to the extent that lenders are penalized for deceptive trade practices.

Fee impact on nonbank mortgage servicers. 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, based on an assumed 125 mortgage servicers registering with the DOL each year. Actual fees will be set administratively by DOL based on cash fund balance, actual program costs, and the estimated number of regulated bodies subject to this fee. The table below identifies the fee impact of this bill based on the assumed number of mortgage servicers operating in Colorado and the costs identified in the Expenditures section below.

**Table 2
Fee Impact on Nonbank Mortgage Servicers**

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2021-22	Initial Notification Fee	\$1,010	125	\$126,250
FY 2022-23	Initial or Renewal Notification Fee	\$1,010	125	\$126,250

Penalties. To the extent that the Attorney General or district attorneys pursue civil actions or penalties related to violations of the bill, fine revenue to the General Fund will increase. The precise impact to the state cannot be determined.

State Expenditures

This bill increases costs in the DOL by \$66,284 in FY 2021-22 and \$125,466 in FY 2022-23 and future years, paid from the Uniform Consumer Credit Code Cash Fund, as shown in Table 3. The bill may also increase workload and costs for the Judicial Branch. These impacts are discussed below.

**Table 3
Expenditures Under HB 21-1282**

	FY 2021-22	FY 2022-23
Department of Law		
Personal Services	\$44,908	\$89,817
Operating Expenses	\$675	\$1,350
Capital Outlay Costs	\$6,200	-
Centrally Appropriated Costs ¹	\$14,501	\$34,299
FTE – Personal Services	0.5 FTE	1.0 FTE
Total Cost	\$66,284	\$125,466
Total FTE	0.5 FTE	1.0 FTE

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

Department of Law. The department will require 1.0 FTE for a Financial Credit Examiner to review annual notifications from mortgage servicers, examine records, investigate complaints, and handle any violations. In the first year, staffing is prorated for a January 2022 start date.

Judicial Department. To the extent that more civil cases are filed for violations and more appeals are filed by mortgage servicers, workload for the trial courts and appeals courts will increase. This workload can be accomplished within existing appropriations.

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 estimated to be \$14,501 in FY 2021-22 and \$34,299 in FY 2022-23.

TABOR refunds. The bill may increase state revenue subject to TABOR. For FY 2022-23, the March 2021 LCS forecast projects revenue to fall short of the TABOR limit by \$28.6 million, or 0.2 percent of the limit. If actual revenue exceeds the limit, the bill will increase the amount required to be refunded to taxpayers from the general fund in FY 2023-24.

Federal ARPA funds. This bill increases state revenue, which may impact the state's flexibility in spending federal American Rescue Plan Act (ARPA) funds. For more information, see the LCS memo, titled "Legislative Changes and Flexibility in Use of American Rescue Plan Funds," available online at: <https://leg.colorado.gov/node/2211881>.

Local Government

Similar to the state, to the extent that there is an increase in the number of civil case filings, costs and workload may increase for the district attorneys. The number of case filings is expected to be minimal.

Effective Date

This bill takes effect January 1, 2022, assuming no referendum petition is filed within the 90 days following adjournment of the General Assembly sine die.

State Appropriations

For FY 2021-22, this bill requires an appropriation of \$51,783 and 0.5 FTE from the Uniform Consumer Credit Code Cash Fund to the Department of Law.

State and Local Government Contacts

Information Technology
Local Affairs

Judicial
Regulatory Agencies

Law