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M E M O R A N D U M

February 22, 2016

TO: Representative JoAnn Windholz
FROM: Anna Gerstle, Fiscal Analyst (303-866-4375)
SUBJECT: Fiscal Assessment of Proposed Amendment HB1133_L.001

This memorandum is an assessment of the fiscal impact of the attached proposed amendment L.001 to HB16-1133. This fiscal assessment is for the impact of the bill with inclusion of this amendment only. Other amendments could influence the fiscal impact.

Summary of Proposed Amendment

Amendment L.001 removes all changes to the way that the Department of Regulatory Agencies (DORA) regulates community association managers who contract with homeowners' associations (HOAs) to provide certain functions. Specifically, the amendment removes the following:

- the new definition of "small HOA community association managers;"
- the requirement that DORA adopt less stringent educational and testing requirements and lower fees for those small HOA managers;
- the requirement that DORA certify out-of-state educational providers; and
- the requirement that DORA provide certain information about licensed managers in an online, searchable format, as well as a daily report of all pending complaints and disciplinary proceedings.

As amended, the bill maintains the existing exemption from licensing requirements for managers of timeshare communities, but requires them to abide by the bill's disclosure requirements. The amendment also makes minor adjustments to the required disclosures and to the new violations the bill adds to the current list of violations by licensed managers.

Fiscal Impact of Amendment

The amendment eliminates the \$22,500 fee revenue increase in FY 2016-17 and \$27,350 fee revenue increase in FY 2017-18 to DORA from licensing timeshare managers and changing the licensing fees for small HOA managers. In addition, the amendment eliminates the revenue increase of \$5,925 in FY 2016-17 and \$790 in FY 2017-18 from fingerprint-background check fees to the Department of Public Safety.

The amendment eliminates the \$48,360 cost in FY 2016-17 and \$200 cost in FY 2017-18 to DORA to make changes to the way managers are regulated, subsidize the cost of the licensing exam for small HOA managers, and make the necessary database changes to accommodate the online searchable website requirements. The amendment also eliminates the workload increase for DORA to certify out-of-state education providers. Amendment L.001 eliminates the need for an appropriation in the bill.

Bill's Revised Fiscal Impact with Amendment

With amendment L.001, the bill increases the workload for DORA to make public the name and address of each manager who has had his or her license revoked or has been assessed penalties or fines. This increase can be absorbed within existing appropriations. In addition, there may be an increase in disciplinary cases due to the new violations from the bill. Since no disciplinary cases have occurred since the HOA manager licensure requirement was initially passed in 2015, any increase in disciplinary cases is expected to be minimal and can be absorbed within existing appropriations.

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Committee on State, Veterans, & Military Affairs.
HB16-1133 be amended as follows:

- 1 Amend printed bill, page 3, strike line 1 and substitute "(3) (a)
- 2 introductory portion; and **add** (8.5) and (11) as follows:".

- 3 Page 3, strike lines 4 through 16 and substitute:
- 4 "(3) (a) "Common interest community" has the meaning set forth
- 5 in section 38-33.3-103 (8), C.R.S.; except that, FOR ALL PURPOSES
- 6 EXCEPT THE DISCLOSURE REQUIREMENTS IN SECTION 12-61-1004.5,
- 7 "common interest community" does not include:".

- 8 Page 3, strike lines 21 through 27.

- 9 Strike page 4.

- 10 Page 5, strike lines 1 through 25.

- 11 Renumber succeeding sections accordingly.

- 12 Page 6, strike lines 26 and 27.

- 13 Page 7, strike lines 1 through 10 and substitute:
- 14 "(I) THE RECEIPT MUST INCLUDE:
- 15 (A) A REFERENCE TO THE PORTION OF THE MANAGER'S CONTRACT
- 16 AUTHORIZING THE FEE, ASSESSMENT, OR COLLECTION AND THE LEGAL
- 17 AUTHORITY FOR HOLDING THE UNIT OWNER OR OTHER PARTY
- 18 RESPONSIBLE FOR PAYMENT;
- 19 (B) A STATEMENT THAT THE WORK AND SERVICES BEING BILLED
- 20 HAVE NOT BEEN PREVIOUSLY PAID FOR BY THE UNIT OWNER THROUGH
- 21 HOA DUES AND, IN THE CASE OF AN HOA TRANSFER FEE OR ANY OTHER
- 22 FEE CHARGED IN CONNECTION WITH A CONVEYANCE OF PROPERTY, THAT
- 23 THE CHARGES ARE UNIQUE TO, AND RESULT FROM, THE CONVEYANCE AND
- 24 REPRESENT EXPENSES INCURRED BY THE MANAGER THAT HAVE NOT BEEN
- 25 OTHERWISE PAID AND CANNOT BE CONSIDERED AS PART OF THE
- 26 STANDARD AND ORDINARY SERVICES PROVIDED BY THE MANAGER

1 THROUGH THE MANAGER'S CONTRACT WITH THE HOA; THAT SUCH
2 CHARGES ARE NOT ALSO BILLED TO OR COLLECTED FROM ANY TITLE
3 COMPANY OR OTHER THIRD PARTY; THAT NONE OF THE CHARGES
4 REPRESENT WORK THAT HAS BEEN OR WILL BE COMPLETED BY ANOTHER
5 PARTY AND BILLED TO THE UNIT OWNER, SUCH AS TITLE AND LIEN
6 SEARCHES; AND THAT ALL CHARGES ARE ASSESSED IN COMPLIANCE WITH
7 APPLICABLE STATE AND FEDERAL LAWS GOVERNING HOA TRANSFER FEES
8 AND FHA OR HUD LOANS; AND
9 (C) DETAILED LINE ITEMS IDENTIFYING THE WORK PERFORMED BY
10 TASK AND AMOUNT."

11 Page 8, strike lines 22 through 27.

12 Strike page 9.

13 Page 10, strike lines 1 and 2.

14 Renumber succeeding sections accordingly.

15 Page 10, line 4, strike "(1) (r), (1) (s), (1) (t), (1) (u)," and substitute "(1)
16 (r)".

17 Page 10, strike lines 22 through 27.

18 Page 11, strike lines 1 through 5 and substitute "~~dealing~~ FAILING TO MAKE
19 ANY DISCLOSURE REQUIRED BY SECTION".

20 Page 11, line 7, strike "(u)" and substitute "(r)".

21 Page 1, line 103, after "DISCLOSURE" insert "AND TRANSPARENCY".

22 Page 1, strike lines 105 through 109 and substitute "PROPERTY".

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