

**Second Regular Session
Seventieth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0666.01 Ed DeCecco x4216

SENATE BILL 16-117

SENATE SPONSORSHIP

Sonnenberg,

HOUSE SPONSORSHIP

(None),

Senate Committees

Finance
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING A LIMITATION ON A STATE AGENCY'S AUTHORITY TO**
102 **IMPOSE A FINE, AND, IN CONNECTION THEREWITH, MAKING AN**
103 **APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

For purposes of the bill, a "discretionary fine" means a penalty in an amount set by a state agency that is capped in law at \$1,000 or more or that has no statutory cap. A state agency is prohibited from imposing a discretionary fine unless:

! The state agency provides written notice of the violation of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

the state law or rule to the violator; and
! The violator fails to cure the violation on or before the 20th business day after receipt of the written notice of the violation.

The bill also establishes a maximum amount of a discretionary fine, notwithstanding any specific provision of law to the contrary. But this maximum only applies if a violator provides the state agency with the requested information that allows the state agency to determine the maximum amount.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 79.3 to
3 title 24 as follows:

4 **ARTICLE 79.3**

5 **Fines Imposed by State Agencies - Limitations**

6 **24-79.3-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DESIGNATED FINE" MEANS A PENALTY THAT IS:

9 (a) IMPOSED BY A STATE AGENCY ON A NATURAL PERSON,
10 BUSINESS ENTITY, OR POLITICAL SUBDIVISION FOR A VIOLATION OF A STATE
11 STATUTE OR A STATE AGENCY RULE;

12 (b) AT LEAST ONE THOUSAND DOLLARS PER VIOLATION OR IN
13 TOTAL FOR RELATED VIOLATIONS; AND

14 (c) NOT A CRIMINAL PENALTY.

15 (2) "STATE AGENCY" MEANS ANY BOARD, BUREAU, COMMISSION,
16 DEPARTMENT, INSTITUTION, DIVISION, SECTION, OR OFFICER OF THE STATE
17 IN THE EXECUTIVE BRANCH.

18 **24-79.3-102. State agencies - fines - limitations.** (1) A STATE
19 AGENCY SHALL NOT IMPOSE A DESIGNATED FINE, UNLESS:

20 (a) THE STATE AGENCY PROVIDES WRITTEN NOTICE OF THE

1 VIOLATION OF THE STATE LAW OR RULE TO THE VIOLATOR; AND

2 (b) THE VIOLATOR FAILS TO CURE THE VIOLATION ON OR BEFORE
3 THE THIRTIETH CALENDAR DAY AFTER THE STATE AGENCY MAILES THE
4 WRITTEN NOTICE OF THE VIOLATION.

5 (2) (a) EXCEPT AS SET FORTH IN PARAGRAPH (c) OF THIS
6 SUBSECTION (2), AND NOTWITHSTANDING ANY SPECIFIC PROVISION OF LAW
7 TO THE CONTRARY, A STATE AGENCY SHALL NOT IMPOSE A DESIGNATED
8 FINE THAT EXCEEDS:

9 (I) FOR A NATURAL PERSON, TEN PERCENT OF THE TAXABLE
10 INCOME REPORTED ON HIS OR HER LAST STATE INCOME TAX RETURN,
11 REGARDLESS OF WHETHER IT IS A SINGLE OR JOINT RETURN;

12 (II) FOR A BUSINESS ENTITY, TEN PERCENT OF THE OPERATING
13 REVENUE REPORTED ON ITS INCOME STATEMENT FOR THE LAST FISCAL
14 YEAR; OR

15 (III) FOR A POLITICAL SUBDIVISION, FIVE PERCENT OF ITS TAX
16 REVENUE FOR THE PRIOR FISCAL YEAR.

17 (b) THE MAXIMUM DESIGNATED FINE ALLOWED UNDER PARAGRAPH
18 (a) OF THIS SUBSECTION (2) DOES NOT INCLUDE ANY DELINQUENCY
19 CHARGES.

20 (c) IF A VIOLATION HAS NOT BEEN CURED DURING THE PERIOD SET
21 FORTH IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION, A STATE
22 AGENCY MAY REQUEST A VIOLATOR TO PROVIDE INFORMATION TO ALLOW
23 THE STATE AGENCY TO DETERMINE THE MAXIMUM ALLOWABLE FINE
24 UNDER PARAGRAPH (a) OF THIS SUBSECTION (2). FOR THE LIMIT TO APPLY,
25 THE VIOLATOR MUST PROVIDE THE STATE AGENCY WITH THE REQUESTED
26 INFORMATION ON OR BEFORE THE THIRTIETH CALENDAR DAY AFTER THE
27 STATE AGENCY MAILES THE REQUEST. IF THE VIOLATOR FAILS TO PROVIDE

1 THE REQUESTED INFORMATION, THEN PARAGRAPH (a) OF THIS SUBSECTION
2 (2) DOES NOT APPLY.

3 **SECTION 2. Appropriation.** (1) For the 2016-17 state fiscal
4 year, \$1,068,554 is appropriated to the department of revenue. This
5 appropriation is from the general fund. To implement this act, the
6 department may use this appropriation as follows:

7 (a) \$1,044,554 for use by the taxation business group for CITA
8 annual maintenance and support; and

9 (b) \$24,000 for use by the executive director's office for postage.

10 (2) For the 2016-17 state fiscal year, \$330,619 is appropriated to
11 the department of labor and employment for use by the division of
12 unemployment insurance. This appropriation is from the employment
13 support fund created in section 8-77-109 (1) (b) (I), C.R.S., and is based
14 on an assumption that the division will require an additional 3.5 FTE. To
15 implement this act, the division may use this appropriation for program
16 costs.

17 (3) For the 2016-17 state fiscal year, \$104,421 is appropriated to
18 the department of labor and employment for use by the division of
19 workers' compensation. This appropriation is from the workers'
20 compensation cash fund created in section 8-44-112 (7) (a), C.R.S. To
21 implement this act, the division may use this appropriation as follows:

22 (a) \$91,815 for personal services related to workers'
23 compensation, which amount is based on an assumption that the division
24 will require an additional 2.1 FTE; and

25 (b) \$12,606 for operating expenses related to workers'
26 compensation.

27 (4) For the 2016-17 state fiscal year, \$109,572 is appropriated to

1 the department of regulatory agencies for use by the public utilities
2 commission. This appropriation is from the public utilities commission
3 motor carrier fund created in section 40-2-110.5 (6), C.R.S. To implement
4 this act, the commission may use this appropriation as follows:

5 (a) \$99,723 for personal services, which amount is based on an
6 assumption that the commission will require an additional 1.6 FTE; and

7 (b) \$9,849 for operating expenses.

8 (4) For the 2016-17 state fiscal year, \$22,014 is appropriated to
9 the department of regulatory agencies for use by the division of
10 professions and occupations. This appropriation is from the division of
11 professions and occupations cash fund created in section 24-34-105 (2)

12 (b) (I), C.R.S. To implement this act, the commission may use this
13 appropriation as follows:

14 (a) \$19,944 for personal services, which amount is based on an
15 assumption that the commission will require an additional 0.3 FTE; and

16 (b) \$2,070 for operating expenses.

17 (5) For the 2016-17 state fiscal year, \$4,678 is appropriated to the
18 department of regulatory agencies for use by the division of real estate.

19 This appropriation is from the division of real estate cash fund created in
20 section 12-61-111.5 (2) (b), C.R.S. To implement this act, the division
21 may use this appropriation as follows:

22 (a) \$4,238 for personal services, which amount is based on an
23 assumption that the division will require an additional 0.1 FTE; and

24 (b) \$440 for operating expenses.

25 (6) For the 2016-17 state fiscal year, \$825 is appropriated to the
26 department of regulatory agencies for use by the division of real estate.

27 This appropriation is from the mortgage company and loan originator

1 cash fund created in section 12-61-908 (2), C.R.S. To implement this act,
2 the division may use this appropriation as follows:

3 (a) \$748 for personal services, which amount is based on an
4 assumption that the division will require an additional 0.1 FTE; and

5 (b) \$77 for operating expenses.

6 (7) For the 2016-17 state fiscal year, \$11,598 is appropriated to
7 the department of public health and environment for use by the
8 administration and support division. This appropriation is from the
9 general fund. To implement this act, the division may use this
10 appropriation as follows:

11 (a) \$11,283 for personal services related to administration, which
12 amount is based on an assumption that the division will require an
13 additional 0.2 FTE; and

14 (b) \$315 for operating expenses related to administration.

15 **SECTION 3. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2016 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.