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Final Fiscal Note

Drafting Number: LLS 22-0415 Date: July 12, 2022
Prime Sponsors: Rep. Kipp; Exum Bill Status: Signed into Law
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Bill Topic: REGULATE TINY HOMES MANUFACTURE SALE & INSTALL

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

This bill expands the authority of the State Board of Housing in the Department of Local Affairs to set standards for tiny homes. It increases state expenditures beginning in FY 2022-23 and state revenue beginning in FY 2023-24.

Appropriation Summary: For FY 2022-23, the bill requires and includes an appropriation of \$314,558 to multiple state agencies.

Fiscal Note Status: The fiscal note reflects the enacted bill.

Table 1
State Fiscal Impacts Under HB 22-1242

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 (General Fund, Cash Funds, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (TABOR Refund, General Fund Reserve).

## Summary of Legislation

This bill expands the authority of the State Board of Housing (board) in the Department of Local Affairs (DOLA) to promulgate rules establishing standards for tiny homes that cover the manufacture, assembly, and installation of tiny homes; and uniform foundation construction standards for factory-built structures or tiny homes in areas of the state where no standards exist. The rules must be promulgated by July 1, 2023. The bill exempts tiny homes from sales and use tax to conform to the exemption of manufactured homes and defines tiny homes certified by the Division of Housing in DOLA as residential improvements for assessing property taxes.

**Certification.** Sellers and installers of tiny homes are required to be certified by the Division of Housing and pay fees to cover the direct and indirect costs of the division for regulating the industry. Fees for sellers are subject to a maximum of \$200 per year and installers to a maximum of \$250 per year, paid to the Building Regulation Fund.

**Manufacturers.** Manufacturers of factory-built structures are required to comply with escrow requirements for down payments set by the board in rule and provide a form of security to the division in case the manufacturer fails to deliver the structure, fails to refund a down payment, or ceases business operations or files for bankruptcy.

**Inspectors.** The division is required establish the qualifications for an inspector to inspect tiny homes and to provide training for independent contractors to perform installation inspections so they can be certified by the division. The division may accept gifts, grants, or donations for this training.

**Advisory Committee.** The Advisory Committee on Residential and Nonresidential Structures that advises the board is renamed the Advisory Committee on Factory-built Structures and Tiny Homes and expanded in size to include two members from the tiny home industry and one from energy conservation.

**Local governments.** A local government may require the inspection of a tiny home manufactured before July 1, 2023, if the tiny home is not manufactured in accordance with the standards set by the board. A state electrical or plumbing inspector or a local government may approve the connection of a tiny home for utility services, if the tiny home is in compliance with applicable codes and standards.

**Violations.** Selling or installing a tiny home without complying with the provisions of the bill is a deceptive trade practice, with civil penalties up to \$10,000 per violation credited to the Building Regulation Fund.

## Assumptions

The fiscal note assumes that 1,300 tiny homes will be constructed and installed in FY 2023-24, and that the industry will grow 7.0 percent per year.

## State Revenue

This bill increases state cash fund revenue by \$924,464 in FY 2023-24 and ongoing to multiple cash funds. This revenue is subject to TABOR. The bill will also decrease state sales and use tax and may increase civil penalties collected, but those amounts have not been estimated. Finally, the bill allows DOLA to accept gifts, grants, and donations; however, none have been identified as of writing.

**Fee impact on tiny home manufacturers, buyers, sellers, inspectors and installers.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. Fees will be collected by the Department of Regulatory Agencies (DORA) and the Department of Local Affairs to cover the expenditures in the bill beginning in FY 2023-24. Table 2 below identifies the fee impact of this bill.

- **DORA fees.** The current fee for electrical permits for structures of less than 1,000 square feet is \$96.00. This is expected to increase to \$100.55 to cover the expenditures in the bill. With the addition of 1,300 tiny homes to an average of 42,000 permits annually, the revenue increase is expected to be \$321,815. The current fee for plumbing inspections is \$26.00. This is expected to increase to \$27.23. With the addition of 1,300 tiny homes to an average of 18,000 permits annually, the revenue increase is expected to be \$57,539. These fee amounts are estimates only, actual fees will be set administratively by DORA. Fees collected will be deposited into the Professions and Occupations Cash Fund.
- **DOLA fees.** The division will conduct a survey to estimate the volume of tiny home construction, shipments, and installations prior to the implementation of the program to determine what fees will be assessed. To cover the cost of the program and establish a fund balance, the division is expected to collect \$545,110 that will be deposited into the Building Regulation Fund.

**Table 2**  
**Fee Impact on Tiny Home**  
**Manufacturers, Buyers, Sellers, Inspectors and Installers**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Total Fee Impact</b>
<b>FY 2023-24</b>	DORA – Electrical permit	\$321,815
	DORA – Plumbing inspection	\$57,539
	DOLA – Certifications for tiny home sellers, installers, and independent inspectors	\$545,110
<b>Total</b>		<b>\$924,464</b>

## State Expenditures

The bill increases state expenditures in by \$395,029 in FY 2022-23 and \$875,327 in FY 2023-24 from the General Fund, the Division of Professions and Occupations Cash Fund, and the Building Regulation Fund. Expenditures are shown in Table 3 and detailed below.

**Table 3**  
**Expenditures Under HB 22-1242**

	FY 2022-23	FY 2023-24
<b>Department of Local Affairs</b>		
Personal Services	\$96,682	\$309,682
Operating Expenses	\$2,295	\$5,400
Capital Outlay Costs	\$24,800	-
Legal Services	\$51,256	\$20,503
Computer Programming	\$46,906	-
Vehicle Lease	\$2,379	\$9,517
Vehicle Operating	\$3,293	\$13,174
Centrally Appropriated Costs <sup>1</sup>	\$58,669	\$124,491
FTE – Personal Services	1.4 FTE	4.0 FTE
FTE – Legal Services	0.3 FTE	0.1 FTE
<b>DOLA Subtotal</b>	<b>\$286,281</b>	<b>\$482,766</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$50,440	\$214,465
Operating Expenses	\$1,215	\$4,590
Capital Outlay Costs	\$12,600	-
Vehicle Lease	\$9,517	\$38,068
Vehicle Operating	\$13,174	\$52,694
Centrally Appropriated Costs <sup>1</sup>	\$21,802	\$82,744
FTE – Personal Services	0.9 FTE	3.4 FTE
<b>DORA Subtotal</b>	<b>\$108,748</b>	<b>\$392,561</b>
<b>Total</b>	<b>\$395,029</b>	<b>\$875,327</b>
<b>Total FTE</b>	<b>2.6 FTE</b>	<b>7.5 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

**Department of Local Affairs.** Expenditures for DOLA will be paid from the General Fund in FY 2022-23 and cash funds thereafter.

- **Staffing.** The Division of Housing will have an administrator begin September 1, 2022, to oversee the program implementation, including working with the advisory committee and the board to develop tiny home standards, support rulemaking, work with the Office of Information Technology (OIT) on database development, conduct stakeholder outreach and fee setting. This staff person will be responsible for ongoing program management and enforcement.

Additional staff will begin April 1, 2023, including an engineer for plan review, an inspector for construction and installation inspections, and a program assistant to process certification applications, data entry and fee collection. Standard operating costs and one vehicle are included.

- **Computer programming.** In FY 2022-23, the division will have a one-time expenditure for software development costs to expand its existing Salesforce system which will act as the business software application for this program. Services will be provided by the OIT at a rate of \$94 per hour.
- **Legal services.** Based on experience implementing the Mobile Home Park Oversight Program, the fiscal note includes 520 hours of legal services hours from the Department of Law in FY 2022-23 and 208 hours in FY 2023-24 and thereafter. The legal services are required for rulemaking and the development of standards, and are provided at a rate of \$98.57 per hour.

**Department of Regulatory Agencies.** The Division of Professions and Occupations requires additional inspectors for plumbing and electrical inspections and a program assistant to process permits. The division will add 1.5 FTE each of an electrical inspector and plumbing inspector to conduct inspections of the increased number of homes requiring inspection prior to being hooked up to utilities. Each inspector requires a rugged laptop for fieldwork and a vehicle but no office furniture. Vehicle costs are reappropriated to the Department of Personnel and Administration. Standard operating costs are included.

**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 amount shown in the State Revenue section above for FY 2023-24. This estimate assumes the March 2022 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.

**General Fund reserve.** Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve beginning in FY 2022-23. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amount shown in Table 1 for FY 2022-23, which will decrease the amount of General Fund available for other purposes.

## Local Government

Local governments that conduct plumbing and electrical inspections will have an increase in revenue and expenditures to issue permits and conduct inspections. The bill may also affect future property tax collections because the addition of a tiny home to a land parcel may change its current classification to a residential classification. This amount has not been estimated. These impacts will vary by jurisdiction.

## Effective Date

The bill was signed into law by the Governor on May 17, 2022, and takes effect August 9, 2022, assuming no referendum petition is filed. It applies to acts committed on or after that date.

## State Appropriations

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

- \$227,612 to the Department of Local Affairs from the General Fund with 1.4 FTE, of which \$46,906 is reappropriated to the Office of Information Technology, \$51,256 is reappropriated to the Department of Law with 0.3 FTE, and \$2,379 is reappropriated to the Department of Personnel and Administration for fleet vehicle services; and
- \$86,946 to the Department of Regulatory Agencies from the Division of Professions and Occupations Cash Fund and 0.9 FTE, of which \$9,517 is reappropriated to the Department of Personnel and Administration for fleet vehicle services.

## State and Local Government Contacts

Counties	Information Technology
Law	Local Affairs
Municipalities	Property Tax Division
Regulatory Agencies	Revenue