



Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

Revised Fiscal Note

(replaces fiscal note dated February 3, 2023)

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| Drafting Number: | LLS 23-0694 | Date: | March 1, 2023 |
| Prime Sponsors: | Sen. Hinrichsen Rep. Froelich | Bill Status: | Senate Local Government |
| | | Fiscal Analyst: | Kristine McLaughlin 303-866-4776 kristine.mclaughlin@coleg.gov |

Bill Topic: RESTRICTIONS ON BROKER ENGAGEMENT CONTRACTS

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| Summary of Fiscal Impact: | <input checked="" type="checkbox"/> State Revenue | <input type="checkbox"/> TABOR Refund |
| | <input checked="" type="checkbox"/> State Expenditure | <input checked="" type="checkbox"/> Local Government |
| | <input type="checkbox"/> State Transfer | <input type="checkbox"/> Statutory Public Entity |

The bill establishes requirements for broker engagement contracts for the sale of residential premises. The bill may minimally increase state revenue and will increase state and local workload on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Summary of Legislation

With certain exceptions, the bill requires that a broker engagement contract for the sale of a residential premises must not:

- claim to be a covenant running with the land or to be binding on future owners of interests in the real property;
- allow for assignment of the right to provide service without notice and agreement of the owner of the residential premises; or
- claim to create a recordable lien, encumbrance, or other real property security interest

The bill makes failure to comply with these contract requirement a deceptive trade practice.

State Revenue

Civil penalties. Under the Colorado Consumer Protection Act, a person committing a deceptive trade practice may be subject to a civil penalty of up to \$20,000 for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may

be pursued by the Attorney General and district attorneys, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

Filing fees. The bill may increase revenue to the Judicial Department from an increase in civil case filings. Revenue from filing fees is subject to TABOR.

State Expenditures

The bill minimally increases workload for the Department of Regulatory Agencies, Department of Law, and Judicial Department, as discussed below.

Department of Regulatory Agencies (DORA). The bill will minimally increase workload for the Division of Real Estate in DORA to adjust materials to comply with the bill.

Department of Law. Workload in the Department of Law will minimally increase to the extent that deceptive trade practice complaints are filed. The department will review complaints under the bill and prioritize investigations as necessary within the overall number of deceptive trade practice complaints and available resources.

Judicial Department. The trial courts in the Judicial Department may have an increase in cases filed under the Colorado Consumer Protection Act from the addition of a new deceptive trade practice. It is assumed that broker engagement contracts will abide by the law and that any violation of the legislation will result in minimal number of new cases; no change in appropriations is required.

Local Government

Similar to the state, to the extent district attorneys receive deceptive trade practice complaints related to the new deceptive trade practice under the bill, workload will increase to investigate complaints and seek relief when appropriate. It is assumed most such cases will be handled at the state level by the Attorney General.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State and Local Government Contacts

District Attorneys
Regulatory Agencies

Judicial
Law

Personnel