

Colorado Legislative Council Staff Fiscal Note

**STATE
FISCAL IMPACT**

Drafting Number: LLS 15-0293
Prime Sponsor(s): Rep. Thurlow

Date: January 20, 2015
Bill Status: House SVMA
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BILL TOPIC: MODIFY HOA MANAGEMENT LICENSING REQUIREMENTS

Fiscal Impact Summary*	FY 2014-2015 Current Year	FY 2015-2016	FY 2016-2017
State Revenue	(\$86,924)	(\$98,958)	\$843
Cash Funds	(86,924)	(98,958)	843
State Expenditures	\$0	(\$169,056)	(\$176,238)
Cash Funds	0	(145,099)	(149,824)
Centrally Appropriated Costs**	0	(23,957)	(26,414)
Impact on TABOR Refund		(\$86,924)	(\$98,958)
FTE Position Change		(2.6 FTE)	(2.6 FTE)
Appropriation Required: (\$145,099) - DORA (FY 2015-16)			

* This summary shows changes from current law under the bill for each fiscal year. Parentheses indicate a decrease in funds or FTE.

** These costs are not included in the bill's appropriation. See the State Expenditures section for more information.

Summary of Legislation

Under current law, anyone who works as a community association manager (CAM) for a homeowner's association (HOA) must be licensed by the Division of Real Estate (division) in the Department of Regulatory Agencies (DORA). The bill limits which CAMs must be licensed by:

- excluding communities that have fewer than 200 units, contain only nonresidential units, or contain only time share units from the requirement;
- removing the requirement that supervisors of CAMs be licensed;
- redefining "community association manager" as a person who engages in at least four out of six community association management practices relating to the finances, administration, and operations of a community; and
- modifying the law so that if more than one individual is involved in community association management practices for an HOA, then only one individual must obtain a designated manager's license.

Additionally, the bill removes the current requirement that all individuals engaged in the management of a community take and pass an examination in order for the designated manager to be issued their license. Under the bill, only the designated manager must take and pass the examination.

Background

House Bill 13-1277 created a licensing program for CAMs. Under current law, individuals or business entities paid to manage HOAs are required to obtain a license from the division beginning July 1, 2015. The division director is currently overseeing the rulemaking process and program implementation prior to the start of licensure. The director has authority to charge a fee to applicants and, following licensure, may conduct audits of the business records of a licensee, conduct administrative hearings, investigate complaints, impose fines, and take other disciplinary actions. The program is scheduled for repeal on July 1, 2018, following a sunset review.

Under current law, a licensed CAM manager must:

- be at least 18 years old with either a high school diploma or the equivalent general education development certification;
- have a professional community management credential;
- pass a competency examination;
- obtain a state and national fingerprint-based criminal history background check conducted by the Colorado Bureau of Investigation (CBI) in the Department of Public Safety; and
- maintain a policy of professional malpractice insurance in an amount and under terms and conditions specified by rule.

State Revenue

The bill is estimated to decrease cash fund revenue to the DORA and the DPS by **\$86,924 in FY 2014-15** and **\$98,958 in FY 2015-16**; however, cash fund revenue to the DORA will increase by **\$843 in FY 2016-17**, as the program will have fee-to-expenditure equilibrium once fully implemented. Table 1 shows the revenue change under the bill due to a decrease in licensing costs and fewer background checks being conducted.

Table 1. Revenue Change under HB 15-1040			
Cost Components	FY 2014-15	FY 2015-16	FY 2016-17
Fee revenue to DORA under current law	\$178,125	\$255,170	\$77,045
Fee revenue to DPS under current law	24,688	27,137	2,449
Total fees collected under current law	202,813	282,307	79,494
Fee revenue to DORA under HB 15-1040	113,400	\$180,900	\$80,100
Fee revenue to DPS under HB 15-1040	2,449	\$2,449	\$237
Total fees collected under HB 15-1040	115,849	183,349	80,337
Change in Revenue*	(\$86,924)	(\$98,958)	\$843

**Parentheses indicate a decrease in revenue.*

Assumptions. Overall, the total number of CAMs that will be licensed is expected to decrease from 1,250 under current law to 125 under the bill. This decrease in licensed CAMs is based primarily on the bill's exclusion of communities that have fewer than 200 units—7,700 out of 8,600 HOAs—which removes 90 percent of CAMs from the licensing requirements under current law. It is assumed under the bill that one-half of CAMs (63) will pay license fees in FY 2014-15,

and the remaining managers (62) will pay license fees in FY 2015-16. After the initial group is licensed, it is assumed that the CAM licensee applicant pool will increase by 5 percent per year, resulting in an additional 6 initial licenses per year.

The licensure program came online January 1, 2015, with all CAMs required to be licensed by July 1, 2015. The fiscal note assumes the bill will become effective on June 1, 2015; therefore the number of CAMs required to be licensed will be reduced from 1,250 to 125 before for the July 1, 2015 licensing deadline, causing the revenue impact to begin in FY 2014-15.

CAM licensing fees - Division of Real Estate - DORA. Fee revenue in the DORA will decrease by **\$64,725 in FY 2014-15, \$74,270 in FY 2015-16,** and increase by **\$3,055 in FY 2016-17.** The division has not yet set the fee for CAM licensing, but the fiscal note estimates an initial licensure fee of \$285 and an annual renewal fee of \$95 to be charged to about 1,250 CAMs and deposited into the Community Association Manager Licensing Cash Fund. Under the bill, the DORA will adjust CAM licensing fees in FY 2015-16 to cover its expenditures, which are decreased due to the limited licensing program under the bill. The estimated fee for the reduced pool of applicants, who are required to pay a higher fee to support the licensure program, is an initial licensure fee of \$1,800 and an annual renewal fee of \$1,100.

Fingerprint-based criminal history background checks - DPS. Fee revenue in the DPS will decrease by **\$22,199 in FY 2014-15, \$24,688 in FY 2015-16,** and **\$2,212 in FY 2016-17.** Given that the number of licensed CAMs will decrease by 90 percent, fewer fingerprint-based background checks are required. The current fee for background checks is \$39.50, which includes \$17.25 for a FBI fingerprint-based check, which is passed on to that federal agency. The remainder is deposited into the CBI Identification Unit Cash Fund in the DPS. The background check is required only upon initial licensure.

Fee impact on individuals, families or business. Section 2-2-322, C.R.S., requires legislative service agency review of measures which create or increase any fee collected by a state agency. These are estimates only; actual fee calculations are set administratively by the DORA based on the cash fund balance, estimated program costs, and the estimated number of licenses. Licensed applicants are required to cover the direct and indirect costs of the program through their fees. Table 2 illustrates the fee impact on CAMs under the bill.

Table 2. Change in DORA Fee Revenues Under HB 15-1040					
Fiscal Year	Under Current Law	Estimated Fee	CAMs	Total Estimated Fee Revenue	Total
FY 2014-15	Initial License	\$285	625	\$178,125	\$178,125
FY 2015-16	License Renewal	95	625	59,375	255,170
	Initial License	285	687	195,795	
FY 2016-17	License Renewal	95	625	59,375	77,045
	Initial License	285	62	17,670	

Table 2. Change in DORA Fee Revenues Under HB 15-1040 (Cont.)					
	Under HB 15-1040	Estimated Fee	CAMs	Total Estimated Fee Revenue	By FY
FY 2014-15	Initial License	1,800	63	\$113,400	\$113,400
FY 2015-16	License Renewal	1,100	63	69,300	180,900
	Initial License	1,800	62	111,600	
FY 2016-17	License Renewal	1,100	63	69,300	80,100
	Initial License	1,800	6	10,800	
FY 2014-15*					(\$64,725)
FY 2015-16					(\$74,270)
FY 2016-17					\$3,055
Total three-year difference					(\$135,940)

*Parentheses indicate a decrease in revenue.

Fines. Under current law, the DORA is allowed to impose administrative fines up to \$2,500 on CAMs. Revenue from fines is deposited in the CAM Licensing Cash Fund. Under the bill, state revenue from administrative fines beginning in FY 2015-16 is expected to decrease to less than \$5,000, from an estimated \$15,000 under current law.

Impact on TABOR Refund

This bill decreases state revenue, which will decrease the amount required to be refunded under TABOR. TABOR refunds are paid from the General Fund in the year following the excess collections.

State Expenditures

Under the bill, state expenditures are decreased by **\$169,056 in FY 2015-16** and **\$176,238 in 2016-17**. Major cost components are summarized in Table 3 and described below.

Table 3. Expenditure Change under HB 15-1040			
Cost Components	FY 2014-15	FY 2015-16	FY 2016-17
DORA expenditures under current law	\$197,818	\$262,283	\$262,283
Centrally appropriated costs for DORA	17,735	36,955	39,927
Total expenditures under current law	\$215,553	\$299,238	\$302,210
DORA expenditures under HB 15-1040	197,818	117,184	112,459
Centrally appropriated costs for DORA	17,735	12,998	13,513
Total expenditures under HB 15-1040	\$215,553	\$130,182	\$125,972
Change in expenditures*	\$0	(\$169,056)	(\$176,238)

* Parentheses indicate a decrease in expenditures.

Assumptions. The fiscal note assumes this bill will be signed into law on June 1, 2015. Until then, expenditures for computer programming costs, legal services for rulemaking, and FTE including capital outlay costs will continue as is in preparation for licensing beginning under HB 13-1277.

Division of Real Estate - DORA. Based on the assumption above, costs in the DORA will remain the same in FY 2014-15, then decrease by **\$169,056 in FY 2015-16 and \$176,238 in FY 2016-17**. The division, which is currently allocated 3.6 FTE per year, will retain 1.0 FTE for a general professional IV to cover the managerial, administrative, and investigative duties of the CAM licensing program beginning in FY 2015-16. Staff workload is expected to decrease from handling 240 complaints and 24 audits annually to 24 complaints and 6 audits annually. Additional duties required to implement the bill, including establishing testing requirements, application processing, rulemaking, and general program and staff management, will be accomplished within existing appropriations.

Department of Law. Under the current program, the Department of Law (DOL) provides legal assistance to the division as needed to implement the bill, adopt rules, assist in investigation of complaints, and facilitate disciplinary actions at 900 hours per year. Under the bill, it is assumed that the DOL will be required to provide 500 hours of legal services at a rate of \$94.51 in the first year to assist with the implementation of program modifications, and 450 hours at the same rate each year thereafter. As a result, legal fees will be \$47,255 in FY 2015-16, and \$42,530 each year thereafter. The fiscal note for HB 13-1277 did not indicate any specific appropriation to the DOL for reappropriated funds, thus no specific change in appropriations is required under this bill. This fiscal note assumes that any further adjustments to the DOL appropriation will be made through the annual budget process.

Department of Public Safety. Costs in the DPS will be reduced in the CBI for conducting about 560 fewer fingerprint-based background checks per year for the initial group of CAM licensees. The fiscal note for HB 13-1277 did not indicate any specific appropriation to the DPS for background checks, thus no specific change in appropriations is required under this bill. This fiscal note assumes that any further adjustments to the DPS appropriation will be made through the annual budget process.

Table 4. Comparison of Expenditures Under Current Law and Under HB 15-1040

	Current Law			HB 15-1040		
	FY 2014-15*	FY 2015-16	FY 2016-17	FY 2014-15	FY 2015-16	FY 2016-17
DORA Cost Components						
Personal Services	\$92,129	\$184,253	\$184,253	\$92,129	\$63,799	\$63,799
FTE	1.8	3.6	3.6	1.8	1.0	1.0
Operating and Capital Outlay	19,786	3,325	3,325	19,786	950	950
Temporary Personnel	20,800	0	0	20,800	0	0
Information Technology	30,340	5,180	5,180	30,340	5,180	5,180
Legal Services	34,763	69,525	69,525	34,763	47,255	42,530
Total	197,818	262,283	262,283	197,818	117,184	112,459
Centrally Appropriated Costs**	17,735	36,955	39,927	17,735	12,998	13,513
GRAND TOTAL	\$215,553	\$299,238	\$302,210	\$215,553	\$130,182	\$125,972

* HB 13-1277 Fiscal Note.

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

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. The centrally appropriated costs subject to this policy are estimated in the fiscal note for informational purposes and shown in Table 4 above.

Appropriations

The bill requires a decrease in appropriations to the DORA from the Community Association Manager Licensing Cash Fund of \$145,099 in FY 2015-16.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Judicial
Regulatory Agencies

Law
State

Public Safety