Schedule 13
Change Request for FY 08-09 Budget Request Cycle

Decision Item FY 08-09 ☐ Base Reduction Item FY 08-09 ☐ Supplemental FY 07-08 ☑ Budget Request Amendment FY 08-09 ☑

Request Title: Leased Space to Accommodate FTE Increase
Department: DORA **Dept. Approval by:** [signature] **Date:** 12/17/07
Priority Number: 1 of 3 **OSPB Approval:** **Date:**

	Fund	1 Prior-Year Actual FY 06-07	2 Appropriation FY 07-08	3 Supplemental Request FY 07-08	4 Total Revised Request FY 07-08	5 Base Request FY 08-09	6 Decision/ Base Reduction FY 08-09	7 November 1 Request FY 08-09	8 Budget Amendment FY 08-09	9 Total Revised Request FY 08-09	10 Change from Base (Column 5) FY 09-10
Total of All Line Items	Total	2,268,234	2,532,604	40,931	2,573,535	2,667,656	0	2,667,656	163,772	2,831,428	163,772
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	81,986	87,472	0	87,472	91,259	0	91,259	0	91,259	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,762,989	2,017,946	40,931	2,058,877	2,128,652	0	2,128,652	163,772	2,292,424	163,772
	CFE	385,475	401,062	0	401,062	420,490	0	420,490	0	420,490	0
	FF	37,784	26,124	0	26,124	27,255	0	27,255	0	27,255	0
(1) Executive Director's Office Leased Space	Total	2,268,234	2,532,604	40,931	2,573,535	2,667,656	0	2,667,656	163,772	2,831,428	163,772
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	81,986	87,472	0	87,472	91,259	0	91,259	0	91,259	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	1,762,989	2,017,946	40,931	2,058,877	2,128,652	0	2,128,652	163,772	2,292,424	163,772
	CFE	385,475	401,062	0	401,062	420,490	0	420,490	0	420,490	0
	FF	37,784	26,124	0	26,124	27,255	0	27,255	0	27,255	0

Letternote revised text:
Cash Fund name/number, Federal Fund Grant name: Various Funds within DORA
IT Request: ☐ Yes ☑ No
Request Affects Other Departments: ☐ Yes ☑ No **If Yes, List Other Departments Here:**

CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	1 of 3
Change Request Title:	Leased Space to Accommodate FTE Increase

SELECT ONE (click on box):

☐ Decision Item FY 08-09
☐ Base Reduction Item FY 08-09
☒ Supplemental Request FY 07-08
☒ Budget Request Amendment FY 08-09

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

☐ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☒ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

Short Summary of Request:

Based on the passage of 13 bills adding 16.2 FTE in FY 07-08 and 18.5 in FY 08-09 to the Department, DORA requests $40,931 Cash Funds ($163,772 Cash Funds in Year 2 and beyond) in additional leased space funding to accommodate the new staff across various programs. Neither the fiscal note process nor the Department's existing space accommodates the addition of so many FTE, and this represents new data that was not available at the time of the original request. Securing leased space enables the Department to have a location at which to meet all performance measures outlined in the Department's Strategic Plan.

Background and Appropriation History:

During FY 06-07, DORA's 536.7 FTE across 10 divisions occupied 149,127 square feet at 1560 Broadway in downtown Denver, and the existing lease agreement is in its second year at a rate of $16.10 per square foot for FY 07-08. Additionally, DORA maintains 10 small satellite offices around the state for a total of 3,453 square feet at an average rate of $15.71 per square foot. The Department's leased space line item for FY 07-08 is $2,532,604, with actual expenditures of $2,268,234 in FY 06-07 and $2,304,701 during FY 05-06.

General Description of Request:

While DORA's FTE has remained consistent for a decade, beginning in FY 06-07, several sharp increases in legislatively appropriated staff have occurred. Although DORA successfully managed to accommodate the first such increase between FY 05-06 and FY 06-07, subsequent increases are too significant to absorb, and the Department must now seek additional space. The Department therefore requests $40,931 Cash Funds ($163,772 Cash Funds in FY 08-09) in order to secure space for 18.5 FTE added by special bills between FY 06-07 and FY 08-09.

FTE TRENDS HAVE BEEN ACCOMMODATED BY EXISTING AGREEMENTS

DORA's total FTE has fluctuated but increased slowly in recent years, at an average rate of 0.1% annually between FY 97-98 and FY 06-07 – and a total increase of 2.8 FTE from 534.4 in FY 97-98 to 536.7 in FY 06-07, or 0.4%. During that time, the Department's existing leased space has accommodated its needs such that no expansion of leased space has been required based on the addition of incremental FTE.

When the Department's most recent lease commitment was signed in the January of 2006, the existing FTE was 525.3. The agreement includes 149,127 square feet for 536.7 FTE, an average of 277.9 square feet per FTE. Most importantly, the lease rate and 10-year commitment negotiated on DORA's behalf by the State's central leasing representative (Staubach, Inc.) achieved significant savings – the appropriation was immediately reduced by approximately 10%, and the lease rate negotiated for the lease's 10th and highest year ($18.10 per square foot) was in fact lower than the existing rate being paid by the Department during FY 05-06 ($18.75 per square foot). Compared to current market lease rates for similar space ($28-$30 per square foot), the savings are dramatic, and the existing agreement is a singular example of leveraging the State's collective demand in order to obtain favorable lease rates.

In keeping with this, the Department did not seek to create additional space to grow into, for several reasons. First, the ten-year history of DORA FTE would not have supported obtaining extra space for future FTE. Second, DORA's emphasis on cost savings would

similarly not have justified securing space for FTE that were not appropriated. Finally, given the expense and duration of the commitment, the space arrangement for the Department was based on existing levels of staff.

UNEXPECTED SHARP INCREASE CONTINUES INTO FY 07-08 AND FY 08-09

The first sharp increase in 10 years occurred during FY 06-07. During this period, the Department's appropriation was increased to 536.7 – a 2.2% annual increase and a 3.2 % over two years prior. The Department's existing agreement accommodated this increase, and for this reason no funding increase request was submitted to expand space – existing space was configured as necessary in each individual case. Specifically, this included Division of Registrations, Division of Real Estate, and the Division of Civil Rights.

However, during 2007 Legislative Session, numerous special bills were introduced that made substantive changes to DORA's statutes, and numerous regulatory programs were added and/or expanded such that additional staff was identified in Legislative Council Staff fiscal notes. However, no leased space appropriation was requested nor required for DORA in these fiscal notes, as it is completely unknown how many bills will pass in a given session. Since the need for additional space is entirely dependent on how many staff are added, Legislative Council Staff policy does not include costs for leased space; rather, it is expected that leased space issues will be addressed in agency budget requests.

During the 2007 legislative session, a total of 21 bills containing appropriations passed and were sent to the Governor's desk, of which 19 bills were signed. Thirteen of these added FTE to the Department. The following table shows these bills and the FTE that are added by each:

SPECIAL BILL APPROPRIATIONS	FY 07-08	FY 08-09
HB 07-1037 Energy Efficiency Measures	2.0	2.0
HB 07-1065 Motor Carrier Background Checks	1.3	0.4
HB 07-1234 Insurance Rate Increase – Public Notice	(0.2)	(0.3)
HB 07-1311 Accelerated Sunrise Review	1.0	1.0
HB 07-1322 Prevention of Mortgage Fraud	2.5	3.0
HB 07-1331 Medical Transparency Act	1.0	1.0
SB 07-085 Refusal to License RE Brokers	0.3	0.5
SB 07-107 Landscape Architects	1.6	1.6
SB 07-137 Regulation of Plumbers	0.7	1.3
SB 07-203 Licensure of Mortgage Brokers	1.8	3.0
SB 07-216 Mortgage Loan Protections	1.5	2.0
SB 07-249 Regulate RE Transactions	1.7	2.0
	15.2	17.5

This table shows an unprecedented number of bills containing staff appropriations for DORA in the space of a single year. This circumstance – which itself drives a two year increase of 3.4% in DORA staff – was not possible to plan for, and directly creates the need for additional space. In addition to the volume of staff, the FTE is distributed across several different Divisions, which limits the ability of the Department to move or reconfigure a single area of existing staff.

REQUEST SEEKS TO ADD 5,849 SQUARE FEET IN EXISTING BUILDING

There are presently two blocks of space available in the Department's existing premises at 1560 Broadway – 5,849 square feet on the 12th floor, and 7,990 on the 11th floor. In order to address the space needs for both this year and next year's appropriated levels, the Department is presently exploring the addition of the available 5,849 square feet.

The following table shows the cost breakout and square footage implications of different scenarios:

	Existing Space	Request: 12th Floor only	11th Floor only	12th/11th floor	Fiscal Note Guideline	Space Planning Standard	Denver area Metro Private Average
Square footage	149,127	5,849	7,990	13,839	3,000	4,080	5,820
Total FTE	536.7	20	20	20	20	20	20
Square Feet per FTE	277.9	292.5	399.5	692.0	150.0	204.0	291.0
Rate	$16.10	$28.00	$28.00	$28.00	$28.00	$28.00	$28.00
Total Annual Cost	$2,400,945	$163,772	$223,720	$387,492	$84,000	$114,240	$162,960
Annual Cost per FTE	$4,465	$8,189	$11,186	$19,375	$4,200	$5,712	$8,148
Impact of market rate		$3,480	$4,754	$8,234	$1,785	$2,428	$3,463
Impact of additional space		$4,709	$6,432	$11,140	$2,415	$3,284	$4,685

The information above includes the particulars of the Department's current lease agreement and different possible scenarios based on available space in the building. Comparative data is also supplied, including recent general guidelines available from fiscal note staff materials, professional space planning standards, and the present average in the Denver metro area. Costs are represented at prevailing market rates, which are thought to be between $28 and $30 per square foot. Source data used to calculate each column is highlighted in bold text.

All told, the only feasible option is to add the available space on the 12th floor. This keeps the space per FTE at the reasonable metro area average, acquires the smallest space presently available, and leverages the Department's willingness to move existing agencies to best accommodate space needs. Importantly, the increase in market rates – a factor that is beyond the Department's control – accounts for 42% of the dollars requested, while adding the space accounts for 58% of the request – also a need that was beyond the Department's control.

While planning concerns might instead suggest the space on the 11th floor in order to accommodate possible future growth, this would constitute space that is 36.7% higher per additional FTE than the proposed space, and 166% of the per-FTE fiscal note standard.

Consequences if Not Funded:

The consequences if this request were not funded are severe in that the Department must have space to house its employees. It is not possible to reconfigure current space to accommodate these FTE, nor are there resources available to reconfigure current space, which would require significant investment in build out and purchase of modular offices.

Locating the new specific functions and staff to outlying communities where commercial space may be less expensive does not appear to be feasible, as the staff is cumulative across Divisions and not a single, contiguous unit or function. Further, telecommuting carries with it a number of administrative difficulties, among them the attraction and retention of staff, adequate supervision, the timely availability of employees to one another and to the public, network connectivity, and added travel time and costs to and from meetings. Further, this is a relatively untested arrangement at the Department, and unexpected difficulties are likely. Perhaps the greatest problem with this arrangement is the confidentiality of secure data – telecommuting carries inherent risks with maintaining secure information.

Lastly, in both of these scenarios additional funding would nevertheless still be necessary. The need is critical, it is an obstacle to implementing the requirements of new legislation, and it is therefore an emergency. In the absence of increased leased space funding, the Department will be forced to adopt the expanded use of telecommuting amongst its current employees as the solution. Although the costs associated with this are not well-defined, it is likely that a single unit or function would be selected to telecommute, and that corresponding networking and moving costs may occur.

Calculations for Request:

Summary of Request FY 07-08	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$40,931		$40,931			
Leased Space	$40,931		$40,931			

Summary of Request FY 08-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$163,772		$163,772			
Leased Space	$163,772		$163,772			

Assumptions for Calculations: Presently available space of 5,849 square feet is requested at an estimated rate of $28 per square foot, leading to overall annual costs of $163,772, pro-rated (assuming implementation at 4/1/08) during FY 07-08 to $40,931. This rate is presumed to include moving expenses and build-out. Numbers can be revised to reflect the specifics of the actual deal in time for adjustment in any supplemental appropriation the General Assembly may choose to pass.

Impact on Other Government Agencies: This request is not expected to impact any other government agencies.

Cost Benefit Analysis: From a cost-benefit standpoint, this request is compelling for several reasons. First, the statutory objectives of all bills could not be carried out if the added employees are not hired because there is no space to accommodate them. Securing leased space therefore is

the final investment that makes possible the use of $2.8 million in additional resources that have already been appropriated to make that happen.

Second, the requested space is subject to market rates, which by definition means that the negotiated final rate will reflect the benefit of market efficiencies. In particular this is true based on the effectiveness of the State's leasing agent (Staubach), which has already demonstrated an ability to capitalize on the State's square footage portfolio to obtain favorable rates.

Finally, the requested dollar amount represents the least costly option to obtain space that is nevertheless suited to meet the Department's need to add space at its present location, while not violating customary space standards. All options require a funding increase, and the scenarios are shown as follows:

Benefit	Cost of Requested Available Space	Cost of Other Available Space	Cost of Non-Metro Space	Cost of Telecommuting
Securing sufficient space for bill implementation	5,849	7,990	5,849	
	$28.00	$28.00	$24.00	
Total	**$163,772**	**$223,720**	**$140,376**	**Unknown**

The annual cost of non-metro area space is estimated to be less by approximately $23,400, and while the cost of requiring sufficient staff to telecommute is unknown (networking and moving costs are likely), telecommuting is also likely to be less expensive still. However, these alternative strategies to acquiring downtown space carry with them a number of administrative difficulties, among them the attraction and retention of staff, adequate supervision, timely availability of employees to one another and to the public, network connectivity, security of confidential data, and added travel time and costs. Given the Department's lack of experience with a significant number of telecommuting arrangements, it is likely that unknown difficulties would surface as well.

On the other hand, the requested amount is the least expensive option for the Department to add space at its downtown location, affording the most benefit for the least cost.

Implementation Schedule:

Task	Month/Year
Space negotiations with landlord	January/2008
Contract Signed	March/2008
Required space available for occupancy	April/2008

Statutory and Federal Authority: **CRS 2007, Section 24-1-110. Principal departments.**

(1) In accordance with the provisions of section 22 of article IV of the state constitution, all executive and administrative offices, agencies, and instrumentalities of the executive department of the state government and their respective functions, powers, and duties, except as otherwise provided by law, are allocated among and within the following principal departments created by this article:

(l) Department of regulatory agencies;

Performance Measures: Securing leased space enables the Department to have a location at which to meet all performance measures outlined in the Department's Strategic Plan. Additionally, with regard to the specific request, obtaining sufficient space within the appropriated amount can be measured upon engagement in a contract agreement.

Schedule 13
Change Request for FY 08-09 Budget Request Cycle

Decision Item FY 08-09 ☐ Base Reduction Item FY 08-09 ☐ Supplemental FY 07-08 ☑ Budget Request Amendment FY 08-09 ☑

Request Title: Banking Commission Expenses
Department: DORA
Priority Number: 2 of 3

Dept. Approval by: [illegible] **Date:** 12/17/07
OSPB Approval: **Date:**

	Fund	1 Prior-Year Actual FY 06-07	2 Appropriation FY 07-08	3 Supplemental Request FY 07-08	4 Total Revised Request FY 07-08	5 Base Request FY 08-09	6 Decision/ Base Reduction FY 08-09	7 November 1 Request FY 08-09	8 Budget Amendment FY 08-09	9 Total Revised Request FY 08-09	10 Change from Base (Column 5) FY 09-10
Total of All Line Items	Total	11,500	11,500	12,000	23,500	11,500	0	11,500	12,000	23,500	12,000
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	11,500	11,500	12,000	23,500	11,500	0	11,500	12,000	23,500	12,000
	CFE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
(2) Division of Banking Board Meeting Costs	Total	11,500	11,500	12,000	23,500	11,500	0	11,500	12,000	23,500	12,000
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	11,500	11,500	12,000	23,500	11,500	0	11,500	12,000	23,500	12,000
	CFE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Letternote revised text:
Cash Fund name/number, Federal Fund Grant name: Division of Banking Cash Fund #244
IT Request: ☐ Yes ☑ No
Request Affects Other Departments: ☐ Yes ☑ No **If Yes, List Other Departments Here:**

CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE

Department:	Department of Regulatory Agencies
Priority Number:	2 of 3
Change Request Title:	Banking Commission Expenses

SELECT ONE (click on box):

- ☐ Decision Item FY 08-09
- ☐ Base Reduction Item FY 08-09
- ☒ Supplemental Request FY 07-08
- ☒ Budget Request Amendment FY 08-09

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

- ☐ Not a Supplemental or Budget Request Amendment
- ☐ An emergency
- ☐ A technical error which has a substantial effect on the operation of the program
- ☒ New data resulting in substantial changes in funding needs
- ☐ Unforeseen contingency such as a significant workload change

Short Summary of Request:

This is a request for an increase of $12,000 in total funds for the Banking Board line item, funded 100% by cash funds. This request is necessary to support the Department's Strategic Plan, and in particular the Division of Banking's Performance Measure #4 which ensures that banks are operating in a safe and sound manner and the Division has taken appropriate supervisory or enforcement action.

Background and Appropriation History:

During the last three years, the Division has had sufficient funds to be able to move expenses incurred for the Banking Board to Operating and Personal Services. During FY 08, the Division will no longer be able to absorb this amount as a result of current staffing levels and increased contractor expenses, which were hired to assist in meeting the Division's examination mandate.

General Description of Request:

The Division is requesting an increase of $12,000. The Banking Board's actual expenditures on travel reimbursement have exceeded its budget for three years. During this time, the Division has had sufficient room in its budget to cover those expenses using Operating and Personal Services lines. An increase to full staffing levels and contractor

expenses make this option infeasible for FY 2007-08. Currently, two members of the board who live on the Western Slope generate $1,000 per month in travel costs to attend monthly board meetings in Denver, compared to the $11,500 annual budget for all board activities. Although in prior years there were also two board members from the Western Slope who flew in each month, these members chose not to have their travel costs reimbursed. This was effectively built into the board's budget.

Consequences if Not Funded:

There are two main consequences if the requested increase of $12,000 is not funded.

Possible lack of a Quorum for Monthly Board Meetings. Without a quorum:

1) Applications for new charters, licenses, and various other banking transactions (Change of Control, Interstate Acquisition, etc.) could not be approved;
2) New rules, or revisions to current rules, could not be ratified;
3) The Division would be in violation of CRS 11-102-103 (7), which requires the Banking Board to meet at least once in each calendar month; and
4) The Division of Banking, and ultimately the State, would lose out on valuable input from Governor-appointed Board members.

Adverse effect on Examinations and FTE. If there were insufficient funds in the Banking Board line item, the Division would have to absorb the travel expense costs in Operating, which could result in the need to eliminate one or more examinations. If money was needed from Personal Services to cover the Banking Board per diem, the Division would possibly have to eliminate an FTE. If either of these situations occurred, it would adversely affect the Division's capability to meet its regulatory mandate and consumer protection mission.

Calculations for Request:

Summary of Request FY 07-08	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$12,000	$0	$12,000	$0	$0	0
Travel	$12,000	$0	$12,000	$0	$0	0

Summary of Request FY 08-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request	$12,000	$0	$12,000	$0	$0	0
Travel	$12,000	$0	$12,000	$0	$0	0

Assumptions for Calculations:

The assumptions used for the calculations, all Banking Board expenses, will be funded from the Board Meeting Costs line item. The only line item that will increase is travel expenses. All other line items will not increase significantly, and will be funded through Board Meeting Costs, not Operating or Personal Services in FY 2007-08.

	Projected FY 08	Final FY 07
BOARD MEMBER'S COMPENSATION	$2,000.00	$132.00
CN PERA	$60.00	$54.54
IN-STATE TRAVEL	**$12,000.00**	$15.00
IN-STATE PERS TRAVEL PER DIEM		$190.90
IN-STATE PERS VEHICLE REIMBSMT		$234.00
ADVERTISING	$3,540.00	$3,541.83
COMM SVCS FROM DIV OF TELECOM	$50.00	$45.30
COMM SVCS FROM OUTSIDE SOURCES		$1,017.00
PRINTING/REPRODUCTION SERVICES	$700.00	$616.23
OTHER PURCHASED SERVICES	$550.00	$553.00
DATA PROCESSING SUPPLIES	$350.00	$332.00
BOOKS/PERIODICALS/SUBSCRIPTION	$250.00	$259.78
OFFICE SUPPLIES	$300.00	$227.27
POSTAGE	$3,200.00	$3,960.11
NONCAPITALIZED EQUIPMENT	$100.00	$32.12
OFFICIAL FUNCTIONS	$400.00	$288.61
	$23,500.00	$11,499.69
Per Diem funded from Personal Services		$4,123.58
Advertising funded from Operating Expenses		$3,331.16
Current Board Meeting Costs Appropriation	$11,500.00	
Increase requested	**$12,000.00**	
Total Board Meeting Costs	$23,500.00	$18,954.43

Impact on Other Government Agencies: The Division has signed Cooperative Agreements with the Federal Deposit Insurance Corporation (FDIC) and the Federal Reserve Bank (FRB). If the Division has insufficient staff to assist in joint examinations, the agreements become void. As a result, the FDIC, the FRB, and the Division, would each have to complete their own examination, which would result in increased costs for all agencies involved. In addition, a lack of a quorum could delay the approval of new charters, which would result in less tax dollars being generated, reducing the overall amount of funds received by the Department of Revenue.

Cost Benefit Analysis: The cost benefit to the Division is that when the Banking Board is fully funded for all Banking Board expenses, the Division is able to use those funds, which are currently being diverted to cover Banking Board costs, to adequately staff and cover all personal expenses, including salaries and operating expenses such as travel and training.

Implementation Schedule:

Task	Month/Year
Reimbursing Banking Board members for travel from Board Meeting Costs	March 2008 Forward

Statutory and Federal Authority:

CRS 2007, Section 11-102-103. Banking board. (1) (a) There is hereby established in the division a banking board, which shall consist of nine members as further specified in this section.

(b) The members of the banking board serving on June 30, 2003, shall continue to serve until the expiration of their terms of office in accordance with the provisions of this section.

(2) (a) There shall be five members who during their tenure are, and shall remain, executive officers of state banks, each of whom shall have not less than five years' practical experience as an active executive officer of a bank. At least two of such members shall represent banks having less than one hundred fifty million dollars in total assets at the time of their appointment.

(b) There shall be one member who during his or her tenure is, and shall remain, the executive officer of an industrial bank.

(c) There shall be one member who during his or her tenure is, and shall remain, the executive officer of a trust company.

(d) There shall also be two members to serve as public members of the banking board who shall have expertise in finance through their current experience in business, industry, agriculture, or education.

(3) No member of the banking board shall have any interest, direct or indirect, in a bank in which another member of the banking board has any such interest. Not more than one of the members shall be an executive officer or employee of any one bank holding company or affiliate thereof.

(4) Of the members appointed under subsection (2) of this section, at all times, at least one member shall reside west of the continental divide.

(5) Members shall be appointed by the governor, with the consent of a majority of the elected members of the senate at the next meeting thereof. The term of office of each member shall be four years. In the event of the death, resignation, nonresidency in the congressional district from which appointed, inability to act, or refusal to act of any member of the banking board, or the occurrence of any other event that disqualifies the member from serving the remainder of his or her term on the banking board, the governor within forty-five days thereafter, or in the event of the governor's failure to act, the banking board, shall make an interim appointment of a member to serve for the unexpired term on the banking board, subject to the approval of a majority of the elected members of the senate at the next meeting thereof. A member who moves out of the congressional district from which appointed shall promptly notify the governor of the date of such move, but such notice is not a condition precedent to the

occurrence of the vacancy. The governor may, after notice and hearing, remove a member for cause. Any banking board member who is absent from three consecutive banking board meetings is subject to immediate removal by the governor.

(b) Each member of the banking board shall receive the same per diem compensation and reimbursement of expenses as those provided for members of boards and commissions in the division of registrations pursuant to section 24-34-102 (13), C.R.S. Payment for all such expenses and allowances shall be made upon vouchers therefor, which shall be filed with the department of personnel.

(7) The banking board shall meet at least once in each calendar month. The chairman of the banking board may call additional meetings of the banking board upon at least seventy-two hours' notice to all members of the banking board and shall do so upon the request of two members. All members of the banking board shall be subject to immediate call in the event of an emergency. Four members of the banking board shall constitute a quorum, and action taken by a majority of those present at any meeting at which a quorum is present shall be the action of the banking board. Upon the affirmative vote of a majority of those present at any meeting at which a quorum is present, one or more members may be authorized to conduct any hearing required under this code. In the event that less than a quorum of the banking board is present during the conduct of the hearing, at least a quorum of the banking board shall read the entire record before voting thereon. No member shall participate in a proceeding before the banking board when any corporation, partnership, or unincorporated association of which he or she is, or was at any time in the preceding twelve months, a director, officer, partner, employee, member, or stockholder is a party to such proceedings. A member may disqualify himself or herself from participating in a proceeding for any other cause deemed by him or her to be sufficient.

(8) A quorum may be established by means of a conference telephone call, which shall be recorded in the banking board's minutes. Upon the affirmative vote of a majority of those present at any meeting at which a quorum is present, the banking board may hold an executive session to consider certain matters required by statute to be kept confidential under this code. Any agenda and the minutes of executive sessions shall be kept confidential by the banking board.

(9) The division shall provide such clerical, technical, and legal assistance as the banking board may require.

(10) The members of the banking board shall, before entering upon the discharge of their duties, in addition to any oath required by the state constitution, take and subscribe an oath to keep secret all information acquired by them in the discharge of their duties, except as may be otherwise required by law. Willful violation of this oath shall be a criminal offense.

(11) The banking board shall elect a chairperson from among its members to serve for a term not exceeding two years, as determined by the banking board. No chairperson shall be eligible to serve as such for more than two successive terms. In addition to the amounts received pursuant to subsection (6) of this section, the chairperson shall receive per diem compensation and reimbursement of expenses in the amounts provided by section 24-34-102 (13), C.R.S., for each day spent in attending to the duties of the banking board.

(12) The banking board may enter into contracts with temporary employees and for the provision of such other services as it may deem necessary in accordance with section 13 of article XII of the state constitution.

(13) This section is repealed, effective July 1, 2013.

Performance Measures:

DORA Strategic Goal Objective: This request is necessary to support the Department's Strategic Plan, and in particular the Division of Banking's Performance Measure #4 which ensures that banks are operating in a safe and sound manner and the Division has taken appropriate supervisory or enforcement action.

Schedule 13
Change Request for FY 08-09 Budget Request Cycle

Decision Item FY 08-09 ☐ Base Reduction Item FY 08-09 ☐ Supplemental FY 07-08 ☑ Budget Request Amendment FY 08-09 ☑

Request Title: Reduction to Reflect Mortgage Brokers Economies of Scale

Department: DORA **Dept. Approval by:** [signature] **Date:** 12/17/07

Priority Number: 3 of 3 **OSPB Approval:** **Date:**

	Fund	1 Prior-Year Actual FY 06-07	2 Appropriation FY 07-08	3 Supplemental Request FY 07-08	4 Total Revised Request FY 07-08	5 Base Request FY 08-09	6 Decision/ Base Reduction FY 08-09	7 November 1 Request FY 08-09	8 Budget Amendment FY 08-09	9 Total Revised Request FY 08-09	10 Change from Base (Column 5) FY 09-10
Total of All Line Items	Total	2,640,196	3,135,181	(94,735)	3,040,446	3,332,213	0	3,332,213	(124,868)	3,207,345	(124,868)
	FTE	28.70	46.60	(1.80)	44.80	49.00	0.00	49.00	(2.50)	46.50	(2.50)
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,640,196	3,135,181	(94,735)	3,040,446	3,332,213	0	3,332,213	(124,868)	3,207,345	(124,868)
	CFE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
(8) Division of Real Estate Personal Services	Total	2,464,034	2,920,933	(86,828)	2,834,105	3,131,046	0	3,131,046	(120,865)	3,010,181	(120,865)
	FTE	28.70	46.60	(1.80)	44.80	49.00	0.00	49.00	(2.50)	46.50	(2.50)
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	2,464,034	2,920,933	(86,828)	2,834,105	3,131,046	0	3,131,046	(120,865)	3,010,181	(120,865)
	CFE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
(8) Division of Real Estate Operating Expenses	Total	176,162	214,248	(7,907)	206,341	201,167	0	201,167	(4,003)	197,164	(4,003)
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	176,162	214,248	(7,907)	206,341	201,167	0	201,167	(4,003)	197,164	(4,003)
	CFE	0	0	0	0	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0

Letternote revised text:

Cash Fund name/number, Federal Fund Grant name: Mortgage Broker Registration Cash Fund # 19U

IT Request: ☐ Yes ☑ No

Request Affects Other Departments: ☐ Yes ☑ No **If Yes, List Other Departments Here:**

CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE

Department:	DORA
Priority Number:	3 of 3
Change Request Title:	Reduction to Reflect Mortgage Brokers Economies of Scale

SELECT ONE (click on box):

☐ Decision Item FY 08-09
☐ Base Reduction Item FY 08-09
☒ Supplemental Request FY 07-08
☒ Budget Request Amendment FY 08-09

SELECT ONE (click on box):

Supplemental or Budget Request Amendment Criterion:

☐ Not a Supplemental or Budget Request Amendment
☐ An emergency
☐ A technical error which has a substantial effect on the operation of the program
☒ New data resulting in substantial changes in funding needs
☐ Unforeseen contingency such as a significant workload change

Short Summary of Request:

Per the intent of the General Assembly during the 2007 legislative session, the Department requests a reduction of $94,735 and 1.8 FTE during FY 2007-08 and $124,868 and 2.5 FTE during FY 2008-09 and beyond to reflect the passage of all four 2007 bills concerning Mortgage Broker regulation. This request supports the Department's Strategic Plan, and in particular would realize efficiencies without compromising the Division of Real Estate's Performance Measure #3 (complaints resolved in a timely manner). Further, this request supports the Department's Objective #4 (businesses and professionals can access the regulatory process in a timely manner). This request also supports the Department's Objective #5, insofar as the Division's regulation plays an active part in improving Colorado's economic environment by not funding more regulation than is appropriate.

Background and Appropriation History: With a staff 46.6 FTE and an FY 07-08 appropriation of $4.4 million, the Division of Real Estate licenses real estate brokers, real estate appraisers, and mortgage brokers; analyzes subdivision offerings on undeveloped land; and administers enforcement of conduct by licensed professionals. Recent expenditures for this Division were $3.3 million in FY 2005-06, and $3.8 million in FY 06-07.

Specific to mortgage brokers, the Division began regulation via a registration program adopted by the General Assembly during the 2006 legislation session. HB 06-1161 established regulatory requirements for mortgage brokers and appropriated $123,000 and 1.5 FTE to the Division of Real Estate to carry out this registration program.

Subsequently, during the 2007 session, several bills were introduced to expand this program in several different ways. These bills sought to change the program as follows:

- **SB 07-85** prohibits a mortgage broker from improperly influencing a real estate appraisal and makes such conduct a deceptive trade practice enforceable by the Attorney General as referred by the Director of the Division of Real Estate, specifies criminal penalties for this conduct; and modified powers and duties of the Director.

  This bill passed with the following appropriation to the Division of Real Estate for administrative costs: $56,696 and 0.3 FTE in FY 07-08.

- **SB 07-203** changes the regulatory framework for mortgage brokers from registration to licensing; makes errors and omissions insurance a licensing requirement; establishes education, testing, and continuing education requirements for mortgage brokers; defines grounds for disciplinary action.

  This bill passed with the following appropriation to the Division of Real Estate for administrative costs: $236,114 and 1.8 FTE in FY 07-08.

- **SB 07-216** creates a duty of good faith and fair dealing for mortgage brokers in their communications and transactions with borrowers; requires refinancing transactions to have a reasonable, tangible net benefit to borrowers; and requires the Director of the Division of Real Estate to promulgate rules governing the marketing of nontraditional mortgages by mortgage brokers.

  This bill passed with the following appropriation to the Division of Real Estate for administrative costs: $127,157 and 1.5 FTE in FY 07-08.

- **HB 07-1322** expands the Mortgage Broker Registration Act by defining prohibited conduct regarding fraud, misrepresentation, and conflict of interest, and requires disclosures specific to fees, costs, and lock-in agreement terms.

  This bill passed with the following appropriation to the Division of Real Estate for administrative costs: $230,476 and 2.5 FTE in FY 07-08.

Although these bills implemented together were expected to cost less than the total amount of all appropriations, at the time it was not possible to forecast which bills would pass and become law. Therefore, the fiscal notes were required to presume that each bill passed independent of the others, and each reflected the full amount of expected costs if the bill were to be implemented independently. Ultimately, each bill did pass and become law, and consequently the Division is implementing all requirements together.

General Description of Request:

Per the intent of the General Assembly during the 2007 legislative session, the Department requests a reduction of $94,735 and 1.8 FTE to reflect the passage of all four 2007 bills concerning Mortgage Broker regulation.

This reduction reflects the original analysis supplied to legislative staff last spring when information as to the implementation costs of various bill-passage scenarios was requested. While it was not possible to make precise calculations regarding the interrelation of each specific legislative requirement, among the scenarios offered, the

presently applicable assumption was that if all four bills passed, the combined appropriations for SB 07-203 and HB 07-1322 would be sufficient to fully cover implementation of SB 07-085 and SB 07-216.

Therefore, the Department requests a reduction as follows:

	Dollars	FTE
Personal Services	(86,828)	(1.8)
Operating Expenses	(7,907)	
	(94,735)	(1.8)

These costs directly correspond to the costs of SB 07-85 and SB 07-216 as shown in the following table:

	SB 07-085		SB 07-203		SB 07-216		HB 07-1322		Grand Total	
Appropriated to Division of Real Estate	**Costs**	**FTE**	**Costs**	**FTE**	**Costs**	**FTE**	**Costs**	**FTE**	**Costs**	**FTE**
Personal Services	14,471	0.3	68,440	1.8	72,357	1.5	104,618	2.5	259,886	6.1
Operating Expenses	1,563		6,885		6,344		7,260		22,052	
Legal Services	40,662		59,299		48,456		118,598		267,015	
Hardware/Software Maintenance			101,490						101,490	
Mortgage Broker Cons. Protection (pass through to Dept. of Law)			186,349		265,085		264,608		716,042	
Total	**56,696**	**0.3**	**422,463**	**1.8**	**392,242**	**1.5**	**495,084**	**2.5**	**1,366,485**	**6.1**
Requested Reduction per Economies of Scale	(16,034)	(0.3)			(78,701)	(1.5)			(94,735)	(1.8)
	(16,034)	(0.3)	0	0.0	(78,701)	(1.5)	0	0.0	(94,735)	(1.8)
Net Resources Available in Division of Real Estate, FY 07-08	**40,662**	**0.0**	**422,463**	**1.8**	**48,456**	**0.0**	**495,084**	**2.5**	**1,271,750**	**4.3**

The following language taken from JBC Staff's appropriations note on SB 07-216 dated May 1, 2007, clearly delineates the expectation that economies be realized with regard to these bills.

> *"Points to Consider*
> *Four related bills are currently being considered by the General Assembly: H.B. 07-1322, S.B. 07-085, S.B. 07-216, and S.B. 07-203. As a broad generalization, H.B. 07-1322 deals with fraud, prohibited acts, and the relationship of mortgage brokers to their customers; S.B. 07-085 deals with the relationship between mortgage brokers and real estate appraisers; S.B. 07-203 changes the current mortgage broker registration system to a licensing system; and S.B. 07-216 deals with the marketing of nontraditional mortgage products to people for whom those products may be unsuitable.*
>
> *There are economies of scale involved in implementing these bills, but the Fiscal Notes for the bills do not reflect the savings that would arise if more than one becomes law. For example, the appropriation to the Department of Regulatory Agencies contained in S.B. 07-085 will not be necessary if H.B. 07-1322, S.B. 07-206 or S.B. 07-216 become law in their current form. These economies will need to be addressed through a supplemental FY 2007-08 appropriation bill that would be introduced by the Joint Budget Committee during the 2008 legislative session."*

Consequences if Not Funded:

If this request is not approved, expected economies of scale will not be realized, and corresponding appropriations will remain unused by the Department.

Calculations for Request:

Summary of Request FY 07-08 FY 07-08 Supplemental Request	**Total Funds**	**General Fund**	**Cash Funds**	**Cash Funds Exempt**	**Federal Funds**	**FTE**
Total Request	($94,735)	$0	($94,735)	$0	$0	(1.8)
Division of Real Estate Personal Services	($86,828)	$0	($86,828)	$0	$0	(1.8)
Operating Expenses	($7,907)	$0	($7,907)	$0	$0	

Summary of Request FY 08-09 FY 08-09 Budget Amendment Request	**Total Funds**	**General Fund**	**Cash Funds**	**Cash Funds Exempt**	**Federal Funds**	**FTE**
Total Request	($124,868)	$0	($124,868)	$0	$0	(2.5)
Division of Real Estate Personal Services	($120,865)	$0	($120,865)	$0	$0	(2.5)
Operating Expenses	($4,003)	$0	($4,003)	$0	$0	

Assumptions for Calculations: Assumptions for the calculated reductions are documented in the preceding sections.

Impact on Other Government Agencies: This program impacts the Department of Public Safety in that fingerprints and fees are sent there under the program; however, this specific request is isolated to administrative costs in PUC.

Cost Benefit Analysis: Given the nature of this request as a budget reduction, cost benefit analysis does not apply other than that economies of scale represent efficiencies that should be realized.

Implementation Schedule: N/A

Statutory and Federal Authority: N/A

Performance Measures: This request supports the Department's Strategic Plan, and in particular would realize efficiencies without compromising the Division of Real Estate's Performance Measure #3 (complaints resolved in a timely manner). Further, this request supports the Department's Objective #4 (businesses and professionals can access the regulatory process in a timely manner). This request also supports the Department's Objective #5, insofar as the Division's regulation plays an active part in improving Colorado's economic environment by not funding more regulation than is appropriate.