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FINAL FISCAL NOTE

Drafting Number: LLS 18-0757 Date: August 3, 2018
Prime Sponsors: Sen. Gardner; Kagan Bill Status: Signed into Law
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Bill Topic: TITLE INSURANCE ENTITY FIDUCIARY DUTIES

- Summary of Fiscal Impact:
- State Revenue (potential)
- State Expenditure (minimal)
- State Transfer
- TABOR Refund
- Local Government
- Statutory Public Entity

This bill requires title insurance companies and agents to hold funds belonging to others in a fiduciary capacity and the Commissioner of Insurance to promulgate rules to that effect. A violation of this provision is an unfair or deceptive act. This increases state workload by a minimal amount on an ongoing basis.

Appropriation Summary: No appropriation is required.

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

Table 1
State Fiscal Impacts under SB 18-125

Table with 4 columns: Category, Fund, FY 2018-19, FY 2019-20. Rows include Revenue, Expenditures, and Transfers.

Summary of Legislation

This bill requires title insurance companies and agents to hold funds belonging to others in a fiduciary capacity. These funds include the underwriter portion of title insurance premiums, earnest money, loan and seller proceeds, homeowner association dues, and any other money received in conjunction with closing and settlement services other than the fees charged by the title insurance company or agent for the closing and settlement of a real estate transaction. The Commissioner of Insurance is required to promulgate rules regarding the preservation and protection of fiduciary funds. A violation of this provision is an unfair act or deceptive practice.

State Revenue

The bill potentially increases General Fund revenue beginning in FY 2018-19 from fines assessed on insurance carriers by the Division of Insurance in the Department of Regulatory Agencies (DORA) for failure to meet the requirements of the bill. The fiscal note assumes a high level of compliance by insurance carriers and that any violations that occur will likely be addressed and resolved through cease and desist orders from the Division of Insurance. Therefore, the potential increase in fine revenue is assumed to be minimal (less than \$5,000 per year).

State Expenditures

Division of Insurance. Although the bill will become law during FY 2017-18, the fiscal note assumes that the rulemaking will not occur until FY 2018-19 during the normal course of business for the Commissioner of Insurance. The fiscal note assumes a high rate of compliance with the provisions of the bill, so enforcement actions by the Division of Insurance are expected to be minimal. This workload increase can be accomplished within current appropriations.

Attorney General. Workload in the Attorney General's office may also minimally increase to the extent that deceptive trade practice complaints are filed under the bill. The office will review complaints under the bill within the annual body of deceptive trade practice complaints and assess which complaints to investigate within existing appropriations.

Effective Date

This bill was signed into law by the Governor and took effect on March 29, 2018.

State and Local Government Contacts

Information Technology

Law

Regulatory Agencies