



Legislative  
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**FISCAL NOTE**

**Drafting Number:** LLS 20-0519  
**Prime Sponsors:** Rep. Titone; Weissman  
 Sen. Story  
**Date:** February 21, 2020  
**Bill Status:** House Business  
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**Bill Topic:** SUNSET HOA INFORMATION AND RESOURCE CENTER

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

**Sunset bill.** HB 20-1200 continues the HOA Information and Resource Center in the Department of Regulatory Agencies, which is scheduled to repeal on September 1, 2020., and creates a new HOA dispute resolution process. State fiscal impacts include both state revenue and expenditure increases from changes to the program under the bill, as well as the continuation of the program's current revenue and expenditures. The program is continued through September 1, 2025.

**Appropriation Summary:** In FY 2020-21, the bill requires an appropriation of \$1.2 million to several state agencies. See State Appropriations Section.

**Fiscal Note Status:** This fiscal note reflects the introduced bill.

**Table 1**  
**State Fiscal Impacts Under HB 20-1200\***

New Impacts		FY 2020-21	FY 2021-22
Revenue	Cash Funds	\$1,403,731	\$2,807,464
		<b>\$1,403,731</b>	<b>\$2,807,464</b>
Expenditures	General Fund	\$72,029	-
	Cash Funds	\$980,354	\$1,753,984
	Centrally Appropriated	\$314,238	\$596,580
<b>Total</b>		<b>\$1,366,621</b>	<b>\$2,350,564</b>
<b>Total FTE</b>		<b>10.3 FTE</b>	<b>20.5 FTE</b>
TABOR Refund	General Fund	\$1,403,731	\$2,807,464
Continuing Program Impacts		FY 2020-21	FY 2021-22
Revenue	Cash Funds	-	\$260,073
Expenditures	Cash Funds	-	\$260,073
	FTE	-	2.0 FTE

\* Table 1 shows the new impacts resulting from changes to the program under the bill and the continuing impacts from extending the program beyond its current repeal date. The continuing program impacts will end if the bill is not passed and the program is allowed to repeal.

## **Summary of Legislation**

Under current law, the HOA Information and Resource Center (center) in the Division of Real Estate (division) in the Department of Regulatory Agencies (DORA) is a central repository for complaints related to Colorado homeowners associations (HOAs) and common interest communities. This bill continues the center until September 1, 2025.

This bill expands the authority of the center and creates the HOA dispute resolution and enforcement program. These new duties are discussed below.

**Dispute resolution and enforcement program.** The bill creates the dispute resolution and enforcement program (program) in the division. The division must produce educational materials regarding the program in both English and Spanish, and post that information on its website. The program must also receive complaints; investigate complaints; conduct negotiations; make violation determinations; impose penalties; issue subpoenas; and provide an annual report to the General Assembly. The program will be funded by penalties and fees.

**Complaint process.** Beginning on May 1, 2021, parties may begin filing complaints with the division. The division must investigate complaints and issue a written determination on whether a violation has occurred. Written determinations must be mailed to interested parties. The division may impose a penalty of up to \$5,000 per violation per day for each day a party is in violation of the determination. The division may also issue cease and desist orders as well as issue orders requiring parties to take certain actions enumerated in the bill. The bill also includes an additional process for hearings in with the administrative courts. Any orders entered by administrative law judges are subject to judicial review.

**Registration.** The bill requires the division to send registration notifications and information packets to all known common interest communities without a registered HOA. All HOAs are required to register with the state. In calendar year 2021, the division will assess a registration fee based on each residential and commercial unit represented by the HOA. Only associations that have greater than \$5,000 in annual revenue are required to pay the registration fee. After calendar year 2021, division may annually adjust the registration fee to cover the costs of administering the program. HOAs not currently registered with the division must register by February 1, 2021. Late registration may result in a \$5,000 late fee.

**HOA complaint database.** By May 1, 2021, the division must create and maintain a database of HOAs that have had complaints filed against them under the program. The bill specifies what information shall be included in the database.

**Annual report.** The bill requires the division to prepare an annual report by March 1 each year. The report must include information related to the number of complaints received, complaint resolution, and the summary of an annual constituent survey conducted by an independent contractor.

## **Background and Assumptions**

The center was created in 2010 to collect complaint information and register HOAs. The center also assists homeowners, associations, managers, and other parties in understanding about their rights and responsibilities under the Colorado Common Interest Ownership Act and conducts outreach efforts for HOAs and other real estate boards.

All HOAs are required to register with the center. Only associations that have greater than \$5,000 in annual revenue are required to pay the registration fee. The current HOA initial registration fee is \$30 and the renewal fee is \$33. As of December 1, 2019, there were 7,881 HOAs registered with the center. The center receives approximately 1,152 complaints on average related to HOAs. This fiscal note assumes that there are approximately 10,286 HOAs in Colorado with 958,179 residential and commercial units within these HOAs.

### **Continuing Program Impacts.**

Based on the department's FY 2020-21 budget request, DORA is expected to have revenue and expenditures of \$260,073 and 2.0 FTE to administer the HOA Information and Resource Center program. If this bill is enacted, current revenue and expenditures will continue for the program starting in FY 2021-22. This continuing revenue is subject to the state TABOR limits. If this bill is not enacted, the program will end on September 1, 2020, following a wind-down period, and state revenue and expenditures will decrease starting in FY 2021-22 by the amounts shown in Table 1. The fiscal note does not identify any change to TABOR refunds because the revenue is already accounted for in the LCS revenue forecast. The changes to the program that drive additional revenue and costs are discussed in the State Revenue and State Expenditure sections below.

### **State Revenue**

The bill will increase state cash fund revenue by \$1.4 million in FY 2020-21 and \$2.8 million in FY 2021-22. Revenue is from the registration fee on every residential and commercial unit represented by an HOA and deposited in the Division of Real Estate Cash Fund. In addition, revenue to the Judicial Department may increase from any civil case filings; however, this revenue impact is expected to be minimal. Fine revenue from violations may also increase, but any increase is expected to be minimal. Fee and fine revenue is subject to TABOR.

**Fee impact on HOAs.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of HOAs subject to the fee. Table 2 below identifies the fee impact of this bill.

**Table 2**  
**Fee Impact on HOAs**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2020-21	Registration Fee (half-year impact)	\$2.93	479,089	\$1,403,731
FY 2021-22	Registration Fee (Full-year impact)	\$2.93	958,179	\$2,807,464

**State Expenditures**

The bill increases state cash fund expenditures in DORA by \$1.2 million and 9.5 FTE in FY 2020-21 and \$2.1 million and 19.0 FTE in FY 2021-22. In addition, the bill will increase General Fund expenditures in the Department of Personnel and Administration by \$85,471 and 0.8 FTE in FY 2020-21 and \$144,113 and 1.5 FTE in FY 2021-22. These impacts are shown in Table 3 and discussed below.

**Table 3  
Expenditures Under HB 20-1200**

<b>Cost Components</b>	<b>FY 2020-21</b>	<b>FY 2021-22</b>
<b>Department of Regulatory Agencies</b>		
Personal Services	\$557,184	\$1,114,368
Operating Expenses and Capital Outlay Costs	\$130,625	\$25,650
Legal Services	\$239,850	\$479,700
Computer Programming	\$44,688	-
Postage and Mailings	\$8,006	\$16,013
Centrally Appropriated Costs*	\$300,797	\$570,720
FTE – Personal Services	9.5 FTE	19.0 FTE
FTE – Legal Services	1.3 FTE	2.5 FTE
<b>DORA (Subtotal)</b>	<b>\$1,281,150</b>	<b>\$2,206,451</b>
<b>Department of Personnel and Administration</b>		
Personal Services	\$58,114	\$116,228
Operating Expenses and Capital Outlay Costs	\$7,280	\$2,025
Computer Programming	\$6,635	-
Centrally Appropriated Costs*	\$13,442	\$25,860
FTE – Personal Services	0.8 FTE	1.5 FTE
<b>DPA (Subtotal)</b>	<b>\$85,471</b>	<b>\$144,113</b>
<b>Total</b>	<b>\$1,366,620</b>	<b>\$2,350,564</b>
<b>Total FTE</b>	<b>11.6 FTE</b>	<b>23 FTE</b>

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

**Department of Regulatory Agencies.** The creation of the new dispute resolution and enforcement program will increase expenditures for the division. The division requires 12.5 compliance investigators in order to investigate the 1,152 HOA complaints. Each complaint is expected take 22.5 hours of investigative time. Also, 4.0 FTE alternative dispute administrator are needed to facilitate negotiations and dispute resolution on 806 complaints per year. Finally, 3.0 FTE program assistants are needed to oversee complaint intake, handle phone intake from the required toll-free complaint phone system, and assist the alternative dispute team. Standard operating and capital costs are included and first-year costs are prorated to reflect the January 1 start date.

In addition, the division requires 2,250 legal services hours regarding administrative hearings, formal settlements, and legal advice. Legal services are provided by the Department of Law, which require 1.3 FTE. The division will also require additional funding for required mailings and IT system upgrades.

Finally, the division will need to hire an independent contractor to conduct the annual constituent survey that is required under the bill. The fiscal note estimates a cost of \$100,000 to hire an independent contractor.

**Department of Personnel and Administration.** The bill will increase expenditures for the Office of Administrative Courts in the Department of Personnel and Administration to hear additional 150 cases related to HOA complaints. The additional 1.0 FTE administrative law judge and 0.5 FTE technician will handle hearings, commutations, notices, motions, pleadings, and decision-writing. In addition, computer programming costs are needed for hearing-related technology and software licensing. First-year costs are prorated to reflect the January 1 start date.

**Judicial Department.** Workload may increase for the trial courts in the Judicial Department to handle appeals of any complaints. In addition, workload if more cases are resolved via alternative dispute resolution rather than being filed in court. This fiscal note assumes that the number of additional case filings will be minimal and any increase in workload can be handled within existing resources.

**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, supplemental employee retirement payments, and leased space, are estimated to be \$314,238 in FY 2020-21 and \$596,580 in FY 2021-22.

**TABOR refunds.** The bill is expected to increase state General Fund obligations for TABOR refunds by \$1.4 million in FY 2020-21 and \$2.8 million in FY 2021-22. Under current law and the December 2019 Legislative Council Staff forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds made available on income tax returns for tax years 2021 and 2022, respectively. A forecast of state revenue subject to TABOR is not available beyond FY 2021-22.

## Effective Date

The bill takes effect August 5, 2020, if the General Assembly adjourns on May 6, 2020, as scheduled, and no referendum petition is filed. The bill applies conduct occurring on or after the bill's effective date.

## State Appropriations

In FY 2020-21, the bill requires an appropriation of \$980,353 to the Department of Regulatory Agencies from the Division of Real Estate Cash Fund, and 9.5 FTE. Of this amount, \$239,850 is reappropriated to the Department of Law and 1.3 FTE.

In addition, in FY 2020-21, the bill requires a General Fund appropriation of \$72,029 to the Department of Personnel and Administration, and 0.8 FTE.

**State and Local Government Contacts**

Information Technology  
Personnel

Judicial  
Regulatory Agencies