



**Colorado
Legislative
Council
Staff**

HB16-1133

**FINAL
FISCAL NOTE**

FISCAL IMPACT: State Local Statutory Public Entity Conditional No Fiscal Impact

Drafting Number: LLS 16-0783

Date: June 28, 2016

Prime Sponsor(s): Rep. Windholz

Bill Status: Postponed Indefinitely

Fiscal Analyst: Anna Gerstle (303-866-4375)

BILL TOPIC: HOA MANAGERS PROFESSIONAL RESPONSIBILITY & DISCLOSURE

Fiscal Impact Summary	FY 2016-2017	FY 2017-2018
State Revenue	\$28,425	\$28,140
Cash Funds	28,425	28,140
State Expenditures	\$48,360	\$200
Cash Funds	48,360	200
TABOR Impact	\$28,425	\$28,140
Appropriation Required: \$48,360 - Department of Regulatory Agencies (FY 2016-17).		
Future Year Impacts: Ongoing revenue and minimal workload and expenditure impact.		

NOTE: This bill was not enacted into law; therefore, the impacts identified in this analysis do not effect.

Summary of Legislation

Under current law, the Division of Real Estate within the Department of Regulatory Agencies (DORA) licenses community association managers (managers) who contract with homeowners' associations (HOA) to provide certain functions. The bill removes an existing exemption from licensing requirements for managers of timeshare communities and defines "small HOA community association managers" as one who serves one or more communities with a combined 30 units or less. DORA must adopt less stringent educational and examination requirements, and reduced fees, for these managers of small HOAs.

The bill also requires DORA to publish certain information on their website about licensed managers, including names, penalties, license types, pending complaints and disciplinary proceedings. The bill prohibits providers of educational courses for managers from also administering licensure exams and requires DORA to certify all out-of-state education providers every two years, or whenever laws related to HOA property manager responsibility and governance are passed.

The bill adds several new violations to the list of offenses by licensed managers, including failing to meet the disclosure requirements of the bill, violating the governing documents of an HOA, and failing to notify an HOA board member and DORA within specified time frames of actions that violate the law and have not been corrected.

All HOA managers are required to annually provide a copy of their license to the executive board of each HOA with whom the manager contracts. Managers must make certain disclosures of each fee, assessment, or collection received to the HOA, unit owner, or third party such as a title company or mortgagee, including transfer fees. The bill stipulates what must be included in disclosures to each party and requires that a detailed listing and justification of transfer fees be provided to the parties of a purchase and sale at least three days before closing.

Background

Under current law, anyone who works as a community association manager for an HOA must be licensed by DORA. A licensed 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;
- meet educational requirements set by DORA, which include an 24 hour course to apply for a license and continuing education requirements to renew a license;
- 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 (DPS); and
- maintain a policy of professional malpractice insurance in an amount and under terms and conditions specified by rule.

Current law excludes timeshares from the licensing requirements for HOA managers. DORA currently has 963 individuals with an active community association manager license. In addition, the Division of Real Estate within DORA houses the HOA Information and Resource Center, which maintains a database of registered HOAs and provides education and reference materials to assist unit owners, board members, and association managers.

Data and Assumptions

The fiscal note concludes that adopting less stringent education and testing requirements and lower fees for small HOA managers results in the creation of a new license class for managers of small HOAs. The fiscal note assumes:

- 50 small HOA managers will receive the new license in FY 2016-17;
- of those, 25 are currently licensed and will instead apply for the new license class when their license is up for renewal, and 25 are not currently licensed;
- 100 new timeshares licensees in FY 2016-17 and 15 in FY 2017-18;
- all small HOA managers must meet the new educational and testing or continuing education requirements when they apply for the new license, even if they currently hold a license;
- the new licenses class will be available November 2016, given the bill's effective date; and
- the required list of complaints being updated daily means each business day that DORA is open, not including weekends and holidays.

State Revenue

The bill increases revenue by \$22,500 in FY 2016-17 and \$27,350 in FY 2017-18 to DORA and by \$5,925 in FY 2016-17 and \$790 in FY 2017-18 to DPS.

License fees and fines — DORA. The bill increases fee revenue to the Division of Real Estate Cash Fund within DORA by \$22,500 in FY 2016-17 and \$27,350 in FY 2017-18. The fiscal note assumes that the timeshare owners who must be licensed under the bill will pay the current fee of \$205 for a new license, and \$190 for a renewal. The fee that small HOAs managers will pay is estimated to be \$135 for a new license, and \$130 for a renewal. The fiscal note assumes that small HOA managers who currently have a license will pay for a new small HOA manager license when their current license is up for renewal, for a difference of \$55. There also may be a small increase in fine revenue due to the additional violations that the bill includes. However, the fine revenue is expected to be minimal.

Fingerprint-based background checks — DPS. Fee revenue from fingerprint-based criminal history background checks deposited into the CBI Identification Unit Cash Fund in the DPS will increase by \$5,925 in FY 2016-17 due to the inclusion of 100 timeshare and 50 small HOA managers and by \$790 in FY 2017-18 due to 15 new timeshare and 5 new small HOA managers in the community association manager licensure requirement. 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 background check is required only upon initial licensure.

Fee impact on individuals and 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. The timeshares and small HOA manager fees are estimates only, actual fee calculations are set administratively by DORA based on cash fund balance, estimated program costs, and the estimated number of licenses. It should be noted that reducing fees for a population that drives additional costs, in this case small HOA managers, may create fee impacts on the broader population of managers. Table 1 identifies the fee impact of this bill on managers of timeshare and small HOAs for FY 2016-17 and FY 2017-18.

Table 1. Fee Impact on Individuals, Families or Business					
Fiscal Year	Type of Fee	Fee Change Under HB16-1133	Number Affected	Total Estimated Fee Revenue	Total
FY 2016-17	New License - Timeshare managers	\$205	100	\$20,500	\$19,125
	New License - Small HOA managers	\$135	25	0	
	Currently Licensed Small HOA Managers	(\$55)*	25	(1,375)	
FY 2017-18	New License - Timeshare managers	\$205	15	\$3,075	\$3,075
	License Renewal - Timeshare managers	\$190	90	0	
	New License - Small HOA managers	\$135	5	0	
	License Renewal - Small HOA Managers	\$130	50	0	
TOTAL					\$22,200

* The current fee for renewing a manager license is \$190. The difference between the current fee and the estimated fee that small HOA managers would pay to receive the new license, \$135, is (\$55).

State Expenditures

The bill increases state expenditures from the Division of Real Estate Cash Fund by \$48,360 in FY 2016-17 and \$200 beginning in FY 2017-18 in DORA. Costs are listed in Table 2 and discussed below.

Table 2. Expenditures Under HB16-1133		
Cost Components	FY 2016-17	FY 2017-18
Temporary Staff	\$25,600	
Small HOA Manager Exam Development	10,000	
Small HOA Manager Exam Subsidy	1,000	\$200
Database Changes	11,760	
TOTAL	\$48,360	\$200

Temporary staff. DORA requires two temporary staff for four months to work with the private testing company, educational course providers, practitioners, and other stakeholders to develop less stringent educational and testing requirements and content, including continuing education, for a new small HOA manager education course and licensing exam. Assuming 640 hours for each staff at a rate of \$20 per hour, the cost is approximately \$25,600. The fiscal note assumes that temporary staff will begin July 1, 2016.

Small HOA manager exam development and subsidy. The bill requires the development of a new licensing exam for small HOA managers that is both less stringent than the current exam and less expensive. The upfront cost of developing a new exam is \$10,000 in FY 2016-17. Currently, the cost to a potential licensee to take the licensure exam is \$90. Due to the development of a new test for small HOA managers and a smaller population of licensees, the cost of the new exam would likely be at least \$90 without DORA subsidizing the cost. Assuming a \$40 subsidy for the 25 new small HOA managers that will be required to take the exam for the new license class in FY 2016-17 and 5 in FY 2017-18, subsidizing the cost of the exam will cost approximately \$1,000 in FY 2016-17 and \$200 in FY 2017-18.

Database changes. DORA requires \$11,760 to hire a contractor to reconfigure the licensing database to include a new license credential and merge the HOA and manager database to allow for the website disclosures specified in the bill. It is estimated that this work will take approximately 560 hours, at \$21 per hour, to complete the work.

Other workload impacts. The bill will also require additional minimal rulemaking to establish the new small HOA license class. This is expected to occur during regular rulemaking and can be absorbed within existing appropriations. In addition, there may be an increase in disciplinary cases. Since no disciplinary cases have occurred since the HOA manager licensure requirement was initially passed in July 2015, any increase in disciplinary case is expected to be minimal and can be absorbed within existing appropriations.

There is also an ongoing workload increase for DORA to certify out-of-state providers of required education courses and adds several new violations to the list of offenses for licensed managers. This increase in workload can be absorbed within existing appropriations.

Effective Date

The bill was postponed indefinitely by the House State, Veterans, and Military Affairs Committee on February 22, 2016.

State Appropriations

The bill requires an appropriation of \$48,360 from the Division of Real Estate Cash Fund to the Department of Regulatory Agencies in FY 2016-17.

State and Local Government Contacts

Information Technology
Municipalities

Law
Regulatory Agencies

Local Affairs