

Prime Sponsor(s): Rep. Murray

Bill Status: Postponed Indefinitely

Sen. Nicholson **Fiscal Analyst:** Alex Schatz (303-866-4375)

TITLE: CONCERNING DECEPTIVE TRADE PRACTICES RELATED TO TIME SHARE

RESALE TRANSACTIONS.

Fiscal Impact Summary	FY 2012-2013	FY 2013-2014
State Revenue		
State Expenditures Cash Funds Division of Real Estate Cash Fund	\$2,271	
FTE Position Change		
Effective Date: The bill was postponed indefinitely by the Senate Judiciary Committee on		

**Effective Date:** The bill was postponed indefinitely by the Senate Judiciary Committee on March 21, 2012.

Appropriation Summary for FY 2012-2013: See State Appropriations section.

**Local Government Impact:** None.

## **Summary of Legislation**

This bill adds disclosure requirements to real estate transactions involving the resale of time share properties. Agreements to transfer time share resale interests must include a description of any residual interests retained by the seller, a list of costs for time share resale services, a statement regarding any other person who may use the time share after the interest has been transferred, and various other disclosures. Time share contracts and time share resale services covered by the bill do not include professionals (e.g., attorneys, escrow agents) providing certain transactional services or the developer or association managing a time share community according to an existing plan.

The bill creates a new cause of action under the Colorado Consumer Protection Act for deceptive trade practices. Deceptive trade practices occur when time share resale entities fail to provide disclosures as required by the bill. These time share resale entities may rely upon information provided by the owner, developer, or association managing the time share.

HB12-1116

## **State Expenditures**

**To implement the bill, the Department of Regulatory Agencies will experience costs of \$2,271 for legal services in FY 2012-13.** The Colorado Real Estate Commission, under the Division of Real Estate in the Department of Regulatory Agencies, develops standard sales contracts for use in Colorado real estate transactions. Current commission forms do not include provisions specific to time share resale transactions. Review of the bill's disclosure requirements, and any development of new language for commission forms, will require 30 hours of time for the commission's legal counsel from the Department of Law at a rate of \$75.71 per hour, for a total of \$2,271.

Colorado courts will experience a negligible increase in workload with the creation of a new cause of action under the bill. While deceptive trade practices may be more frequently asserted in litigation related to time shares, litigants are likely to add this cause of action to other available causes of action in lawsuits. Disclosures required by the bill may deter some cases where the new cause of action could be asserted. The fiscal note assumes there will be no significant change in the number of court cases relative to current law.

The Department of Law (Attorney General's Office) has discretion to pursue enforcement actions under the Colorado Consumer Protection Act, including cases involving deceptive trade practices. No significant increase in complaints filed with the Attorney General's Office is expected under the bill. Any increase in enforcement efforts will be accomplished within existing resources or documented in a request through the normal budget process.

*No appropriation clause.* The bill specifies that affected state agencies are required to implement the provisions of the bill within existing appropriations and that no separate appropriation of state moneys is required to carry out the purposes of the bill. Notwithstanding this clause, legislative rules require that fiscal notes analyze the workload and cost impacts to state agencies that are expected to result from the bill. To the extent that workload increases as estimated in the fiscal note and funding is not provided in the bill, agencies may be required to seek additional funding through the annual budget process in the future.

## **State Appropriations**

While this bill contains a no appropriation clause, based on the one-time increase in workload to implement new practices in the Division of Real Estate, the Department of Regulatory Agencies requires a cash funds appropriation of \$2,271 from the Division of Real Estate Cash Fund for FY 2012-13. This entire amount is reappropriated to the Department of Law.

## **Departments Contacted**

Judicial

Regulatory Agencies

Law