



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado's Legislature

HB 25-1004: NO PRICING COORDINATION BETWEEN LANDLORDS

Prime Sponsors:

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Sen. Gonzales J.; Hinrichsen

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Published for: Senate Business, Labor & Tech.

Drafting number: LLS 25-0563

Version: Second Revised Note

Date: April 1, 2025

Fiscal note status: This revised fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill prohibits certain conduct by landlords regarding rent pricing.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis starting in FY 2025-26:

- Minimal State Revenue
- Minimal State Workload

Appropriations. No appropriation is required.

Table 1
State Fiscal Impacts

Type of Impact	Budget Year FY 2025-26	Out Year FY 2026-27
State Revenue	\$0	\$0
State Expenditures	\$0	\$0
Transferred Funds	\$0	\$0
Change in TABOR Refunds	\$0	\$0
Change in State FTE	0.0 FTE	0.0 FTE

Summary of Legislation

The bill prohibits the sale or distribution of an algorithmic device if it is:

- intended to be used by two or more landlords to set or recommend the amount of rent, level of occupancy, or other commercial term associated with the occupancy of a residential premises (covered commercial purposes); and
- used for covered commercial purposes based on data or analysis that is similar for each landlord.

The use of an algorithmic device for covered commercial purposes regarding residential premises by a person is prohibited if:

- they knew or should know that another person used the device for the same commercial purposes; and
- circumstances suggest the person adhered to or participated in a scheme regarding covered commercial purposes.

The use of nonpublic competitor data in algorithmic device products or services is prohibited.

Violations are punishable as an illegal restraint of trade or commerce under the Colorado State Antitrust Act, and prohibitions apply in addition to any other applicable state or federal antitrust laws. An exception is provided if the algorithmic device provides an estimate using publicly available data and the estimate is provided to the public at no cost.

Background

The Colorado State Antitrust Act prohibits certain commercial conduct. The Attorney General, acting through the Department of Law (DOL), has discretionary authority to enforce the act through civil and criminal proceedings. Similarly, violations may result in civil or criminal charges.

Comparable Crime Analysis

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or creates a new factual basis for an existing crime. The following section outlines crimes that are comparable to the offense in this bill and discusses assumptions on future rates of criminal convictions resulting from the bill.

Prior Conviction Data and Assumptions

This bill creates a new factual basis for the existing offense of illegal restraint of trade or commerce, a class 5 felony, by including pricing coordination among landlords. From FY 2021-22 to FY 2023-24, zero offenders have been sentenced and convicted for this offense; therefore, the fiscal note assumes that there will continue to be minimal or no additional criminal case filings or convictions for this offense under the bill. Because the bill is not expected to have a tangible impact on criminal justice related revenue or expenditures at the state or local levels, these potential impacts are not discussed further in this fiscal note. Visit leg.colorado.gov/fiscalnotes for more information about criminal justice costs in fiscal notes.

State Revenue

Under the Colorado State Antitrust Act, a person engaged in an illegal restraint of trade or commerce may be subject to a civil penalty of up to \$1 million for each violation. Additional penalties may be imposed for subsequent violations of a court order or injunction. This revenue is classified as a damage award and not subject to TABOR. Given the uncertainty about the number of cases that may be pursued by the Attorney General, as well as the wide range in potential penalty amounts, the fiscal note cannot estimate the potential impact of these civil penalties.

State Expenditures

The bill potentially affects workload in the Department of Law and the Judicial Department, as discussed below.

Enforcement — Department of Law

Workload in the Department of Law will potentially increase if antitrust proceedings are initiated. The department will review antitrust activity and prioritize investigations as necessary within the overall number of antitrust investigations and available resources. This work can be accomplished within existing appropriations for DOL enforcement activities.

Trial Court Impacts — Judicial Department

The trial courts in the Judicial Department may have an increase in cases filed under the Colorado State Antitrust Act from the addition of new antitrust activity. It is assumed that algorithmic device providers and consumers will abide by the law and that any violation of the legislation will result in a minimal number of new cases. No change in appropriations is required.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed, and applies to conduct occurring after this date.

State and Local Government Contacts

Corrections

Law

Judicial

Local Affairs