HB 1181

Department of Legislative Services

Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1181 (Delegates Braveboy and Stifler)

Economic Matters Finance

State Commission of Real Estate Appraisers and Home Inspectors - Special Fund and Registration and Regulation of Real Estate Appraisal Management Companies

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This bill establishes the State Commission of Real Estate Appraisers and Home Inspectors as a special fund entity and grants the commission the authority to set appropriate fees to approximate the costs of regulating the real estate appraisal and home inspection industries. The bill also requires appraisal management companies (AMCs) to register with the commission in order to offer appraisal management services in the State. The bill establishes various regulatory requirements pertaining to the provision of appraisal management services in the State.

The bill takes effect July 1, 2011.

Fiscal Summary

State Effect: General fund revenues and expenditures by the Department of Labor, Licensing, and Regulation (DLLR) decrease beginning in FY 2012 due to shifting the commission's revenues and expenditures to special funding. In FY 2012, general fund revenues and expenditures decrease by a *net* $64,900, reflecting the projected finances of the commission in FY 2012 absent the bill *and* reductions in Supplemental Budget No. 1, contingent on enactment of this bill's cross file (SB 658), which has been amended identically to this bill). Future year general fund revenues and expenditures result in similar net decreases in monies credited to the general fund. Special fund revenues and expenditures increase by $589,900 and $511,100, respectively, in FY 2012 to reflect the Supplemental Budget No. 1 appropriations, contingent on enactment of SB 658, for the commission's continued existence as a special fund entity and the new AMC regulatory requirement. Special fund revenues and expenditures fluctuate somewhat in future years. General fund revenues may increase minimally due to fines assessed against AMCs for violations of the bill's provisions, investment earnings of the special fund, and potential reversion of fund balances. Any fund balance reversions are expected to be minimal as “excess” special fund monies are used to pay indirect costs for the current functions (not necessarily reflected above) and are likely used to hire additional commission staff.

(in dollars)	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
GF Revenue	($289,900)	($398,400)	($406,500)	($289,900)	($398,400)
SF Revenue	$589,900	$698,400	$706,500	$589,900	$698,400
GF Expenditure	($225,000)	($229,700)	($234,400)	($239,400)	($244,500)
SF Expenditure	$511,100	$515,700	$500,400	$515,800	$531,900
Net Effect	$13,900	$14,000	$34,000	$23,500	$12,600

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary:

State Commission of Real Estate Appraisers and Home Inspectors: Structural Changes and Special Fund Status

The bill establishes the State Commission of Real Estate Appraisers and Home Inspectors Fund as a special, nonlapsing fund to cover the commission’s actual documented direct and indirect costs of fulfilling the statutory and regulatory duties of the commission. The bill establishes the commission as a special fund entity and repeals the provision of law requiring the commission to dedicate all revenues it receives to the State’s general fund.

As a special fund entity under the bill, the commission may set reasonable fees by regulation so as to produce funds to approximate the cost of maintaining the commission. The commission is prohibited from increasing a fee by more than 12.5% per year. In granting fee-setting authority to the commission, the bill repeals the commission’s current fee levels that are established in statute. However, the bill specifies that (1) the current fees set in statute remain in effect until the commission establishes fees by regulation; and (2) the fees established by regulation for each profession regulated by the commission must approximate the cost of regulating each profession.

The Secretary of Labor, Licensing, and Regulation must administer the fund. At the end of each fiscal year, any unspent and unencumbered monies in the fund in excess of $100,000 revert to the State’s general fund. Any investment earnings of the fund are credited to the general fund.

The membership of the 15-member commission is adjusted to allow for AMC representation. Under the bill, one member of the commission must be a representative of a registered AMC. The bill reduces the number of consumer members of the commission from five to four.

Appraisal Management Companies – Required Regulation and Registration

Definitions: "Appraisal management company" means a third party authorized by a creditor of a consumer credit transaction secured by a consumer's principal dwelling, or by an underwriter of or other principal in the secondary mortgage markets, that directly or indirectly provides appraisal management services in connection with valuing properties collateralizing mortgage loans or mortgages incorporated in a securitization.

"Appraiser" means a licensed real estate appraiser or a certified real estate appraiser.

"Appraiser panel" means a network of licensed or certified appraisers who are independent contractors to the AMC.

"Appraisal review" means the act of developing and communicating an opinion about the quality of another appraiser's work that was performed as part of an appraiser assignment.

"Provide appraisal management services" means to, directly or indirectly, on behalf of a lender, financial institution, client, or other person in conjunction with a consumer credit transaction that is secured by a consumer's primary dwelling (1) administer an appraisal panel; (2) recruit appraisers; (3) verify licensing or certification, negotiate fees and terms of service, and review the qualifications of persons who are part of, or candidates for, an appraiser panel; (4) contract with appraisers to perform appraisal assignments; (5) receive an order for an appraisal and deliver the order to an appraiser that is part of an appraiser panel for completion; (6) manage the process of having an appraisal performed, including specified administrative duties; (7) track and determine the status of orders for appraisals; (8) conduct quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal; or (9) provide a completed appraisal performed by an appraiser to a client.

Required Registration: Before offering appraisal management services in the State a person must register with the commission. Registrations issued to AMCs must be renewed annually. By regulation, the commission may establish reasonable registration fees.

To attain registration, an AMC must submit information and documentation as specified by the bill and by federal law; for example, the AMC must certify that (1) it will verify the licensure or certification status of any person being added to the AMC's appraisal panel; (2) appraisals will be conducted independently, as required by the federal Truth in Lending Act (TILA); and (3) appraisals will be conducted in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). The commission may establish further requirements that AMCs must meet during the registration process.

The bill requires a person applying for registration as an AMC to designate an individual to serve as a "controlling person" to be the main contact for all communication with the commission. The owner, and the specified controlling person, of an AMC must be of good character and reputation and submit to a background investigation. Moreover, an AMC may not be owned in whole or in part by any person to whom a license or certificate to act as an appraiser has been refused, or who otherwise surrendered a license in a dishonorable fashion, unless the license or certificate was later granted or restored.

A person applying for registration as an AMC is required to certify to the commission that it will keep detailed records of each service request it receives and each appraiser that performs the appraisal. AMCs must retain records for five years after the completion of an appraisal, or two years after final disposition of a judicial proceeding related to the assignment, whichever is later.

If the bill's AMC registration process has not been established by the July 1, 2011 effective date of the bill, AMCs may continue to operate in the State for 120 days after the registration process becomes available. Moreover, an AMC that has submitted a complete application for registration with the commission may continue to operate while the application is pending.

Once registered, an AMC will receive a unique registration number from the commission. This number must be included in any instrument utilized by the AMC to procure appraisal services in the State.

The requirements of the bill do not apply to a person that exclusively employs appraisers on an employer-employee basis for the performance of appraisals or an entity that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency.

Prohibited Acts and Unprofessional Conduct: The bill establishes various prohibited acts and expectations of AMCs registered with the commission. AMCs may not knowingly collaborate with persons who have had disciplinary action taken against their appraisal license or certificate in any state (unless that person's good standing status was later restored). AMCs must also ensure that appraisals are conducted independently and free from coercion, as specified in TILA. Moreover, the bill details a litany of unethical or disingenuous acts in which AMCs may not engage in an attempt to influence the judgment of an appraiser or the outcome of an appraisal. Similarly, the bill identifies numerous actions that constitute unprofessional conduct on the part of an AMC.

Once an appraisal has been completed by an appraiser, an AMC may not alter the appraiser's report. In particular, the AMC may not add information to or remove information from an appraisal report, or alter, remove, or otherwise use an appraiser's seal or signature in an unethical manner.

After 30 days have passed from when an appraiser was added to an AMC's appraiser panel, the AMC may not remove, or otherwise refuse to assign work to, an appraiser without (1) notifying the appraiser of the justification for the action; (2) identifying any illegal conduct, USPAP violations, violations of State licensing standards, substandard performance of the appraiser, or violations of contractual terms; or (3) giving the appraiser an opportunity to respond. An appraiser who is removed from an appraiser panel may file a complaint with the commission. The commission's review of the complaint is limited to determining whether the AMC wrongfully removed the appraiser from the panel, or whether the appraiser violated State law or USPAP. The commission must schedule a hearing for any such complaint within a reasonable timeframe, not exceeding one year, after the complaint is filed. (The timeframe may be extended under certain circumstances.) If the commission's complaint review determines that the AMC removed the appraiser improperly, the appraiser must be restored to the AMC's appraiser panel. The AMC may not in any way penalize an appraiser who has been restored to the panel following a complaint.

An AMC must inform the commission when the company believes that an appraiser has failed to comply with USPAP standards, violated applicable laws, or engaged in unethical or unprofessional conduct *and* the appraiser's conduct is likely to affect the value assigned to the consumer's principal dwelling. An AMC that adheres to the bill's provisions regarding establishing the competency of an appraiser to serve on the AMC's appraiser panel may not be held liable if the commission determines that the appraiser violated the USPAP competency rule.

The commission must establish a three-member AMC hearing board to review AMC-related activities, as specified by the bill. The hearing board must consist of one financial institution representative, one consumer member, and one AMC representative.

Grounds for Denying, Suspending, or Revoking a Registration: The commission may deny registration to an applicant, reprimand a registered AMC, or suspend or revoke the registration of an AMC for violating or attempting to violate the bill's provisions, fraudulently or deceptively using or obtaining a registration, or for other specified infractions including being convicted of certain crimes. In addition, the commission may fine an AMC up to $25,000 per violation, payable to the State's general fund.

The commission must review complaints it receives regarding the activities of an AMC according to the complaint proceedings specified in the bill and in statute. If the commission determines that an AMC violated the bill's provisions, the commission may take disciplinary action against the AMC. A person accused of wrongdoing is entitled to a hearing before the commission before a disciplinary judgment is finalized. Under the bill, the commission does not have the authority to bring disciplinary administrative action or recommend criminal sanctions against a registered AMC solely on the basis of fee or payment disputes between an AMC and an appraiser, a client, a lender, or other person.

Other Provisions: An AMC is required to pay an appraiser a reasonable and customary fee within 60 days after the appraiser provides the completed appraisal or valuation study unless there is a breach of contract or substandard performance of services.

The bill authorizes the commission to adopt regulations necessary to implement, administer, and enforce the regulatory program.

Current Law/Background:

The State Commission of Real Estate Appraisers and Home Inspectors

Chapter 594 of 1990 established the commission (formerly the State Commission of Real Estate Appraisers) to implement and administer a real estate appraiser licensing and certification program that complies with the federal Financial Institutions Reform, Recovery, and Enforcement Act (FIRREA). The commission is housed within DLLR. Chapter 470 of 2001 expanded the commission's authority to include the licensing and regulation of home inspectors. In general, the commission:

- licenses and certifies real estate appraisers and licenses home inspectors;
- enforces appraiser and home inspector standards of practice;
- processes and investigates complaints against real estate appraisers or home inspectors; and
- enforces disciplinary actions taken against real estate appraisers or home inspectors.

The commission comprises 15 members appointed by the Governor with the advice of the Secretary of Labor, Licensing, and Regulation and the advice and consent of the Senate. At least two members are certified general real estate appraisers; two are certified or licensed real estate appraisers; two represent financial institutions; four are licensed home inspectors; and five are consumer members. Members serve staggered three-year terms and may not serve more than two consecutive terms. At the end of a term, a member continues to serve until a successor is appointed and qualifies.

Exhibit 1 depicts the current fees charged by the commission for licensure or certification as a real estate appraiser and for licensure as a home inspector. In addition to licensure and certification fees, the commission charges other statutorily established fees – such as license or certification reinstatement fees. Under the bill, the commission has the authority to set and change these fees by regulation.

Exhibit 1
Licensing/Certification Fees as of July 2009

	Original	Renewal	Reciprocal
Real Estate Appraisers (3-year License Term)			
Real Estate Appraiser Trainee	$75	$75	N/A
Licensed Real Estate Appraiser	150	200	$150
Certified Residential Real Estate Appraiser	175	200	175
Certified General Real Estate Appraiser	175	200	175
Home Inspector (2-year License Term)	450	400	450

Note: The licensing fees for licensed real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers include a $75 federal registry fee, which is maintained in a separate special fund and transmitted periodically to the federal Appraisal Subcommittee.

The original and reciprocal licensing fees for home inspectors include a $50 application fee.

Source: Department of Labor, Licensing, and Regulation; Department of Legislative Services

Regulation of Real Estate Appraisers and Appraisal Management Companies

FIRREA created a framework for the establishment of national uniform standards for the certification of appraisers and the performance of appraisal services in the aftermath of the savings and loan crisis of the 1980s. Under FIRREA, an individual must be a licensed or certified appraiser to perform an appraisal in connection with a federally related transaction valued in excess of the federal *de minimis* amount, which currently is $250,000 for most transactions. FIRREA recognizes USPAP as the generally accepted appraisal standards and requires USPAP compliance for appraisers in federally related real estate transactions. State appraiser certification and licensing boards; federal, State, and local agencies; appraisal services; and appraisal trade associations require compliance with USPAP.

In July of 2010, the federal Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) became law. The Dodd-Frank Act amended FIRREA and established specific requirements for the regulation of AMCs by the states. The Dodd-Frank Act requires AMCs to be subject to registration and regulation by states. The Act specifies that states have roughly 36 months to establish a regulatory program for AMCs. States must implement an AMC regulatory structure within 36 months of the issuance of final regulations implementing the Act's requirements related to AMCs. Final regulations have not been issued but may be promulgated in 2011. Once the deadline has passed, unregulated AMCs are prohibited from performing services involving a federally related transaction.

The Appraisal Subcommittee of the Federal Financial Institutions Examination Council was established by FIRREA and is charged with monitoring state appraiser licensing units to ensure that federal financial interests in real estate transactions are protected. Such transactions must be performed in accordance with uniform standards by competent individuals whose professional conduct is subject to effective supervision.

In May of 2009, the Federal Housing Finance Agency instituted a new set of rules known as the Home Valuation Code of Conduct (HVCC) designed to strengthen appraisal independence standards. The HVCC established a buffer between appraisers and loan officers and other lending agents by setting rules regarding conflicts of interest and the solicitation and selection of appraisers. By prohibiting certain forms of communication between lenders and appraisers, HVCC was designed to reduce the influence that lenders could have on the appraised valuation of a home serving as the collateral for a mortgage.

AMCs proliferated to fill the role of intermediary between appraisers and lending institutions. Through an AMC, a lending institution has access to a roster of appraisers to conduct an appraisal. Often, the AMC offers additional services such as title work for the subject property, and packages these services at a low price and to be completed within a short period as agreed upon with the lender. To some extent, AMCs have decreased compensation rates for appraisers and may have in many cases resulted in lower-quality appraisals.

Twenty states have enacted legislation regulating AMCs in response to Dodd-Frank. Registration fees for AMCs vary. In Connecticut, registration fees are $1,000 biennially. In California, the fee is $1,600 biennially. North Carolina requires annual registration; an initial registration is $3,500 and the renewal registration rate is $2,000. DLLR advises that registration fees for this type of regulatory activity are set based on several factors, including the number of AMCs that operate in the state and the complexity of the proposed program.

State Fiscal Effect: The bill transitions the commission from a general fund entity to a special fund entity. Beginning in fiscal 2012, the commission's revenues (mainly licensing fee revenues) and expenditures will be directed to and allocated from the State Commission of Real Estate Appraisers and Home Inspectors Fund. Thus, general fund revenues and expenditures decrease, and special fund revenues and costs (both direct and indirect) increase due to the bill. **Exhibit 2** displays the commission's revenues and expenditures for the three-year period between fiscal 2008 and 2010 to encompass the renewal cycles of commission licensees or certificate holders. Commission licenses and certifications for real estate appraisers must be renewed every three years. Home inspector licenses must be renewed biennially.

Exhibit 2
Fiscal History of the Commission as a General Fund Entity
Fiscal 2008-2010

	FY 2008	FY 2009	FY 2010
Revenues Collected	$406,678	$289,948	$398,366
Expenditures[1]	187,455	154,796	136,804
Surplus	**$219,223**	**$135,152**	**$261,562**
Indirect Costs[2]	78,518	97,251	65,259
Adjusted Impact	$140,705	$37,901	$196,303

[1]The downward trend in costs reflects the effects of cost containment on the commission; in particular, commission staffing has been reduced to one full-time employee.
[2]Indirect costs are currently calculated by DLLR to determine the full range of costs attributable to the commission's activities; however, indirect costs are considered a "paper allocation" and are not actually transferred out of the general fund to cover commission activities.

Source: Department of Labor Licensing and Regulation; Department of Legislative Services

As displayed in Exhibit 2, the commission's revenues exceeded its expenditures between fiscal 2008 and 2010. The surplus funding generated by the commission averaged about $205,310 annually over these three years. The figure included in the "Surplus" row in Exhibit 2 indicates the amount by which the general fund benefitted due to the commission's revenues exceeding expenditures. When factoring in the indirect costs of the commission (legal expenditures and DLLR cost allocation formulas) the difference between revenues and costs attributable to the commission is lower (about $124,950 annually over the three-year period). Nevertheless, Legislative Services advises that the indirect costs associated with general fund boards and commissions are merely a "paper allocation" that is used to determine the entity's actual cost to the State; these indirect costs are simply illustrative and are not actually charged as an expenditure of the commission. As a special fund entity, however, both direct and indirect costs are charged to the commission.

Thus, the effect on State finances due to the bill reflects the elimination of the surplus of funds deposited into the general fund as a result of the commission's revenues exceeding its direct expenditures. Under the bill, any such surpluses remain in the special fund; however, the bill's reversion provision specifies that any fund balance (unspent and unencumbered funds) in excess of $100,000 at the end of a given fiscal year must be transferred into the general fund. (As discussed below, Legislative Services does not anticipate any significant increase in general fund revenues in future years due to the bill's reversion provision.)

Exhibit 3 displays the expected revenues and costs for the commission *absent the bill and if the commission continued to operate at its reduced level of staffing*. These figures reflect expected fee revenue in future years (based on prior-year experience) and the future expenditures of the commission based on the withdrawn fiscal 2012 general fund appropriation in Supplemental Budget No. 1 and inflation. If the commission were to continue to operate as it has over the last three years, future year surpluses would likely range between roughly $120,600 and $242,000.

Exhibit 3
Projected Future Commission Revenues and Expenditures Absent the Bill

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Revenues	$289,948	$398,366	$406,478	$289,948	$398,366
Expenditures	155,000	159,650	164,440	169,373	174,454
Surplus	**$134,948**	**$238,716**	**$242,039**	**$120,575**	**$223,912**

Source: Department of Legislative Services

Nevertheless, DLLR advises that the commission's level of staffing is unsustainable in future years. The current general fund surplus resulting from the commission's finances is due to cost containment measures, which have reduced commission staffing to one full-time administrator. The overall workload of the commission under current law requires considerably more than one staff member. In recent years the commission has been cited by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council – the federal agency that oversees State regulation of real estate appraisers – for failing to resolve complaints in a timely manner. The Appraisal

Subcommittee has notified the State that its support for regulation of real estate appraisals is at a critically low level and that the State risks sanctions if support is not enhanced. Ultimately, absent the bill, general fund expenditures would likely have to increase in future years to ensure the staffing necessary to avoid federal sanctions against the commission. At least a portion of such additional staffing costs could be supported by existing fee revenue that is not currently dedicated to the commission.

Exhibit 4 displays the projected revenues, expenditures, and future fund balances of the special fund *absent additional costs to hire additional staff* for the commission's existing functions. Exhibit 4 represents expected fee revenue and expenditures from the existing licensure and certification programs administered by the commission as well as the new revenue and expenditures associated with the regulation of AMCs (as discussed below) and accounts for the contingent appropriations in Supplemental Budget No. 1. If existing fee levels were to remain unchanged in future years, the commission would generate a fund balance in all years shown. Under this scenario (as depicted in the "Potential Reversion" row), the fund balance could result in commission monies reverting from the special fund to the general fund. However, Legislative Services advises that such a reversion is unlikely because, assuming passage of the bill, the commission is in a better position to hire the additional staff necessary to ensure that all industries under its purview are regulated effectively and in compliance with federal guidelines. Alternatively, if additional staffing does not materialize (which is not a requirement of the bill), the bill's requirement that fees approximate costs for *each* profession would necessitate a reduction in fee revenues; thus, current surpluses to the general fund are likely eliminated anyway.

Exhibit 4
Future Funding for the Commission Under the Bill, Absent Additional Staffing for Existing Functions[1]

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Beginning Fund Balance	**$0**	**$78,801**	**$100,000**	**$100,000**	**$100,000**
Fee Revenue[2]	**589,948**	**698,366**	**706,478**	**589,948**	**698,366**
Existing Revenue[2]	289,948	398,366	406,478	289,948	398,366
New Revenue[2]	300,000	300,000	300,000	300,000	300,000
Total Revenues Available	**$589,948**	**$777,167**	**$806,478**	**$689,948**	**$798,366**
Total Expenditures	**$511,147**	**$525,860**	**$510,890**	**$526,626**	**$542,977**
Existing Direct Costs[3]	155,000	159,650	164,440	169,373	174,454
Existing Indirect Costs[3,4]	69,233	71,310	73,450	75,653	77,923
New Direct Costs	201,570	224,900	203,000	211,600	220,600
New Indirect Costs	70,000	70,000	70,000	70,000	70,000
Other Costs in Supplemental[4]	15,344	N/A	N/A	N/A	N/A
Annual Operating Surplus[3]	**$78,801**	**$172,506**	**$195,589**	**$63,322**	**$155,389**
Cumulative Fund Balance[3]	**78,801**	**251,307**	**295,589**	**163,322**	**255,389**
Potential Reversion[3]	**0**	**151,307**	**195,589**	**63,322**	**155,389**
Ending Fund Balance[3]	**$78,801**	**$100,000**	**$100,000**	**$100,000**	**$100,000**

[1]Includes staffing needed for regulation of AMCs, as discussed below, but not additional staffing to handle the commission's existing responsibilities.

[2]The amount of annual revenues generated by the commission may fluctuate based on (1) future adjustments to the rate of fees assessed to the various persons regulated by the commission; and (2) changes in the number of licensees, certificate holders, and registrants of the commission. DLLR advises that the number of individuals regulated by the commission has declined in recent years due to the weak housing market; nevertheless, fee revenues for this estimate assume the number of individuals regulated by the commission remains constant.

[3]Direct and indirect costs to the commission likely increase as the commission, established by the bill as a special fund entity, likely hires additional staff needed to adequately regulate the various industries under the commission's purview. Accordingly, although not shown above, as expenditures increase, Legislative Services assumes the special fund surplus and fund balance diminish to such an extent as to eliminate any future year reversions of special fund monies to the general fund.

[4]Supplemental Budget No. 1 accounts for costs in a slightly different manner; in addition to the costs reflected above, another $15,344 is appropriated in special funds. It is not clear, however, whether the total $511,147 in special funding factors in existing indirect costs or not. To the extent additional indirect costs are allocated and charged for existing functions of the commission, total expenditures increase and the fund balance for fiscal 2012 decreases; any such change in fund balance carries over to future years.

Source: Department of Labor Licensing and Regulation; Department of Legislative Services

Expenditures Stemming from the Regulation of AMCs

Given the breadth of the AMC regulatory program and its experience with other programs, DLLR advises that two and one-half staff are necessary to fully implement the regulation of AMCs. Given that the commission currently has just one full-time staff person dedicated to it, Legislative Services concurs. The staff needed to implement and manage AMC regulation include (1) an administrative assistant responsible for handling day-to-day activities related to AMC regulation within the commission; (2) an investigator to investigate AMC-related complaints, both from consumers and appraisers; and (3) one-half of an assistant Attorney General to manage the complaint resolution process and provide general legal support to the commission related to AMCs.

Direct Costs: As a result of the additional staff and other operating expenses needed to implement the regulation of AMCs, Legislative Services estimates that special fund expenditures increase by at least $201,570 in fiscal 2012, which accounts for the bill's *July 1, 2011 effective date*. This estimate includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses. Start-up costs include expenses to upgrade DLLR's e-licensing software system; in addition, similar expenditures are needed in fiscal 2013 to finalize computer modifications. Ongoing operating expenses include roughly $10,000 annually for miscellaneous costs such as printing and hearing costs, and, beginning in fiscal 2013, roughly $25,000 annually to obtain expert witness testimony.

Positions	2.5
Salaries and Fringe Benefits	$146,355
One-time Start-up Costs (including electronic licensing)	34,990
Ongoing Operating Expenses	20,225
Total FY 2012 State Expenditures for Direct Costs	**$201,570**

Future year expenditures reflect full salaries with 4.4% annual increases and 3% employee turnover as well as 1% annual increases in ongoing operating expenses.

Indirect Costs: The above expenditures reflect the direct costs of regulating AMCs but do not include the indirect costs that DLLR attributes to each regulatory program within the Division of Occupational and Professional Licensing for the use of division and departmental resources. Indirect costs – such as usage of the licensing system, general services offices, and a portion of the salaries of some senior staff – are allocated to each program by a formula based on the program's usage of these services. Thus, special fund expenditures under the bill are anticipated to be approximately *$70,000* greater than shown above. The indirect costs associated with regulating AMCs are addressed below.

Supplemental Budget No. 1: In addition to these direct and indirect costs, Supplemental Budget No. 1 includes funding to cover contractual services at a higher level but offsets staffing costs by assuming a 90-day start-up delay. Thus, the special fund appropriation related to regulation of AMCs is higher, $286,147. Moreover, Supplemental Budget No. 1 acknowledges $70,000 in indirect costs by reducing DLLR's general fund appropriation and increasing its special fund appropriation, all contingent on enactment of this bill's cross file, SB 658.

Revenues from New AMCs

Despite the July 1, 2011 effective date of the bill, Legislative Services assumes that the registration of AMCs cannot realistically begin until the beginning of calendar 2012. The bill requires payment of a registration fee on an annual basis, but it does not establish the fee in statute. DLLR must set registration fees by regulation.

Fees must be set at a level to ensure both direct *and indirect* costs of the regulatory program are covered. Assuming DLLR assesses a $2,000 fee for both an initial AMC registration and for annual registration renewal and roughly 150 AMCs register with the commission in fiscal 2012, fee revenues from AMCs increase by $300,000 annually beginning in fiscal 2012. In future years, it is expected that five new AMCs enter the industry and register with the commission and five existing AMCs leave the industry. Revenue collected by the commission to register AMCs is deposited into the new special fund.

General fund revenues increase due to fines assessed against AMCs for violations of the bill. The extent to which AMCs violate the bill's provisions and are subsequently fined cannot be reliably estimated, but any resulting fine revenue is not expected to be significant.

Overall Impact of New AMC Regulation

As shown earlier in Exhibit 4, **Exhibit 5** displays the projected registration fee revenues, and direct and indirect costs associated solely with the new regulatory program established by the bill (not accounting for any difference in Supplemental Budget No. 1). The indirect costs associated with the bill reflect the costs allocated from the Division of Occupational and Professional Licensing within DLLR and the allocated share of the salaries of the commission's administrator and legal counsel.

Exhibit 5
Projected Revenues and Expenditures for AMC Regulation
Fiscal 2012-2016

	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
Total Costs	**$271,570**	**$294,900**	**$273,000**	**$281,600**	**$290,600**
Direct Costs	201,570	224,900	203,000	211,600	220,600
Indirect Costs	70,000	70,000	70,000	70,000	70,000
Anticipated Revenues	**$300,000**	**$300,000**	**$300,000**	**$300,000**	**$300,000**

Source: Department of Legislative Services

Small Business Effect: AMCs, including AMCs that are small businesses, must register with the commission, pay the annual registration fee, and comply with the industry regulations created by the bill. Real estate appraisers that are small businesses may benefit due to the regulation of AMCs and the provisions that establish guidelines for the relationship between AMCs and licensed or certified appraisers.

Additional Comments: The fiscal estimate in this bill conforms to that for its cross file, SB 658, which has been amended identically to this bill. However, funding actions in Supplemental Budget No. 1 are only contingent on enactment of SB 658. Thus, SB 658 must pass, either on its own or in addition to this bill, in order for the commission to be fully special funded in fiscal 2012. The fiscal estimate assumes enactment of SB 658.

The bill specifies that the commission may not increase any of its fees by more than 12.5% per year. The bill also contains a reversion provision specifying that any unspent or unencumbered monies in the fund at the end of each fiscal year in excess of $100,000 revert to the State's general fund. The combined effect of these provisions requires DLLR to monitor the commission's cash flow very closely and may hamstring the commission's ability to hire additional staff needed by the commission.

Additional Information

Prior Introductions: None.

Cross File: SB 658 (Senator Kelley, *et al.*) - Finance.

Information Source(s): Department of Labor, Licensing, and Regulation; Department of Legislative Services

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