



Colorado Legislative Council Staff Fiscal Note

NO FISCAL IMPACT

Drafting Number: LLS 10-0843**Date:** February 15, 2010**Prime Sponsor(s):** Rep. Nikkel
Sen. Williams**Bill Status:** House Judiciary**Fiscal Analyst:** Josh Abram (303-866-3561)

TITLE: CONCERNING THE ABILITY OF A COMMERCIAL REAL ESTATE BROKER TO SECURE PAYMENT OF COMMISSIONS EARNED, AND, IN CONNECTION THEREWITH, ENACTING THE "COMMERCIAL REAL ESTATE BROKERS COMMISSION SECURITY ACT".

Summary of Legislation

This bill creates the Commercial Real Estate Brokers Commission Security Act. The bill permits real estate brokers who provide tenants for commercial property to secure payment of debts through the creation of a lien on the commercial property. Liens are permitted if the broker has a listing agreement or written compensation agreement in place with the owner and the broker has exhausted all available means to enforce collection.

Brokers are required to first seek mediation of the dispute, give notice of intent to file a lien, give notice when a lien is filed, and commence any lawsuit within 6 months if a debt is not paid. If a commercial property has existing liens, such encumbrances have priority over a real estate broker's lien.

The bill takes effect August 11, 2010, assuming the General Assembly adjourns on May 12, 2010, as scheduled and no referendum petition is filed. The bill applies to cases in which a written listing agreement or compensation agreement is entered into on or after the effective date.

Assessment

Extending the ability of real estate brokers to collect a debt via a lien on commercial property may lead to additional civil filings in the courts. These cases are generally not complex and the number of additional cases is anticipated to be small. The judicial branch can absorb any increase with existing appropriations.

The expanded enforcement option may also increase administrative duties of county clerks and recorders; however, counties are authorized to charge a fee for filing and releasing liens, offsetting any increased expenditures. For these reasons, the bill is assessed as having no fiscal impact.

Departments Contacted

Judicial

Local Affairs

Regulatory Agencies