

SENATE BILL REPORT

SB 6498

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 05, 2008

Title: An act relating to real estate licensure law.

Brief Description: Modifying provisions concerning real estate licensure law.

Sponsors: Senator Tom.

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 1/28/08, 2/5/08 [DPS, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6498 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin, Murray and Prentice.

Minority Report: That it be referred without recommendation.

Signed by Senators Holmquist, Ranking Minority Member; King.

Staff: Kathleen Buchli (786-7488)

Background: Real estate brokers, associate real estate brokers, and real estate salespersons are required to obtain a license from the Department of Licensing (DOL). To receive a broker's license, the individual must have two years of actual experience as a real estate salesperson, completed 120 hours of instruction in real estate, and pass the broker's license examination. To receive a salesperson's license, the individual must complete a 60 hour course in real estate fundamentals, and pass the salesperson's license examination.

A real estate broker may: sell, list or buy real estate for others; negotiate the purchase, sale, exchange, lease, or rental of real estate, business opportunities, or a manufactured home in conjunction with the land on which the home is located; advertise or hold him or herself out to the public as engaged in these activities; and engage, direct, or assist in procuring prospects or in negotiating or closing any transaction that results in these activities.

A real estate salesperson is employed by a broker in performance of the broker's duties. An associate real estate broker is a person who has qualified as a broker, but who works with another broker and has a license stating that he or she is associated with another broker.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill (Recommended Substitute): Persons engaged in real estate brokerage services are subject to licensing by DOL. The licensees consist of real estate brokers, managing brokers, designated brokers, and real estate firms, which replaces the DOL's licensing structure of real estate salespersons, associate brokers, and brokers.

Real Estate Firm License: To receive a real estate firm license, an applicant must: designate a managing broker who has authority to act for the firm; state that no person with a controlling interest in the firm is subject to a final departmental order suspending or revoking a real estate license; does not use a name similar to a current licensee; and provide the fees and information required by the Director of DOL.

Real Estate Broker's License: To receive a broker's license, an individual must: be at least 18 years old; have a high school diploma or its equivalent; complete 90 hours of instruction in real estate; and pass the broker's license examination. The broker is licensed to one firm at a time and is supervised by a designated or managing broker.

Managing Broker: To receive a managing broker's license, an individual must: be at least 18 years old; have a high school diploma or its equivalent; have three years of licensed experience as a real estate broker; complete 90 hours of instruction in real estate; and pass the managing broker's license examination. A managing broker may be licensed to only one firm at any one time.

Designated Broker: A designated broker must register with DOL and hold a license as a managing broker and may act as a designated broker for more than one firm. The designated broker is responsible for supervision of brokers and managing brokers.

Exemptions: Several groups are exempt from the licensing requirements. These include, with some qualifications: public employees involved in eminent domain actions; persons providing referrals to licensees; certified public accountants; title or escrow companies or agents; investment counselors; and certain persons employed by an owner or on behalf of a designated or managing broker.

Background Checks: Unless the applicant is a corporation or a limited liability company, the applicant must complete a fingerprint-based background check through the Washington State Patrol.

Records: Contracts relating to providing brokerage services are the property of the real estate firm. Brokers must deliver funds and records to their managing broker who must deliver the funds and records to the designated broker. Real estate firms must maintain records and make those records accessible to the Director.

Trust Funds: If a licensee exercises control over real estate transaction funds, those funds are considered trust funds. Firms must keep real estate trust fund accounts in a recognized Washington state depository. Licensees must keep trust funds separate from their own funds. If transactions concerning a purchase and sale agreement that instructs the broker to deliver the earnest money check directly to a named closing agent or the seller, a firm is not required to maintain a trust fund account. Brokers must deposit all funds into their firm's trust bank account the next banking day following receipt of the funds unless the purchase and sale agreement provides for deferred delivery.

Various grammatical corrections and clarifying language changes are made. Sections are repealed related to licenses that no longer exist, temporary permits, multiple listing associations, and land development representatives.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE, RESEARCH & DEVELOPMENT COMMITTEE (Recommended Substitute): A broker's price opinion is not an appraisal performed by a certified or licensed appraiser. The exemptions are modified by adding financial activities relating to property management.

Appropriation: None.

Fiscal Note: Available.

[OFM requested a ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on July 1, 2010.

Staff Summary of Public Testimony on Original Bill: PRO: There hasn't been a comprehensive revision to the real estate law in 30 years; over those 30 years we have seen some huge changes in practices. Ensuring that those who work in real estate have proper knowledge and training is a way to protect consumers. This has been an ongoing process for years with a large group of stakeholders and representatives of the major firms agree that this is a law that needs to move forward. More supervision and oversight of entry level licensees is needed and the oversight and supervision standard of real estate teams needs to have higher degrees of supervision. The definition of real estate brokerage services needed to have significant changes made to it. The statutory exemptions needed to be updated. This bill provides consumer protection benefits, which include criminal background checks and fingerprinting.

CON: Real estate appraisers are experiencing pressures from real estate brokers and salespersons and lenders. Amendments need to be made to the bill to help the appraisers cope with these pressures and avoid conflicts as they come up. This would be a logical continuation of protecting the public.

Persons Testifying: PRO: Senator Tom, prime sponsor; Bob Mitchell, Washington Realtors.

CON: Jim Irish, Appraisers Coalition of Washington.