

# Individual State Agency Fiscal Note

<b>Bill Number:</b> 5050 SB	<b>Title:</b> Real estate firms & brokers	<b>Agency:</b> 240-Department of Licensing
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## Part I: Estimates

☐ No Fiscal Impact

### Estimated Cash Receipts to:

ACCOUNT	FY 2022	FY 2023	2021-23	2023-25	2025-27
Real Estate Commission Account-State 026-1	55,000	664,000	719,000	1,328,000	1,328,000
<b>Total \$</b>	55,000	664,000	719,000	1,328,000	1,328,000

### Estimated Operating Expenditures from:

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	6.3	4.9	5.6	4.9	4.9
<b>Account</b>					
Real Estate Commission Account-State 026-1	737,000	522,000	1,259,000	1,047,000	1,050,000
<b>Total \$</b>	737,000	522,000	1,259,000	1,047,000	1,050,000

### Estimated Capital Budget Impact:

NONE

*The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.*

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).
- ☐ Capital budget impact, complete Part IV.
- ☒ Requires new rule making, complete Part V.

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## Part II: Narrative Explanation

### II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

*Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.*

This bill requires:

- Real Estate firms and managing/designated brokers to pay the portion of commissions due to their brokers pursuant to their agreements and within a reasonable time period after receiving the commissions.
- DOL to investigate complaints made regarding commission payment.
- DOL may take action if they find a violation occurred.

Sec. 1 – Amends RCW 18.85.361:

(26) Adds a new subsection states the director of DOL may take disciplinary action against real estate brokers or firms who violate RCW 18.85.275(7) after DOL investigates a complaint or as evidenced by a final judgment/court order as provided in RCW 18.85.275(7).

Section 2 – Adds a new section:

(7)(a) – Real estate firms and managing/designated brokers must pay their brokers the portion of commissions due pursuant to their agreements within a reasonable time period after receipt of the commissions.

(7)(b) – An individual aggrieved by a violation of the statute above may:

(i) file a complaint with DOL for the violation; or

(ii) bring a civil action in superior court to recover the portion of the commissions, to enjoin future violations, or for an order requiring DOL to suspend/revoke the license of the guilty individual. DOL must follow any court order requiring DOL to suspend/revoke the license of a licensee for violations.

(7)(c) – Upon complaint, DOL must investigate to determine if there has been a violation of subsection (a), and if they find a violation has occurred, the director may take action pursuant to RCW 18.85.361.

### II. B - Cash receipts Impact

*Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.*

The Real Estate licensing program is 100% license fee supported. A fee increase, equal to the costs contained in the expenditure section of this fiscal note, will be required to implement this legislation. For efficiency purposes, the department will add this increase to a planned fee rulemaking process in the spring of 2022, and assumes an effective date of June 2022. The current planned fee increase aligns fee revenue with the cost of licensing and regulating this profession.

The Real Estate account will likely go into a temporary deficit in FY22, as the expenditures required to implement this legislation will begin earlier in the fiscal year. Over the course of six fiscal years (from FY22 through FY27), both expenditures and additional revenue collected will balance.

### II. C - Expenditures

*Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.*

In this bill, we estimate investigating approximately 340 additional commission dispute complaints annually. In order to implement this bill, the following resources are needed:

#### Additional Staffing in the Business & Professions Division (BPD):

- In FY22: 1.0 project Management Analyst 3 (MA3) FTE: The MA3 is to provide initial startup support, including fee increase rulemaking, development of business processes and implementation, and organization of stakeholder communication to support Section 2. This organizational change management resource will provide communication and outreach to 53,935 licensed real estate brokers, managing brokers, firms, and branches.
- In FY22 and on-going:
  - 2.0 Investigator 2 FTEs to conduct investigation of assigned cases on assertions of commission dispute under DOL's jurisdiction. We assumed: 230 cases will be investigated annually, assuming it takes an Investigator 2 an average of 18-26 investigative hours per case. Two Investigator 2s will be needed.
  - 1.0 Investigator 3 FTE to conduct complex investigation of assigned cases (i.e. multiple complainants, complex transaction and commission agreements, partnership with audit staff to reconcile commission claims). We assumed: 110 complex cases will be investigated annually, assuming it takes an Investigator 3 an average of 18-26 investigative hours per case. One Investigator 3 will be needed.
  - 1.0 Professional Licensing Manager 1 FTE to initiate, monitor, and process administrative and disciplinary actions of commissions violations. The position will support management review efforts, process technical assistance and disciplinary correspondence to complainants and respondents, draft statement of charges and agreed orders, monitor timelines and sanctions, and work with investigative and legal team to close cases as appropriate. It is assumed that 90% of the cases will be passed on for further administrative or disciplinary action, total 310 cases will be managed by this FTE ( $345 \times 90\% = 310$ ) and five hours per case on an average.

#### Legal Services workload impact:

DOL estimates approximately 60 hours of Attorney General legal services support are needed annually when investigating commission dispute complaints and determining violations. The total cost is about \$10K per year.

#### Information Services:

DOL's online business and professions licensing database (POLARIS) would need minor modifications to support commission dispute violations. Objects within the Audit and Complaint records would need to be modified to include violation types and findings.

Additionally, the five FTEs listed above would need POLARIS licenses.

The agency will use appropriated funds to hire contract programmers to accomplish this work or to support current staff implementing this legislation within the required timeline. Appropriated funds may also be used to hire agency temporary staff to support permanent staff assigned to this legislative effort.

Any change requires a process to ensure changes are correctly applied to the system. This involves Project Managers that manage the team that completes the update, business analyst that documents and reviews the system changes, architect services that analyzes how the update could have an effect on other systems or DOL processes, developers who create the change, and testers and quality assurance teams that ensure the update is working correctly.

#### Support Services:

Agency Administrative Overhead is included at a rate of 26 percent of the direct program costs. This funding received covers agency-wide functions such as vendor payments, contract administration, financial management, mail processing, equipment management, help desk support, and technical assistance to DOL employees.

## Part III: Expenditure Detail

### III. A - Operating Budget Expenditures

Account	Account Title	Type	FY 2022	FY 2023	2021-23	2023-25	2025-27
026-1	Real Estate Commission Account	State	737,000	522,000	1,259,000	1,047,000	1,050,000
<b>Total \$</b>			737,000	522,000	1,259,000	1,047,000	1,050,000

### III. B - Expenditures by Object Or Purpose

	FY 2022	FY 2023	2021-23	2023-25	2025-27
FTE Staff Years	6.3	4.9	5.6	4.9	4.9
A-Salaries and Wages	396,000	303,000	699,000	606,000	606,000
B-Employee Benefits	157,000	121,000	278,000	242,000	243,000
C-Professional Service Contracts					
E-Goods and Other Services	137,000	93,000	230,000	189,000	191,000
G-Travel	5,000	5,000	10,000	10,000	10,000
J-Capital Outlays	42,000		42,000		
M-Inter Agency/Fund Transfers					
N-Grants, Benefits & Client Services					
P-Debt Service					
S-Interagency Reimbursements					
T-Intra-Agency Reimbursements					
9-					
<b>Total \$</b>	737,000	522,000	1,259,000	1,047,000	1,050,000

### III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

Job Classification	Salary	FY 2022	FY 2023	2021-23	2023-25	2025-27
Indirect ADM Fiscal Analyst 2	54,108	0.9	0.6	0.8	0.6	0.6
Indirect ISD IT Cust. Support - Journey	83,892	0.4	0.3	0.4	0.3	0.3
Investigator 2	61,224	2.0	2.0	2.0	2.0	2.0
Investigator 3	74,604	1.0	1.0	1.0	1.0	1.0
Management Analyst 3	69,264	1.0		0.5		
Professional Licensing Manager 1	51,432	1.0	1.0	1.0	1.0	1.0
<b>Total FTEs</b>		6.3	4.9	5.6	4.9	4.9

### III. D - Expenditures By Program (optional)

Program	FY 2022	FY 2023	2021-23	2023-25	2025-27
Mgmt & Support Services (100)	110,000	80,000	190,000	160,000	159,000
Information Services (200)	87,000	51,000	138,000	105,000	109,000
Business and Professions (700)	540,000	391,000	931,000	782,000	782,000
<b>Total \$</b>	737,000	522,000	1,259,000	1,047,000	1,050,000

## Part IV: Capital Budget Impact

### IV. A - Capital Budget Expenditures

NONE

**IV. B - Expenditures by Object Or Purpose**

NONE

**IV. C - Capital Budget Breakout**

*Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods*

NONE

**IV. D - Capital FTE Detail:** *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

None.

**Part V: New Rule Making Required**

*Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules.*

Rulemaking will be required in order to increase fees to fund one time and on-going expenditures associated with the new investigative workload required within Section 2.