

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6996

BILL NUMBER: HB 1339

NOTE PREPARED: Feb 23, 2006

BILL AMENDED: Jan 23, 2006

SUBJECT: Real Estate Broker and Salesperson Licenses.

FIRST AUTHOR: Rep. Harris T

FIRST SPONSOR: Sen. Merritt

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) *Real Estate Commission Fee*- The bill provides that the fee that the Real Estate Commission is required to establish to fund the Investigative Fund must be at least ten dollars. (Under current law, the fee may not be more than ten dollars).

Salespersons/Broker Convicted of a Crime- The bill requires a licensed salesperson or real estate broker who is convicted of a crime to send a copy of the judgment of conviction to the real estate commission not more than 30 days after the date of the conviction. The bill provides that: (1) the real estate commission may discipline a licensed salesperson or real estate broker who is convicted of a crime that substantially relates to the practice of real estate; and (2) a certified copy of a judgment of a conviction from a court is presumptive evidence of a conviction.

Investigative Fund Balance- The bill provides that the amount by which the balance in the investigative fund exceeds \$750,000 at the end of the state fiscal year reverts to the state general fund. (Under current law, the amount by which the balance exceeds \$500,000 reverts to the state general fund.)

Interagency Cooperation- The bill requires the Attorney General and the Professional Licensing Agency to enter into a memorandum of understanding to administer and enforce the law concerning the licensing of real estate brokers and salespersons, and provides for the memorandum to be reviewed annually by the Real Estate Commission.

Agency Relationship- This bill provides that a licensed salesperson or real estate broker who does not have an agency relationship with the individual with whom the licensee is working due to the existence of a written

agreement to the contrary has certain duties. The bill provides that if those duties are performed by another licensed salesperson or real estate broker, the other salesperson or real estate broker does not have an agency relationship with the individual as a result of performing the duties.

Effective Date: July 1, 2006.

Explanation of State Expenditures: *Salespersons/Broker Convicted of a Crime-* The Indiana Real Estate Commission would have the option to discipline a license holder convicted of a crime that substantially relates to the practice of real estate. Under current law, the Commission holds hearings to determine whether a practitioner has engaged in fraud or deception. If a license holder is found to have done so, the Commission may:

- (1) revoke the practitioner's license.
- (2) suspend the license.
- (3) censure the practitioner.
- (4) issue a letter of reprimand.
- (5) place on probation.
- (6) assess a civil penalty not to exceed \$1,000 per violation.

The Real Estate Commission's level of existing resources should be sufficient to carry out this provision.

Explanation of State Revenues: *Real Estate Commission Fee-* The Real Estate Commission and Real Estate Appraiser Licensure and Certification Board charge real estate appraisers, brokers, and salespersons a \$10 Investigative Fund Fee, the maximum amount allowed by current statute. The money is deposited in the Investigative Fund for real estate appraisers, brokers, and salespersons and is to be shared equally between the Attorney General and the Professional Licensing Agency in administering the purpose of the fund.

This bill removes the \$10 maximum limit and makes it so that the fee may not be less than \$10. The fiscal impact of this provision will depend on the amount the fee is set at. The bill also decreases the Attorney General's distribution from the fund to \$5 of each fee collected and requires the remaining amount to go to the Professional Licensing Agency.

According to the Professional Licensing Agency, there were more than 50,500 appraisers, brokers, and salespersons certified or licensed in Indiana as of September 2005, and at the end of FY 2005, approximately \$176,000 had been deposited in the Investigative Fund. Both appraisers and brokers pay their renewal fees in even-numbered years, and salespersons pay their renewal fees at the end of odd-numbered years. If all 50,500 appraisers, brokers, and salespersons paid their renewal fees at the same time, more than \$505,000 would be generated from a \$10 Investigative Fund fee.

Investigative Fund Balance- The bill also increases from \$500,000 to \$750,000 the amount at which the remaining balance in the Investigative Fund must be reverted to the General Fund. The change would decrease the amount of money that could potentially be reverted to the state General Fund in future state fiscal years.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Professional Licensing Agency; Attorney General.

Local Agencies Affected:

Information Sources: Indiana Auditor of State.

Fiscal Analyst: Chris Baker, 317-232-9851.