

SENATE BILL REPORT

SB 5235

As Reported By Senate Committee On:
Financial Institutions & Insurance, January 31, 2007

Title: An act relating to the business and occupation taxation of licensed mortgage brokers.

Brief Description: Modifying provisions relating to the business and occupation taxation of mortgage brokers.

Sponsors: Senators Prentice, Zarelli, Berkey, Hobbs, Kilmer, Benton, Brandland, Fairley, Schoesler, Hewitt, Franklin, Holmquist, Rasmussen, Rockefeller, Shin and Roach.

Brief History:

Committee Activity: Financial Institutions & Insurance: 1/17/07, 1/31/07 [DPS].
Ways & Means: 2/26/07.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: That Substitute Senate Bill No. 5235 be substituted therefor, and the substitute bill do pass.

Signed by Senators Berkey, Chair; Hobbs, Vice Chair; Franklin, Hatfield, Parlette and Schoesler.

Staff: Vanessa Firnhaber-Baker (786-7471)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: The rate of business and occupational tax imposed depends on the category of business. Rates range from a high of 1.5 percent to a low of 0.138 percent. The business and occupation tax for licensed mortgage brokers is 1.5 percent of the gross income of the business.

Summary of Bill: The business and occupation tax of licensed mortgage broker activities is reduced to 0.484 percent of the gross income of the business.

EFFECT OF CHANGES MADE BY RECOMMENDED SUBSTITUTE AS PASSED COMMITTEE (Financial Institutions & Insurance): Loan originators are exempted from the business and occupation tax when the brokerage office that they contract with has already paid business and occupation tax on the same transaction.

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.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2008.

Staff Summary of Public Testimony (Financial Institutions & Insurance): PRO: Banks and credit unions do not pay a business and occupation tax even though they provide a similar service to mortgage brokers. Therefore, mortgage brokers are at a competitive disadvantage. Under the current tax structure mortgage brokers are taxed twice on points in a mortgage – once on the business entity (the brokerage) and once for the independent contractor licensed loan originator. Mortgage brokers should be taxed at the same rate as insurance brokers because the industries are so similar and sell similar products. Banks are enticing loan originators to leave mortgage brokerages because of the high business and occupation tax. The current tax rate serves as a disincentive for loan originators to get licensed.

Persons Testifying (Financial Institutions & Insurance): PRO: Craig Goebbel, Washington Association of Mortgage Brokers; David Erickson, Washington Association of Mortgage Brokers; Steve Heaney, American Brokerage; Adam Stein, Washington Association of Mortgage Brokers.

Staff Summary of Public Testimony (Ways & Means): PRO: We are at an unfair tax advantage. The banks don't have to pay any taxes on their points and we have to. Insurance companies are entering our market and only have to pay 0.484 percent instead of 1.5 percent. Loan originators and mortgage brokers pay tax on the same transaction. We were in favor of the mortgage broker practices act when it passed, but it has now left us in an unfavorable tax position.

CON: The Department of Revenue does not have a position on the reduction in tax rate. The Department does oppose the substitute bill as it is now. The real estate brokers do have the non-pyramiding break, but they also pay business and occupation tax at the higher rate. The business and occupation tax is based on pyramiding and as more people are exempt from the pyramiding effect the more other businesses will look for this break.

Persons Testifying (Ways & Means): PRO: Adam Stein, Washington Association of Mortgage Brokers; Tracy Chavez, Martin Loulth, Washington Association of Mortgage Brokers.

CON: Gil Brewer, Department of Revenue.