

SENATE BILL REPORT

SHB 1853

As Reported by Senate Committee On:
Commerce & Labor, April 1, 2013

Title: An act relating to clarifying that real estate brokers licensed under chapter 18.85 RCW are independent contractors

Brief Description: Clarifying that real estate brokers licensed under chapter 18.85 RCW are independent contractors.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Maxwell, Hayes, Van De Wege, Kretz, Springer, Sells, Seaquist, Morrell, Ryu, Tharinger and Freeman).

Brief History: Passed House: 3/04/13, 98-0.

Committee Activity: Commerce & Labor: 3/27/13, 4/01/13 [DP].

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass.

Signed by Senators Holmquist Newbry, Chair; Braun, Vice Chair; Conway, Ranking Member; Hasegawa, Hewitt, Keiser and King.

Staff: Mac Nicholson (786-7445)

Background: Under the Minimum Wage Act, unless specifically exempt, employers must pay at least time-and-a-half for work in excess of 40 hours per week.

Real estate brokers, managing brokers, designated brokers, and real estate firms are licensed by the Department of Licensing. A real estate broker acts on behalf of a real estate firm to perform real estate brokerage services under the supervision of a designated broker or managing broker. A managing broker performs the same services but may supervise other brokers. A designated broker is a person who either owns a sole proprietorship real estate firm or who has a controlling interest in a real estate firm and is designated to act on behalf of the firm.

Summary of Bill: Real estate brokers, managing brokers, and designated brokers are exempt from overtime compensation provisions of the Minimum Wage Act, unless the

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individual is providing real estate brokerage services under a written contract with a real estate firm which provides that the individual is an employee.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill clarifies that real estate brokers are independent contractors and not subject to overtime-pay requirements. There was litigation in other states around the same issue, so the current status in Washington should be clarified. This is a proactive bill in an effort to minimize any future problems.

Persons Testifying: PRO: Representative Maxwell, prime sponsor; Bob Mitchell, Bill Clarke, WA Realtors.