

SENATE BILL REPORT

SB 5232

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, FEBRUARY 22, 1991

Brief Description: Regulating the withholding of commissions by closing agents.

SPONSORS: Senators West, Gaspard, von Reichbauer and Johnson.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Erwin, L. Kreidler, Madsen, and Rasmussen.

Staff: Ben Barnes (786-7465)

Hearing Dates: February 12, 1991; February 22, 1991

BACKGROUND:

There are occasions when the escrow instructions prepared for a sale of real property fail to provide for the payment of a real estate commission as stipulated in the purchase and sell agreement. At the current time, no specific guidelines exist for the resolution of any dispute arising from the nonpayment of such commissions.

It is suggested that a statutory procedure be established to govern the resolution of disputed real estate commissions.

SUMMARY:

Upon receipt of a specified notice by a real estate broker involved in the same real estate transaction, a closing agent is prohibited from disbursing any real estate commission stemming from the transaction and is required to hold such commission in trust.

The closing agent is required to file an interpleader action with a court of competent jurisdiction and deposit the disputed funds in the court registry unless one of the following occurs: (1) the closing agent receives written instructions signed by the principal obligated to pay the commission; or (2) a court or arbitrator orders the agent to disburse the funds. The real estate broker making the demand is required to pay the closing agent's reasonable costs and attorney fees for the filing of the interpleader action in an amount not to exceed \$250. The prevailing party in the interpleader action is entitled to reasonable attorneys' fees and costs.

A "Notice of Demand for Real Estate Commission" form is created.

Appropriation: none

Revenue: none

Fiscal Note: requested February 8, 1991

TESTIMONY FOR:

The bill would establish a statutory procedure for resolving real estate commission disputes.

TESTIMONY AGAINST:

The bill would unnecessarily complicate real estate escrow transactions.

TESTIFIED: John Woodring, WA Assn. of Realtors (pro); DeWayne Granacki, WA Assn. of Realtor (pro); Scott Osborne, WA State Bar Assn. (con); Trevor Sandison, WA Bankers Assn. (con)