

CERTIFICATION OF ENROLLMENT

**SENATE BILL 5083**

Chapter 322, Laws of 2011

(partial veto)

62nd Legislature  
2011 Regular Session

REAL ESTATE BROKERAGE SERVICES--TAXES--BASIS

EFFECTIVE DATE: 07/22/11

Passed by the Senate March 2, 2011  
YEAS 48 NAYS 0

BRAD OWEN

\_\_\_\_\_  
**President of the Senate**

Passed by the House April 8, 2011  
YEAS 95 NAYS 0

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Approved May 12, 2011, 1:48 p.m., with  
the exception of Section 3 which is  
vetoed.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of  
the Senate of the State of  
Washington, do hereby certify that  
the attached is **SENATE BILL 5083**  
as passed by the Senate and the  
House of Representatives on the  
dates hereon set forth.

THOMAS HOEMANN

\_\_\_\_\_  
**Secretary**

FILED

May 13, 2011

**Secretary of State  
State of Washington**

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SENATE BILL 5083

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Passed Legislature - 2011 Regular Session

State of Washington

62nd Legislature

2011 Regular Session

By Senators Ranker, Kilmer, Swecker, Hobbs, Holmquist Newbry, Zarelli, Hargrove, Eide, Harper, Tom, Honeyford, White, Parlette, Ericksen, Shin, Hewitt, Sheldon, Roach, and Benton

Read first time 01/13/11. Referred to Committee on Ways & Means.

1 AN ACT Relating to clarifying that the basis for business and  
2 occupation tax for real estate firms is the commission amount received  
3 by each real estate firm involved in a transaction; amending RCW  
4 82.04.255; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature intends to clarify existing  
7 law that the basis for determining the business and occupation tax for  
8 real estate firms is the commission amount received by each real estate  
9 firm involved in a real estate transaction. In clarifying existing  
10 law, the legislature intends to preserve the historic method of  
11 calculating business and occupation tax for real estate firms.

12 **Sec. 2.** RCW 82.04.255 and 1997 c 7 s 1 are each amended to read as  
13 follows:

14 (1) Upon every person engaging within the state ((as a real estate  
15 broker)) in the business of providing real estate brokerage services;  
16 as to such persons, the amount of the tax with respect to such business  
17 ((shall be)) is equal to the gross income of the business, multiplied  
18 by the rate of 1.5 percent.

1       (2) The measure of the tax on real estate commissions earned by the  
2 real estate (~~broker shall be~~) firm is the gross commission earned by  
3 the particular real estate (~~brokerage office~~) firm including that  
4 portion of the commission paid to (~~salesmen or associate~~) brokers,  
5 including designated and managing brokers, in the same (~~office~~) firm  
6 on a particular transaction(~~(:—PROVIDED, —HOWEVER, —That—where)~~).  
7 However, when a real estate commission on a particular transaction is  
8 divided (~~(between an originating brokerage office and a cooperating~~  
9 ~~brokerage office on a particular transaction, —each brokerage office~~  
10 ~~shall))~~) among real estate firms at the closing of the transaction,  
11 including a firm located out of state, each firm must pay the tax only  
12 upon (~~their~~) its respective shares of said commission(~~(:—AND~~  
13 ~~PROVIDED FURTHER, —That—where the brokerage office)~~). Moreover, when  
14 the real estate firm has paid the tax as provided herein, (~~salesmen or~~  
15 ~~associate~~) brokers, including designated and managing brokers, within  
16 the same (~~brokerage office shall~~) real estate firm may not be  
17 required to pay a similar tax upon the same transaction. If any firm  
18 located out of state receives a share of commission on a particular  
19 transaction, that company or broker must pay the tax based on the  
20 requirements of this section and RCW 82.04.067.

21       (3) For the purposes of this section, "broker," "designated  
22 broker," "managing broker," and "real estate firm" have the same  
23 meaning as provided in RCW 18.85.011.

24       **\*NEW SECTION. Sec. 3. This act applies both prospectively and**  
25 **retroactively.**

*\*Sec. 3 was vetoed. See message at end of chapter.*

Passed by the Senate March 2, 2011.

Passed by the House April 8, 2011.

Approved by the Governor May 12, 2011, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 13, 2011.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 3, Senate  
Bill 5083 entitled:

"AN ACT Relating to clarifying that the basis for business and  
occupation tax for real estate firms is the commission amount received  
by each real estate firm involved in a transaction."

Senate Bill 5083 provides that when a real estate commission on a  
particular transaction is divided among real estate firms at the  
closing of the transaction, each firm must pay the tax only upon its  
respective share.

Section 3 would apply this act both prospectively and retroactively.  
The retroactive application of the bill would reward delinquent

taxpayers while those who paid on time would not receive a refund under the prohibition on the gift of state funds in Article VIII, Section 5 of the Washington Constitution, as interpreted by the Washington Supreme Court.

For this reason, I have vetoed Section 3 of Senate Bill 5083.

With the exception of Section 3, Senate Bill 5083 is approved."