

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action:	Do Pass the A-Engrossed Measure
Vote:	5 - 0 - 0
Yeas:	Atkinson, Burdick, Ferrioli, Metsger, Devlin
Nays:	-
Exc.:	-
Prepared By:	Erin Seiler, Administrator Jim Stembridge, Committee staff
Meeting Dates:	6/16

WHAT THE MEASURE DOES: Establishes operating standards and standards of conduct for exchange facilitators. Requires exchange facilitators to provide notice of change in control and specifies notice requirements. Requires exchange facilitators to maintain the equivalent in assets of at least \$1 million. Requires exchange facilitators to maintain errors and omissions insurance of not less than \$250,000. Requires exchange facilitators to invest exchange funds at the prudent investor standard that satisfies the goals of liquidity and principle preservation. Prohibits certain conduct by exchange facilitators. Authorizes cause of action against exchange facilitators.

ISSUES DISCUSSED:

- Section 1031 real estate exchanges
- Current regulation of exchange facilitators
- Instances in which real estate investors lost funds due to the actions of exchange facilitators

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: “Exchange facilitators” facilitate exchanges, most commonly real property transactions, holding funds that would otherwise be subject to taxes. A “1031 Exchange” is a rollover of equity of like-kind investment properties. Under section 1031 of the United States Internal Revenue Code, taxpayers may defer payment of taxes by structuring the sale of investment property, or property used in a trade or business, as an exchange, in accordance with IRS regulation. A 1031 Exchange is an opportunity for the seller and buyer to save in taxes and leverage income growth. Selling a business or investment property typically requires payment of capital gains taxes. However, under the 1031 Exchange, capital gains can be deferred. Some exchange facilitators are real estate escrow companies regulated by the Real Estate Agency, but many others are not.

House Bill 3484-A uses model statutory language that has been adopted in a substantially similar form in other states in an effort to protect those who entrust funds with exchange facilitators.