

REVENUE: No revenue impact

FISCAL: Minimal fiscal impact, no statement issued

Action: Do Pass

Vote: 8 - 0 - 0

Yeas: Conger, Doherty, Esquivel, Hoyle, Johnson, Matthews, Kennemer, Schaufler

Nays: 0

Exc.: 0

Prepared By: Theresa Van Winkle, Administrator

Meeting Dates: 5/4

WHAT THE MEASURE DOES: Establishes affirmative duties that are owed by a real estate property manager to a property owner. Modifies provisions relating to clients' trust accounts to include licensed real estate property managers. Modifies provisions relating to recordkeeping, continuing education and license issuance and renewal for certain real estate licensees. Specifies records on continuing education are to be required only for a period of at least three years. Allows applicants for licenses issued by the Real Estate Agency to pay fees directly to third party vendors that provide services required as part of the application process. Declares an emergency, effective upon passage.

ISSUES DISCUSSED:

- Comparison of the current mandatory fingerprint process to the proposed new process
- Whether streamlining the fingerprint process will lead to cost savings

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Similar to real estate brokers, real estate property managers are also required to obtain a license with the Real Estate Agency. However, while real estate brokers are required to fulfill specific affirmative duties when acting as a seller's or buyer's agent, similar affirmative duties do not exist for real estate property managers. Senate Bill 156-A establishes affirmative duties for real estate property managers in their transactions with property owners, paralleling the existing affirmative duties for real estate brokers. Examples of duties outlined in the measure include dealing honestly and in good faith, disclosing known material facts, acting as a fiduciary in matters relating to trust funds, and providing timely accounting for funds received by or on behalf of an owner. Senate Bill 156-A clarifies who can be a continuing education provider, and adds a new requirement for real estate property managers to take an advanced course in property management prior their first license renewal. This also parallels similar requirements for real estate brokers.

Senate Bill 156-A also adds licensed real estate property managers to provisions in ORS chapter 696 (Real Estate and Escrow Activities) related to clients' trust accounts, and requires licensees to file with the Real Estate Agency information pertaining to the trust account within 10 days after the account is opened, and notify the Agency when an account is closed. The measure also requires the Agency to establish administrative rules for the registration of business names. While current statute requires business names to be registered with the Agency, it does not require the registered business name be one of active record with the Secretary of State's Corporation Division. Senate Bill 156-A establishes this requirement, and clarifies that licensees associated with a registered business name must conduct professional real estate activities under the registered business name.

The Real Estate Commissioner has the statutory authority to require fingerprints from applicants, current or potential employees, contractors, and volunteers; all for the purposes of requesting a state or nationwide criminal records check, and the applicant to pay the fee. The Agency contracted with a licensing examination provider and, for streamlining purposes, requires the vendor to provide examinations and digital fingerprinting services at testing sites and collect application fees. This differs from the Agency's current procedure of collecting fees from the applicant and paying these same fees to an examination provider and the Oregon State Police. Senate Bill 156-A allows a third-party contractor to collect the statutorily set fees.

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This summary has not been adopted or officially endorsed by action of the committee.