

**REVENUE: No revenue impact**

**FISCAL: Minimal fiscal impact, no statement issued**

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| <b>Action:</b>        | Do Pass as Amended and Be Printed Engrossed                    |
| <b>Vote:</b>          | 7 - 0 - 1  |
| <b>Yeas:</b>          | Conger, Doherty, Hoyle, Johnson, Matthews, Kennemer, Schaufler |
| <b>Nays:</b>          | 0  |
| <b>Exc.:</b>          | Esquivel   |
| <b>Prepared By:</b>   | Theresa Van Winkle, Administrator                              |
| <b>Meeting Dates:</b> | 5/4, 5/25, 6/1   |

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**WHAT THE MEASURE DOES:** Allows the Real Estate Agency to issue a cease and desist order, subject to the Administrative Procedures Act, and maintain action for an injunction against a person who engages or is about to engage in professional real estate activity without a license. Outlines items that must be included in a cease and desist order. Establishes that the order becomes effective after the date that it is issued, unless the individual requests a contested case hearing. Clarifies that the final cease and desist order is the order that is to be recorded into the County Clerk Lien record and enforced. Declares an emergency, effective upon passage.

**ISSUES DISCUSSED:**

- Examples of fraudulent activities
- Timeline for due process when a cease and desist order is issued
- Current procedures that can currently be used against an unlicensed individual
- Current exemptions for obtaining a license issued by the Real Estate Agency
- Potential for predatory activities due to the current housing market
- Realtor code of ethics

**EFFECT OF COMMITTEE AMENDMENT:** Outlines items that must be included in a cease and desist order. Establishes that the order becomes effective after the date that it is issued, unless the individual requests a contested case hearing. Clarifies that the final cease and desist order is the order that is to be recorded into the County Clerk Lien record and enforced.

**BACKGROUND:** Generally, if an individual wishes to assist someone in buying or selling real estate for a fee, or wishes to manage rental real estate for someone else for a fee, that individual first needs to obtain a license issued by the Real Estate Agency. Current statute allows the Agency to issue administrative orders and impose civil penalties for those who are practicing real estate activities without a license. However, they currently do not have the statutory authority for any other enforcement tools.

Senate Bill 485-B allows the Real Estate Agency to issue cease and desist orders, and clarifies the due process for an individual who has been issued a cease and desist order. The measure also establishes that the order must include a statement of facts that constitute the violation, a requirement that the person named in the order to cease and desist from the violation, the order's effective date, and notice that the identified person has the right to a contested case hearing. Unless the individual identified in the order requests a hearing, the order becomes effective 30 days after the date on which the order is issued.