

## **Department of Planning and Budget**

### **2016 Fiscal Impact Statement**

**1. Bill Number:** HB567

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input checked="" type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron:** Miller, J.H.

**3. Committee:** General Laws and Technology

**4. Title:** Real Estate Board; duties of real estate licensees, residential real estate transactions.

**5. Summary:** Gives the Real Estate Board the authority to take a disciplinary case against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and conditions set by the Board. Among other things, the bill (i) authorizes the Real Estate Board to grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship; (ii) requires the supervising broker of a branch office to provide the name and license number of each real estate licensee working in the branch; (iii) prohibits a real estate licensee in a residential real estate transaction from acting as a nonstandard agent; (iv) provides that standard agency only applies in residential real estate transactions; (v) clarifies that the agency provisions apply unless they are modified by the brokerage agreement; (vi) provides that the law relating to real estate licensees retained by sellers, buyers, tenants, or landlords to lease property or to manage property only applies to residential real estate transactions; (vii) provides that notwithstanding any other provision of law requiring written brokerage agreements or governing the duties of licensees, nothing shall be construed to require that a written agreement between a licensee and a prospective buyer or tenant be executed prior to the licensee's showing properties to the prospective buyer or tenant; (viii) deletes the disclosure of brokerage obligation in commercial transactions; and (ix) provides that commercial agents may only act as agents or independent contractors. The bill also provides that nothing creates a civil cause of action against a real estate licensee for false information. The bill contains technical amendments. Gives the Real Estate Board the authority to take a disciplinary case against a licensee under advisement, defer a finding in such case, and dismiss such action upon terms and conditions set by the Board.

**6. Budget Amendment Necessary:** Yes. Item 122 of HB30/SB30.

**7. Fiscal Impact Estimates:**

**7a. Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2016	\$0	0.0	n/a
2017	\$95,662	1.0	Dedicated Special Revenue (Fund 0900)
2018	\$91,556	1.0	Dedicated Special Revenue (Fund 0900)
2019	\$91,556	1.0	Dedicated Special Revenue (Fund 0900)
2020	\$91,556	1.0	Dedicated Special Revenue (Fund 0900)
2021	\$91,556	1.0	Dedicated Special Revenue (Fund 0900)
2022	\$91,556	1.0	Dedicated Special Revenue (Fund 0900)

**7b. Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2016	\$0	n/a
2017	\$46,500	Dedicated Special Revenue (Fund 0900)
2018	\$93,000	Dedicated Special Revenue (Fund 0900)
2019	\$93,000	Dedicated Special Revenue (Fund 0900)
2020	\$93,000	Dedicated Special Revenue (Fund 0900)
2021	\$93,000	Dedicated Special Revenue (Fund 0900)
2022	\$93,000	Dedicated Special Revenue (Fund 0900)

- 8. Fiscal Implications:** This bill increases the administrative and regulatory responsibilities of the Department of Professional and Occupational Regulation (DPOR) by requiring the Real Estate Board (Board) to collect and review the broker acknowledgement form which would be used to identify all the licensees working in a branch office. The Board would need to maintain records of the branch office affiliation for those licensees working in the branch and would need to collect transfer applications that would be used to affiliate the licensees with a new branch when a transfer occurs. The Board will be required to obtain a new broker acknowledgement form each time a branch office licensee renews his license. The broker requirements in this bill will become effective on January 1, 2017. There are currently over 42,000 active licensees and the Board receives approximately 6,200 transfer applications each year. This bill also increases the Board's enforcement powers by allowing for deferred disposition and dismissal of disciplinary cases, which would require staff to develop and implement new procedures for monitoring compliance.

Expenditure Impact: This legislation will require the addition of one classified Band 3 licensing specialist position in order to accomplish the new duties of processing branch transfer applications, collecting and reviewing broker acknowledgement forms, and manually approving renewals for branch office licensees, which is currently completed under an automated process. Other additional licensing specialist duties would include mail processing, documentation review, entry into the licensing system, transfer application approval, continuing education requirement exemptions or waivers, and disciplinary case compliance review. The cost of salary and benefits for the position, based on the mid-point for the band 3 salary range, is expected to be \$66,562 in FY2017 (assuming 23 pay periods) and \$69,456 annually beginning in FY 2018. This is a recurring cost that will continue into future biennia.

In FY2017, DPOR will need to purchase furniture and equipment for the new position at an estimated cost of \$7,000. This is a one-time expenditure that will not continue into future years. Other operating costs beginning in FY 2017 and recurring in future years include telephone, employee development, computer operating support, and supplies. These costs are estimated at \$12,900 each year.

Additional costs related to printing and mailing requests for broker acknowledgement forms at the time of branch office licensee renewal totaling \$9,200 annually are expected. Approximately 6,200 renewals processed each year will require the additional mailing. Nearly 3,000 renewals processed by the bank lockbox will require special handling of the broker acknowledgement form. The additional costs for the special handling by the bank are indeterminate at this time.

Revenue Impact: In accordance with the provisions of Section 54.1-113 (Callahan Act), Code of Virginia, licensing fees are established at rates adequate to cover a program's operating costs and a proportionate share of agency support costs. Approximately 3,100 transfer applications are expected in FY2017 and 6,200 annually beginning in FY2018.

In order to provide sufficient revenue to cover ongoing operating costs, the transfer application fee charged to the branch office licensee is expected to be \$15. Total revenue is estimated to be \$46,500 in FY2017 and \$93,000 annually beginning in FY 2018.

**9. Specific Agency or Political Subdivisions Affected:** Department of Professional and Occupational Regulation.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.