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## FISCAL IMPACT REPORT

SPONSOR: Boitano DATE TYPED: 2/19/03 HB \_\_\_\_\_

SHORT TITLE: Real Estate Salesperson Licensure SB 507

ANALYST: Maloy

### REVENUE

Revenue		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
	(See Narrative)			Recurring	OSF

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 43, SB 45 and SB 571, all of which propose to amend the Real Estate Licensing Act.

Conflicts with Section 61-29-2(A) (9) of SB 45.

### SOURCES OF INFORMATION

Responses Received From  
Office of the Attorney General  
Regulation and Licensing Department, Real Estate Commission

### SUMMARY

#### Synopsis of Bill

Senate Bill 507 amends the real estate licensing laws to redefine the real estate activities for which a license is required, and to modify some of the experience and training requirements necessary for obtaining a license.

Specifically, SB507 proposes to amend existing real estate licensing laws to phase out the Salesperson category of real estate license by July 1, 2006, and make all licensees either Associate Brokers or Qualifying Brokers.

In regrouping existing licensees, the bill requires that a licensee have been actively engaged in

the real estate business as an Associate Broker or Salesperson for at least two years, and provide proof that they have taken a Commission-approved Broker Basics course before being eligible to apply for a Qualifying Broker's license.

The bill makes Associate Broker the entry-level real estate license, and increases the pre-licensing education requirement from the current 60 hours for a Salesperson license to 90 hours for an Associate Broker license. The current pre-licensing education requirement for a Broker's license is 180 hours, 90 hours of which can be waived if the applicant documents equivalent experience.

SB507 provides that existing Salespersons licensees would have until July 1, 2006 to convert their licenses, after which a Salesperson license would no longer exist.

### Significant Issues

- 1) SB507 represents a fundamental change in the structure of real estate licensing and makes New Mexico the third state in the country, behind Colorado and Oregon, to implement what has come to be known as "single licensure".
- 2) SB507 increases pre-licensing education requirements and requires that a licensee document at least two years of active engagement in real estate as a Salesperson or Associate Broker before being eligible to become a Qualifying Broker. A Qualifying Broker is the individual who "qualifies" a real estate brokerage to conduct real estate business in New Mexico. At present, an individual can become a Qualifying Broker immediately upon completing the education requirements, passing the examination, and paying the fees. No experience in real estate is required to become a Qualifying Broker.
- 3) The Real Estate Commission advocated and actively promoted "single licensure" as part of a larger bill amending the Real Estate License Law in 2001. However, the single licensure provision has encountered resistance.

Opponents of "single licensure" assert it will force Salespersons to become Brokers, and make it more difficult for brokerages to recruit prospective Salespersons by increasing pre-licensing education requirements.

Proponents of "single licensure" assert it increases the level of education of entry-level licensees, and assures that a licensee had experience in the real estate business before being eligible to open a real estate brokerage.

### **FISCAL IMPLICATIONS**

SB507 could result in fewer total real estate licensees if Salespersons unwilling to convert to Associate Brokers allowed their licenses to lapse, resulting in decreased license fee revenues to the Real Estate Commission. The Real Estate Commission's revenue is OSF and does not come to the general fund.

### **ADMINISTRATIVE IMPLICATIONS**

SB507 would require staff at the Real Estate Commission to establish mechanisms for educating

their population of licensees and for conversion of Salespersons to Associate Brokers.

### **CONFLICT AND RELATIONSHIP**

SB 507 conflicts with Section 61-29-2 (A) (9) of SB45, which proposes to eliminate the term “non-agent”. SB507 retains this term.

SB 507 also relates to SB571 that would retain the existing structure of real estate licensing, but add the two-year experience requirement for becoming a Qualifying Broker.

### **TECHNICAL ISSUES**

When “single licensure” legislation was introduced in 2001, it required 120 hours of pre-licensing education for the entry-level Associate Broker license. SB507 requires only 90 hours. It is not known whether the sponsor intended to lower the entry-level requirement from 120 to 90, or whether the 90-hour requirement was mistakenly taken from the succeeding section of the law, which provides for a waiver of 90 hours of the 180 hours currently required for a Broker’s license if the applicant demonstrates equivalent experience.

### **ALTERNATIVES**

The most obvious alternative would be to retain the current structure of real estate licensing. Another positive alternative would be enactment of SB571 in lieu of SB507. SB571 adds a two-year experience requirement to become a Qualifying Broker. This would be a positive change to the license law.

### **AMENDMENTS**

Section 61-29-2 (A) (9) of SB507 could be amended to strike paragraph (9) in its entirety. This would make SB 507 consistent with SB45, which also strikes that paragraph.

Another possible amendment, depending on the intent of the sponsor, would be to amend Section 61-29-9 (B) (2), Line 3 on Page 13, and 61-29-9 (C), Line 18 on Page 13, to substitute 120 hours for 90 hours.

**SJM/yr/NJW**