

# SENATE BILL REPORT

## SSB 5404

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As Passed Senate, March 8, 1995

**Title:** An act relating to commercial real estate broker's liens.

**Brief Description:** Creating a lien for real estate brokers.

**Sponsors:** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senators Heavey, Deccio, Fraser, Newhouse, Kohl, Hale, Franklin, McCaslin, Palmer and Wojahn).

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 2/9/95, 3/1/95 [DPS].  
Passed Senate, 3/8/95, 46-2.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** That Substitute Senate Bill No. 5404 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Deccio, Franklin, Fraser, Hale, Newhouse, Palmer and Wojahn.

**Staff:** Erika Lim (786-7488)

**Background:** The amount of a real estate broker's compensation in a commercial transaction is generally agreed upon by the parties and memorialized in a contract or other written instrument.

**Summary of Bill:** A commercial real estate broker has a lien on the real property being sold or leased for the amount of compensation due, provided that the right to payment is included in a written document signed by the owner, the buyer, or the owner's or buyer's agent.

Filing and notification requirements to exercise the right to a commercial real estate broker's lien are established. A commercial real estate broker's lien is judicially foreclosed using the same procedures as those used in a mortgage foreclosure. The prevailing party in a lien foreclosure action is entitled to attorney fees, costs, and prejudgment interest. A commercial real estate broker's lien is subordinate to all prior recorded mortgages and liens.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** Current law requires brokers to file lawsuits to seek commissions owed to them. This process can take months to resolve. Some commercial real estate transactions can take a lot of time and it is not fair that the broker may not be paid.

**Testimony Against:** Because this lien would be on real property which is about to be conveyed, it may interfere with the upcoming transaction. A buyer who has no contractual relationship with a broker and who owes the broker no money may have a lien on the newly-acquired property. Also, there are many people who facilitate a commercial real estate transaction, for example, brokers, appraisers, and consultants, but only brokers would be entitled to a lien.

**Testified:** Terri Hotvedt, WA Assn. of Realtors (pro); Ellen Dial, WA State Bar Assn. (con); Jim Carnell, WACAR (pro); Russ Segner, WACAR (pro); Dwight Bickel, WA Land Title Assn.; Jim Halstrom, Master Builders (con); David Cantu, WA Assn. of Realtors (pro); Bill Stegeman, J2 Company (pro).