Multiple Agency Fiscal Note Summary

Bill Number: 1335 2S HB	**Title:** Racial restrictions/review

Estimated Cash Receipts

NONE

Agency Name	2021-23		2023-25		2025-27	
	GF- State	Total	GF- State	Total	GF- State	Total
Local Gov. Courts	No fiscal impact					
Loc School dist-SPI						
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.					
Local Gov. Total						

Estimated Operating Expenditures

Agency Name	2021-23				2023-25				2025-27			
	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total	FTEs	GF-State	NGF-Outlook	Total
Administrative Office of the Courts	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Commerce	Non-zero but indeterminate cost and/or savings. Please see discussion.											
Department of Revenue	.0	0	0	0	.0	0	0	0	.0	0	0	0
Department of Licensing	.0	0	0	0	.0	0	0	0	.0	0	0	0
Environmental and Land Use Hearings Office	.0	0	0	0	.0	0	0	0	.0	0	0	0
Total $	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**	**0.0**	**0**	**0**	**0**

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Expenditures

Agency Name	2021-23			2023-25			2025-27		
	FTEs	Bonds	Total	FTEs	Bonds	Total	FTEs	Bonds	Total
Administrative Office of the Courts	.0	0	0	.0	0	0	.0	0	0
Department of Commerce	.0	0	0	.0	0	0	.0	0	0
Department of Revenue	.0	0	0	.0	0	0	.0	0	0
Department of Licensing	.0	0	0	.0	0	0	.0	0	0
Environmental and Land Use Hearings Office	.0	0	0	.0	0	0	.0	0	0
Total $	**0.0**	**0**	**0**	**0.0**	**0**	**0**	**0.0**	**0**	**0**

FNPID: 62742

FNS029 Multi Agency rollup

Agency Name	2021-23			2023-25			2025-27		
	FTEs	GF-State	Total	FTEs	GF-State	Total	FTEs	GF-State	Total
Local Gov. Courts	No fiscal impact								
Loc School dist-SPI									
Local Gov. Other	Non-zero but indeterminate cost and/or savings. Please see discussion.								
Local Gov. Total									

Estimated Capital Budget Breakout

Prepared by: Gwen Stamey, OFM	Phone: (360) 902-9810	Date Published: Final 3/ 9/2021

FNPID: 62742

FNS029 Multi Agency rollup

Judicial Impact Fiscal Note

Bill Number: 1335 2S HB	**Title:** Racial restrictions/review	**Agency:** 055-Administrative Office of the Courts

Part I: Estimates

[X] **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The revenue and expenditure estimates on this page represent the most likely fiscal impact. Responsibility for expenditures may be subject to the provisions of RCW 43.135.060.

Check applicable boxes and follow corresponding instructions:

[ ] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

Legislative Contact	Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Preparation:	Pam Kelly	Phone: 360-705-5318	Date: 03/02/2021
Agency Approval:	Ramsey Radwan	Phone: 360-357-2406	Date: 03/02/2021
OFM Review:	Gaius Horton	Phone: (360) 819-3112	Date: 03/03/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact on the Courts

Please see attached Judicial Impact Note (JIN).

II. B - Cash Receipts Impact

II. C - Expenditures

Part III: Expenditure Detail

III. A - Expenditure By Object or Purpose (State)

NONE

III. B - Expenditure By Object or Purpose (County)

NONE

III. C - Expenditure By Object or Purpose (City)

NONE

III. D - FTE Detail

NONE

III. E - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B1 - Expenditures by Object Or Purpose (State)

NONE

IV. B2 - Expenditures by Object Or Purpose (County)

NONE

IV. B3 - Expenditures by Object Or Purpose (City)

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and dexcribe potential financing methods

NONE

Part II: Narrative Explanation

This bill would allow for property owners, tenants or homeowners' association to be entitled to have any discriminatory restrictions or covenants contrary to public policy, RCW 49.60.224 struck from their property chain of title.

Part II.A – Brief Description of what the Measure does that has fiscal impact on the Courts

Section 4(1)(b) – Would allow for the person bringing action in Superior Court to notify the county auditor by email, certified mail, or personally when there is a declaratory judgement to remove any discriminatory language from the chain of title. The auditor or official charged with recording instruments shall remove the void provisions from the chain of title. The removed language from the chain of title would be allowed to be preserved for historical purposes.

II.B - Cash Receipt Impact

None

II.C – Expenditures

None

Part III: Expenditure Detail

III.A – Expenditures by Object or Purpose

	FY 2021	FY 2022	2021-23	2023-25	2025-27
FTE – Staff Years					
A – Salaries & Wages					
B – Employee Benefits					
C – Prof. Service Contracts					
E – Goods and Services					
G – Travel					
J – Capital Outlays					
P – Debt Service					
Total:					

III.B – Detail:

Job Classification	Salary	FY 2021	FY 2022	2021-23	2023-25	2025-27
Total FTE's						

Part IV: Capital Budget Impact

None.

Part V: New Rule Making Required

None.

Individual State Agency Fiscal Note

Bill Number: 1335 2S HB	Title: Racial restrictions/review	Agency: 103-Department of Commerce

Part I: Estimates

☐ **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒ If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐ If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☐ Capital budget impact, complete Part IV.

☐ Requires new rule making, complete Part V.

Legislative Contact:	Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Preparation:	Matthew Ojennus	Phone: 360-725-4047	Date: 03/09/2021
Agency Approval:	Darrell Stoa	Phone: (360) 725-2723	Date: 03/09/2021
OFM Review:	Gwen Stamey	Phone: (360) 902-9810	Date: 03/09/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Difference between second substitute bill and substitute bill:

A specific appropriation for the work is removed. Amends disclosure requirements by sellers of property and amends language on process to legally strike elements of title attachments.

Summary of second substitute bill:

Section 2 is a new section requiring the Department of Commerce (department) to establish and administer a grant program to review existing recorded covenants and deed restrictions to identify those that have unlawful restrictions including but not limited to those based on race. The department shall grant funds to public and private not-for-profit higher education institutions for this purpose. The department must begin awarding grants no later than January 1, 2022. This section expires July 1, 2027.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Section 2 of the bill is considered indeterminate. A funding amount is not specified, and without a specific appropriation the cost is indeterminate until additional information is available to determine workload impacts, such as the total funding available.

FOR ILLUSTRATIVE PURPOSES ONLY:

Agency Assumptions

The department assumes the grant program would be competitive and would award grants to 3 successful applications with grant amounts of $250,000 each for the biennium. The department assumes that universities and community colleges with law, paralegal, or real estate programs would be the most likely successful applicants in a grant program. These are:

University of Washington – Law
Gonzaga University – Law
Seattle University – Law
North Seattle College – Real Estate
Washington State University – Real Estate
Clark College – Paralegal
Edmonds College – Paralegal
Highline College – Paralegal
South Puget Sound Community College – Paralegal

Spokane Community College – Paralegal
Tacoma Community College – Paralegal
Whatcom Community College – Paralegal

This list does not preclude other applicants from applying.

Section 2 will require the following:

0.5 FTE Commerce Specialist 3 (1,044 hours) in FY22-FY27 to develop and administer this program. This would include developing the solicitation materials, conducting the application process, coordinating review of applications and selection of recipients and management of contracts.

Salaries and Benefits:
FY22-FY27: $52,307 per fiscal year

Goods and Services, Travel and Equipment:
FY22: $11,546
FY23-FY27: $7,546 per fiscal year

The department assumes travel is for on-site monitoring of grants. The department is assuming there will be six days of per diem meals and three nights of lodging per fiscal year to complete the monitoring trips.

Grants, Benefits, Client Services:
FY22-FY27: $375,000 per fiscal year

Grant funds will be awarded to successful applicants to research land deeds for attachments that property ownership restrictions based on race or religion. For those deeds with restrictions the successful grant recipients will notify the property owner of the attachment and provide instructions on how to remove the attachment.

Intra-agency Reimbursements:
FY22-FY27: $17,784 per fiscal year

Note: Standard goods and services costs include supplies and materials, employee development and training, Attorney General costs, central services charges and agency administration. Intra-agency Reimbursement-Agency administration costs (e.g., payroll, HR, IT) are funded under a federally approved cost allocation plan.

==========

Total Costs

FY22: $456,637
FY23-FY27: $452,637 per fiscal year

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. B - Expenditures by Object Or Purpose

Non-zero but indeterminate cost and/or savings. Please see discussion.

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

Department of Revenue Fiscal Note

Bill Number: 1335 2S HB	Title: Racial restrictions/review	Agency: 140-Department of Revenue

Part I: Estimates

[X] **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Expenditures from:

NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[ ] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[X] Capital budget impact, complete Part IV.

[ ] Requires new rule making, complete Part V.

Legislative Contact:	Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Preparation:	Frank Wilson	Phone: 360-534-1527	Date: 03/03/2021
Agency Approval:	Don Gutmann	Phone: 360-534-1510	Date: 03/03/2021
OFM Review:	Ramona Nabors	Phone: (360) 902-0547	Date: 03/03/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Note: This fiscal note reflects language in 2SHB 1335, 2021 Legislative Session.

COMPARISON OF 2ND SUBSTITUTE BILL WITH SUBSTITUTE BILL:

Removes appropriations of $475,000 from the general fund to the Department of Commerce (Department) in Fiscal Year 2022-2023.

Removes the requirement for realtors to provide notice of any recorded covenant or deed restrictions that are unlawful restrictions to purchasers of real property at the time of sale.

Adds a new section on the intent of the legislature and a remedy for existing racial, religious, or ethnic-based property restrictions, covenants on a deed, or chain of title for real property.

Adds a disclosure statement between the buyer and seller. The seller must fill out and complete the disclosure statement within five business days after mutual acceptance of a written contract to purchase between the buyer and a seller, unless otherwise agreed.

Adds a requirement that a person bringing an action to strike unlawful covenant or deed restrictions in superior court to deliver the court order striking such provisions by email, mail, or personal delivery to the county auditor or county official responsible for recording official documents in the county records, and specifies how void provisions are to be removed by the auditor or official.

PROPOSED LAW:
Adds that Department shall establish and administer a grant program to review existing recorded covenants and deed restrictions to identify recorded documents that include racial or other unlawful restrictions and notify property owners.

Adds that the Department shall establish a process for accepting grant applications from higher education institutions and begin awarding grants no later than January 1, 2022.

Adds the higher education institutions selected to participate in the grant programs shall review existing recorded covenants and deed restrictions and identify unlawful restrictions under RCW 49.60.224.

Adds the higher education institutions notify property owners that own property subject to racial and unlawful restrictions and the county auditor and utilize students to complete the requirements of the grant program. This section expires July 1, 2027.

Removes the requirement that counties and cities review existing deeds and covenants for unlawful racial or other discriminatory restrictions and provide notice to property owners, and removes county and city authority to use real estate excise tax revenue for the review and notification requirements.

Removes appropriations of $475,000 from the general fund to the Department of Commerce in Fiscal Year 2022-2023.

Removes the requirement for realtors to provide notice of any recorded covenant or deed restrictions that are unlawful restrictions to purchasers of real property at the time of sale.

Adds a new section on the intent of the legislature and a remedy for existing racial, religious, or ethnic-based property

restrictions, covenants on a deed, or chain of title for real property.

Adds a disclosure statement between the buyer and seller. The seller must fill out and complete the disclosure statement within five business days after mutual acceptance of a written contract to purchase between the buyer and a seller, unless otherwise agreed.

Adds a requirement that a person bringing an action to strike unlawful covenant or deed restrictions in superior court to deliver the court order striking such provisions by email, mail, or personal delivery to the county auditor or county official responsible for recording official documents in the county records, and specifies how void provisions are to be removed by the auditor or official.

EFFECTIVE DATE:
The bill takes effect 90 days after final adjournment of the session in which it is enacted. This act applies to real estate transactions on January 1, 2022, or thereafter.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

This legislation results in no revenue impact to taxes administered by the Department of Revenue.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

The Department of Revenue will not incur any costs with the implementation of this legislation.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

NONE

III. B - Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and dexcribe potential financing methods

NONE

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1335 2S HB	Title: Racial restrictions/review	Agency: 240-Department of Licensing

Part I: Estimates

[X] **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:
NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[ ] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

[ ] Requires new rule making, complete Part V.

Legislative Contact:	Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Preparation:	Xia Zhan	Phone: 360 902-0113	Date: 03/03/2021
Agency Approval:	Kristin Bettridge	Phone: 360-902-3644	Date: 03/03/2021
OFM Review:	Kyle Siefering	Phone: (360) 995-3825	Date: 03/03/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

This bill requires the Department of Commerce (COM) to establish a grant program to review existing deeds and covenants for unlawful racial restrictions, and provide applicable notice to property owners and county auditors. It also requires realtors to provide similar notice of unlawful recorded covenant or deed restrictions to purchasers at the time of sale. This is no work done by the Department of Licensing (DOL) in this bill. Therefore, there is no fiscal impact to DOL.

The second substitute bill differs from SHB 1335 as it clarifies the intent and adds a little more substance, but continues to task COM with establishing a grant program and provides for a Notice to the Buyer within a sales transaction. None of this requires action from DOL.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

The change in this bill is separate from DOL fees and does not impact revenue to the department.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

None.

Part V: New Rule Making Required

Individual State Agency Fiscal Note

Bill Number: 1335 2S HB	Title: Racial restrictions/review	Agency: 468-Environmental and Land Use Hearings Office

Part I: Estimates

[X] **No Fiscal Impact**

Estimated Cash Receipts to:

NONE

Estimated Operating Expenditures from:
NONE

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

[ ] If fiscal impact is greater than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

[ ] If fiscal impact is less than $50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

[ ] Capital budget impact, complete Part IV.

[ ] Requires new rule making, complete Part V.

Legislative Contact:	Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Preparation:	Nina Carter	Phone: 360 664-9171	Date: 03/01/2021
Agency Approval:	Nina Carter	Phone: 360 664-9171	Date: 03/01/2021
OFM Review:	Lisa Borkowski	Phone: (360) 902-0573	Date: 03/04/2021

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Second Substitute HB 1335

Sec. 1 adds a new section to Discrimination – Human Rights Commission Ch. 49.60 establishes a grant program from Department of Commerce for funding to universities to review existing deeds and covenants for unlawful racial or other discriminatory restrictions. The universities will give notice of such restrictions to property owners and county auditors.

Sec. 2 new section is added to chapter 43.330 RCW allowing universities to administer a grants program to review existing recorded covenants and deed restrictions.

Sec. 3 requires realtors to provide notice of any unlawful recorded covenant or deed restriction to purchasers at the time of sale.

Sec. 4 specifies how a person brings legal action under certain provisions of the Human Rights Commission.

Fiscal Impact: None to the Growth Management Hearings Board.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

NONE

III. B - Expenditures by Object Or Purpose

NONE

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part I and Part IIIA*

NONE

III. D - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation. Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required

LOCAL GOVERNMENT FISCAL NOTE

Department of Commerce

Bill Number: 1335 2S HB	**Title:** Racial restrictions/review

Part I: Jurisdiction-Location, type or status of political subdivision defines range of fiscal impacts.

Legislation Impacts:

☐ Cities:

☒ Counties: County Auditors would provide minor administrative assistance to higher education researchers who participate in the Department of Commerce grant program that would be established by this legislation. Auditors would also record modified property documents when requested by landowners or through a court order.

☐ Special Districts:

☐ Specific jurisdictions only:

☐ Variance occurs due to:

Part II: Estimates

☐ No fiscal impacts.

☐ Expenditures represent one-time costs:

☐ Legislation provides local option:

☒ Key variables cannot be estimated with certainty at this time: Total number of real property documents that auditors may choose to digitize; the number of documents that would be identified as having unlawful language; number of documents that would need to be modified and recorded; number of impacted landowners who may seek a court order to modify property documents.

Estimated revenue impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated expenditure impacts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Part III: Preparation and Approval

Fiscal Note Analyst: Jordan Laramie	Phone: 360-725-5044	Date: 03/09/2021
Leg. Committee Contact: Jessica Van Horne	Phone: 360-786-7288	Date: 02/26/2021
Agency Approval: Allan Johnson	Phone: 360-725-5033	Date: 03/09/2021
OFM Review: Gwen Stamey	Phone: (360) 902-9810	Date: 03/09/2021

Part IV: Analysis

A. SUMMARY OF BILL

Provide a clear, succinct description of the bill with an emphasis on how it impacts local government.

CHANGE FROM PRIOR BILL:
Sec. 1 is new legislature findings surrounding restrictive language in real property documents such as covenants on a deed, or chain of title, for that real property.

Sec. 2 is a new chapter to RCW 43.330 (Department of Commerce)
Same language as Sec. 1 of the prior bill. Establishes Department of Commerce grant program for higher institutions to review real property documents for restrictive language and their responsibility to notify county auditors and property owners, where applicable.

Sec. 3 amends RCW 64.06.020 (Real Property Transfers – Sellers' Disclosures, Improved residential real property—Seller's duty—Format of disclosure statement—Minimum information.)
Includes a new notice to the buyer in the real property transfers, sellers' disclosures documentation. The new notice gives buyers information on how to, "strike illegal language from covenants or deeds by bringing an action in Superior Court or by the free recording of a restrictive covenant modification document," by county auditors.

Sec. 4 amends RCW 49.60.227 (Discrimination – Human Rights Commission, Declaratory Judgment Action to Strike Discriminatory Provision of Real Property Contract—Restrictive Covenant Modification Document as Alternative)
(1)(b) If a court finds any provisions of a real property instrument contains a provision that is void under RCW 49.60.224 it must enter an order striking the void provisions from the public record, eliminating the provisions from the title or lease.

A person bringing an action to strike a written real property instrument that is void under RCW 49.60.224 must deliver the order by email, certified United States mail, or personally to the office of the county auditor, in the county in which the property is located. For charter counties, the order must be delivered in the same ways, to the official charged with the responsibility for recording instruments in county records. The auditor or official must remove the void provisions entirely from the chain of title, by removing the record from the chain of title, if feasible. The auditor or official may also strike through the void language and include the court order in the chain of title. A record removed from the chain of title may be preserved for historical or archival purposes.

Sec. 5 This act applies to real estate transactions entered into on, or after, January 1, 2022.

SUMMARY OF CURRENT BILL:
The legislation would create a grant program within the Department of Commerce for qualifying colleges and universities to find and identify written property documents that have racial or other restrictive language that is unlawful per RCW 49.60.224. County auditors would be notified when these colleges and universities identified existing covenants and deeds as having restrictive language against protected classes, as well as, the property owners of these documents. Additionally, this legislation establishes the process for the restrictive language to be entirely removed from the covenants from the chain of title, if feasible. These actions would be done through action taken by county auditor or the county official charged with the responsibility for recording instruments in the county record.

BACKGROUND:
The Washington Law Against Discrimination (WLAD) declares void any provision in a written instrument relating to real property that purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease of the property to individuals within a protected class. If a written instrument contains a provision void under the WLAD, the owner, occupant, or tenant of the property or the homeowners' association board may bring an action in superior court to have the provision stricken from the public records.

B. SUMMARY OF EXPENDITURE IMPACTS

Briefly describe and quantify the expenditure impacts of the legislation on local governments, identifying the expenditure provisions by section number, and when appropriate, the detail of expenditures. Delineate between city, county and special district impacts.

CHANGES FROM PRIOR BILL:
Changes from the prior bill would have indeterminate, but potentially significant, costs for local governments. These costs would depend on the scale of involvement for county auditors in the goals of the Department of Commerce (Commerce) grant program, modifying documents that are discovered with restrictive language, and records processing efficiencies that may streamline research and document modifications are undertaken by some, or all, county auditors.

SUMMARY OF CURRENT BILL:
This legislation would have indeterminate, but potentially significant, costs for county auditors that help facilitate the goals of the

Commerce grant program. These costs would vary by jurisdiction, and be dependent on how many documents county auditors may choose to digitize, how many documents are found to have restrictive language, how many documents need to be redacted or have portions removed, costs to assist researchers with technical questions about document review, and costs to assist property owners in how to make changes to existing real property documents. These costs could also be impacted by two scenarios for reviewing and processing documents: 1) using the existing property records systems, which are a mixture of digital and physical records, or 2) fully digitizing the existing records within the online document search and property document recording system. All jurisdictions would have to abide by property document modification actions required by court order.

LOCATION OF DOCUMENT SEARCH:
County auditors may be required to provide assistance in sourcing documents to the higher education institutions for this work, if necessary. Whether this work is isolated within the county jurisdiction where the college resides or in counties around the state, is not known. There are 26 colleges and universities in Washington State that are regionally accredited by the Northwest Commission on Colleges and University. These colleges and universities are in 11 counties, and include Benton, Clark, King, Kittitas, Pierce, Spokane, Thurston, Walla Walla, Whatcom, Whitman, and Yakima Counties.

COSTS ASSOCIATED WITH GRANT PROGRAM RESEARCH:
County auditors would have costs related to finding and/or assisting with records, covenant, deeds, etc. for participating colleges to review and identify real property documents. For King County researchers specifically, they would have to physically access the King County Archives to review real property documents.

COST SCENARIOS FOR DOCUMENT REVIEW AND PROCESSING FOR COUNTY AUDITORS:
SCENARIO 1
USING EXISTING COUNTY AUDITOR RECORD SYSTEM RESOURCES FOR PROPERTY DOCUMENT REVIEW:
If the costs include using the existing property document search methods within County Auditors Offices or County Archives, counties would incur indeterminate costs that would vary depending on where the document search was located. County Auditors have noted that the research for the Commerce grant program would have review hundreds of thousands of documents, some of which exist digitally and some that can only be viewed physically at County Auditor's Offices or County Archives.

The local government costs would depend on how many documents could be viewed digitally or how many would have to be viewed in person and how many jurisdictions the universities would choose to review documents for. Costs would include county records official's staff time to assist with the technical requests of research participants, which would vary by jurisdiction, and the number of documents being reviewed.

County auditors also stated that the process to redact and/or remove restrictive language from documents on a chain of title from the physical written record could be time-intensive. However, the costs for this provision would be indeterminate, as the number of identified property documents with restrictive language would vary by jurisdiction and depend where the research was being conducted.

SCENARIO 2
COSTS TO DIGITIZE RECORDS TO EXPIDITE REDACTING AND/OR REMOVING PORTIONS OF EXISTING DOCUMENTS:
Digitizing all physical documents could improve the feasibility and efficiency of the research project participants, as well as, reduce the burden on County Auditor's Offices that would be tasked with assisting their research efforts. However, it would come with increased costs.

Of the 34 counties that responded to the survey of non-digitized records, there are currently 16 million pages of official records that are still in physical form (paper, Mylar, microfilm, or microfiche). Digitizing these documents has an estimated cost of approximately $1 per page to scan, index, and verify records from their physical form to a useful digital record. Including counties that did not immediately respond to the document inventory, the estimate is that this process would cost approximately $20 million to convert all physical documents to electronic format and upload them into existing recording systems.

County auditors stated that the process to redact and/or remove restrictive language from documents on a chain of title from electronic records would be less time-intensive than from the costs of modifying the physical records. However, the costs for this provision would be indeterminate, as the number of identified property documents with restrictive language would vary by jurisdiction where the research was being conducted.

COSTS TO ANSWER QUESTIONS FROM PROPERTY OWNERS
County auditors anticipate costs associated with answering questions from property owners whose real property documents are identified as having restrictive language that is unlawful. The number of property owners that may require consultation from county auditors would depend on how many documents were identified during the Commerce grant program's scope of work by colleges and higher learning institutions. Depending on the volume of questions, it could take one full time staff member dedicated to this role. The Spokane County Auditor's Office estimates that this may cost up to $80,000 per year, per County Auditor's Office where the grant program participant is researching property records. However, if the volume of questions from property owners is relatively low, existing staff may be able to handle the elevated volume of questions from affected property owners.

ACTION REQUIRED BY COURT ORDER
For those landowners that use the court process to remove void real property provisions per Sec. 4(1)(b), the original documents would need to be electronically redacted and then removed. Since court action would occur on an individual, this approach could be costly. Spokane County stated that recording system vendors charge a flat fee for uploading scanned historical records. The fee for one recording vendor (used by at least 20 counties) is $5,200, regardless of the number of documents per upload.

Processing the court order would require staff time to record the court amended records, to locate the original documents and to redact/remove the original records. Recording the amended records is a normal course of business. The time and cost for processing the original records would depend upon the number of records in each case.

RECORDING COSTS AFTER PROPERTY DOCUMENTS HAVE BEEN IDENTIFIED
There would be processing time for county auditors to record the modified documents from property owners when these documents are identified. This effort has indeterminate costs and would depend on the number of documents that are found by higher education institutions during their review. If hundreds or thousands of documents need to be recorded in a short period of time, there could be a need to bring an additional staff member to complete the work without disrupting other county auditor functions. Spokane County believes that this could be accomplished with a part-time position working .25 FTE for two-years, at a cost of $30,000 to $40,000 over that period. These costs would apply to other counties where the participating higher learning institution is conducting research. However, this would only apply if the volume was high enough to demand a new position.

C. SUMMARY OF REVENUE IMPACTS

Briefly describe and quantify the revenue impacts of the legislation on local governments, identifying the revenue provisions by section number, and when appropriate, the detail of revenue sources. Delineate between city, county and special district impacts.

CHANGES FROM PRIOR BILL:
There are changes to this legislation that effect the implementation of the real property document review described in the original bill. However, there would still be no revenue impact to local governments as a result of these provisions.

SUMMARY OF CURRENT BILL:
This bill has no revenue impact for local governments.

SOURCES:
House Bill Report, HB 1335 (2021)
Northwest Commission on Colleges and University
Spokane Auditor's Office
Washington State Association of County Auditors
Washington State Association of Counties