

individual proprietorship, or the name and address of the corporate officers and statutory agent, if any, if the applicant be a corporation. The information contained in such application shall be a matter of public record and open to public inspection.

Registration shall be denied if the applicant has been previously registered as a sole proprietor, partnership or corporation, and was a principal or officer of the corporation, and if the applicant has an unsatisfied final judgment(~~(s or summons and complaints not dismissed that were filed pursuant to)~~) in an action based on RCW 18.27.040(~~(, and that were)~~) that incurred during a previous registration under this chapter.

Sec. 2. Section 8, chapter 77, Laws of 1963 as amended by section 3, chapter 118, Laws of 1972 ex. sess. and RCW 18.27.080 are each amended to read as follows:

No person engaged in the business or acting in the capacity of a contractor may bring or maintain any action in any court of this state for the collection of compensation for the performance of any work or for breach of any contract for which registration is required under this chapter without alleging and proving that he was a duly registered contractor and held a current and valid certificate of registration at the time he contracted for the performance of such work or entered into such contract. For the purposes of this section, the court shall not find a contractor in substantial compliance with the registration requirements of this chapter unless: (1) The department has on file the information required by RCW 18.27.030; (2) the contractor has a current bond or other security as required by RCW 18.27.040; and (3) the contractor has current insurance as required by RCW 18.27.050. In determining under this section whether a contractor is in substantial compliance with the registration requirements of this chapter, the court shall take into consideration the length of time during which the contractor did not hold a valid certificate of registration.

Passed the Senate March 7, 1988.

Passed the House March 2, 1988.

Approved by the Governor March 24, 1988.

Filed in Office of Secretary of State March 24, 1988.

CHAPTER 286

[Senate Bill No. 6671]

HOUSING TRUST FUND—REVISIONS—REAL ESTATE SALES TAX PENALTIES TO BE DEPOSITED IN THE HOUSING TRUST FUND

AN ACT Relating to housing trust fund administration; amending RCW 43.185.070, 18.85.310, 18.85.510, and 82.45.100; recodifying RCW 18.85.505 and 18.85.510; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Sec. 1. Section 8, chapter 298, Laws of 1986 and RCW 43.185.070 are each amended to read as follows:

(1) During each calendar year in which funds are available for use by the department from the housing trust fund, as prescribed in RCW 43.185-.030, the department shall announce to all known interested parties, and through major media throughout the state, a grant and loan application period of at least ninety days' duration. This announcement shall be made as often as the director deems appropriate for proper utilization of resources, but at least twice annually. The department shall then promptly grant as many applications as will utilize available funds less appropriate administrative costs of the department, not to exceed thirty-seven thousand five hundred dollars in the fiscal year ending June 30, 1988, and seventy-five thousand dollars in the fiscal year ending June 30, 1989, and not to exceed five percent of annual revenues to the fund thereafter.

(2) The department shall give first priority to applications for projects and activities which utilize existing privately owned housing stock including privately owned housing stock purchased by nonprofit public development authorities. Such projects and activities shall be evaluated under subsection (3) of this section. Second priority shall be given to activities and projects which utilize existing publicly owned housing stock. Such projects and activities shall be evaluated under subsection (3) of this section.

(3) The department shall give preference for applications based on the following criteria:

- (a) The degree of leveraging of other funds that will occur;
- (b) Recipient contributions to total project costs, including allied contributions from other sources such as professional, craft and trade services, and lender interest rate subsidies;
- (c) Local government project contributions in the form of infrastructure improvements, and others;
- (d) Projects that encourage ownership, management, and other project-related responsibility opportunities;
- (e) Projects that demonstrate a strong probability of serving the original target group or income level for a period of at least fifteen years;
- (f) The applicant has the demonstrated ability, stability and resources to implement the project;
- (g) Projects which demonstrate serving the greatest need; and
- (h) Projects that provide housing for persons and families with the lowest incomes.

Sec. 2. Section 19, chapter 222, Laws of 1951 as last amended by section 1, chapter 513, Laws of 1987 and RCW 18.85.310 are each amended to read as follows:

(1) Every licensed real estate broker shall keep adequate records of all real estate transactions handled by or through him. The records shall include, but are not limited to, a copy of the earnest money receipt, and an

itemization of the broker's receipts and disbursements with each transaction. These records and all other records hereinafter specified shall be open to inspection by the director or his authorized representatives.

(2) Every real estate broker shall also deliver or cause to be delivered to all parties signing the same, at the time of signing, conformed copies of all earnest money receipts, listing agreements and all other like or similar instruments signed by the parties, including the closing statement.

(3) Every real estate broker shall also keep separate real estate fund accounts in a recognized Washington state depository authorized to receive funds in which shall be kept separate and apart and physically segregated from licensee broker's own funds, all funds or moneys of clients which are being held by such licensee broker pending the closing of a real estate sale or transaction, or which have been collected for said client and are being held for disbursement for or to said client and such funds shall be deposited not later than the first banking day following receipt thereof.

(4) Separate accounts comprised of clients' funds required to be maintained under this section, with the exception of property management trust accounts, shall be interest-bearing accounts from which withdrawals or transfers can be made without delay, subject only to the notice period which the depository institution is required to reserve by law or regulation.

(5) Every real estate broker shall maintain a pooled interest-bearing escrow account for deposit of client funds, with the exception of property management trust accounts, which are nominal (~~or short term~~). As used in this section, a "nominal (~~or short term~~)" deposit is a deposit (~~which, if placed in a separate account, would not produce positive net interest income after payment of bank fees, or other institution fees, and other administrative expenses~~) of not more than five thousand dollars.

The interest accruing on this account, net of any reasonable (~~transaction costs~~) and appropriate financial institution service charges or fees, shall be paid to the state treasurer for deposit in the Washington housing trust fund created in RCW 43.185.030. Appropriate service charges or fees are those charges made by financial institutions on other demand deposit or "now" accounts. An agent may, but shall not be required to, notify the client of the intended use of such funds.

(6) All client funds not required to be deposited in the account specified in subsection (5) of this section shall be deposited in:

(a) A separate interest-bearing trust account for the particular client or client's matter on which the interest will be paid to the client; or

(b) (~~A pooled interest-bearing trust account with subaccounting that will provide for computation of interest earned by each client's funds and the payment thereof to the client~~) The pooled interest-bearing trust account specified in subsection (5) of this section if the parties to the transaction agree.

The department of licensing shall promulgate regulations which will serve as guidelines in the choice of an account specified in subsection (5) of this section or an account specified in this subsection.

(7) For an account created under subsection (5) of this section, an agent shall direct the depository institution to:

(a) Remit interest or dividends, net of any reasonable and appropriate service charges or fees, on the average monthly balance in the account, or as otherwise computed in accordance with an institution's standard accounting practice, at least quarterly, to the state treasurer for deposit in the housing trust fund created by RCW 43.185.030 and the real estate commission account created by RCW 18.85.220 as directed by RCW 18.85.315; and

(b) Transmit to the director of community development a statement showing the name of the person or entity for whom the remittance is spent, the rate of interest applied, and the amount of service charges deducted, if any, and the account balance(s) of the period in which the report is made, with a copy of such statement to be transmitted to the depositing person or firm.

(8) The director shall forward a copy of the reports required by subsection (7) of this section to the department of licensing to aid in the enforcement of the requirements of this section consistent with the normal enforcement and auditing practices of the department of licensing.

(9) This section does not relieve any real estate broker from any obligation with respect to the safekeeping of clients' funds.

(10) Any violation by a real estate broker of any of the provisions of this section, or RCW 18.85.230, shall be grounds for revocation of the licenses issued to the broker.

Sec. 3. Section 10, chapter 513, Laws of 1987 and RCW 18.85.510 are each amended to read as follows:

The broker's trust account board shall review grant and loan applications placed before it by the director for final approval pursuant to RCW 43.185.— (RCW 18.85.505 as recodified by section 4 of this 1988 act).

The decisions of the board shall be subject to the provisions of RCW 43.185.050, 43.185.060, and 43.185.070 with regard to eligible activities, eligible recipients, and criteria for evaluation.

The broker's trust account board shall serve in an advisory capacity to the real estate commission with regard to licensee education programs established pursuant to RCW 18.85.040 and 18.85.220.

NEW SECTION. Sec. 4. RCW 18.85.505 and 18.85.510 are each recodified in chapter 43.185 RCW.

Sec. 5. Section 2, chapter 167, Laws of 1981 as amended by section 1, chapter 176, Laws of 1982 and RCW 82.45.100 are each amended to read as follows:

(1) The tax imposed under this chapter is due and payable immediately at the time of sale, and if not paid within thirty days thereafter shall bear interest at the rate of one percent per month from the time of sale until the date of payment.

(2) In addition to the interest described in subsection (1) of this section, if the payment of any tax is not received by the county treasurer within thirty days of the date due, there shall be assessed a penalty of five percent of the amount of the tax; if the tax is not received within sixty days of the date due, there shall be assessed a total penalty of ten percent of the amount of the tax; and if the tax is not received within ninety days of the date due, there shall be assessed a total penalty of twenty percent of the amount of the tax. The payment of the penalty described in this subsection shall be collectible from the seller only, and RCW 82.45.070 does not apply to the penalties described in this subsection.

(3) If upon examination of any affidavits or from other information obtained by the department or its agents it appears that all or a portion of the tax is unpaid, the department shall assess against the taxpayer the additional amount found to be due plus interest and penalties as provided in subsections (1) and (2) of this section. If the department finds that all or any part of the deficiency resulted from an intent to evade the tax payable under this chapter, ((a)) an additional penalty of fifty percent of the additional tax found to be due shall be added.

~~((3))~~ (4) No assessment or refund may be made by the department more than four years after the date of sale except upon a showing of fraud or of misrepresentation of a material fact by the taxpayer or a failure by the taxpayer to record documentation of a sale or otherwise report the sale to the county treasurer.

(5) Penalties collected pursuant to subsection (2) of this section shall be deposited in the housing trust fund as described in chapter 43.185 RCW.

NEW SECTION. Sec. 6. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 9, 1988.

Passed the House March 3, 1988.

Approved by the Governor March 24, 1988.

Filed in Office of Secretary of State March 24, 1988.

CHAPTER 287

[Substitute House Bill No. 1883]

VEHICLE DEALERS—REGULATION REVISED

AN ACT Relating to vehicle dealer regulation; and amending RCW 46.70.011, 46.70-021, and 46.70.041.