

## CHAPTER 153.

[ House Bill No. 117. ]

## ESCROW AGENT REGISTRATION ACT.

AN ACT relating to escrow, escrow agents, and escrow transactions; and prescribing penalties.

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

SECTION 1. Unless the context otherwise requires terms used in this act shall have the following meanings:

Escrow agent  
registration.  
Definitions.

(1) "Department" means the department of licenses.

(2) "Director" means the director of the department of licenses, or his duly authorized representative.

(3) "Escrow" means any transaction wherein any person or persons, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons, delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof.

(4) "Escrow agent" means any person engaged in the business of performing for compensation the duties of the third person referred to in section 1 (3) above.

(5) "Certificated escrow agent" means any person holding a certificate of registration as an escrow

agent under the provisions of this act, including corporations, firms, copartnerships and sole proprietors.

(6) "Person" unless a different meaning appears from the context, includes an individual, a firm, association, partnership or corporation, or the plural thereof, whether resident, nonresident, citizen or not.

Escrow agent registration. Engaging in business as escrow agent unlawful without certificate of registration —Exemptions.

SEC. 2. It shall be unlawful for any person to engage in business as an escrow agent within this state unless such person has been registered with the department and issued a certificate of registration by the director pursuant to this act: *Provided*, That the registration requirements of this act shall not apply to:

(1) Any person doing business under the law of this state or the United States relating to banks, trust companies, mutual savings banks, savings and loan associations, credit unions, insurance companies, title insurance companies, or any federally approved agency or lending institution under the National Housing Act.

(2) Any person licensed to practice law in this state while engaged in the performance of his professional duties.

(3) Any company, broker, or agent subject to the jurisdiction of the director while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by such company, broker, or agent: *Provided, however*, That no compensation is received for escrow services.

(4) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursement or use in payment of the cost of labor, materials, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

(5) Any receiver, trustee in bankruptcy, executor, administrator, guardian, or other person acting under the supervision or order of any superior court of this state or of any federal court.

SEC. 3. An application for registration as an escrow agent shall be in writing in such form as is prescribed by the director, and shall be verified on oath by the applicant. If the applicant is a corporation, the application shall include a list of the officers of such corporation, and their addresses; if the applicant is a firm or copartnership, the application shall include a list of the names and addresses of the partners.

Application for registration—Form—Verification.

SEC. 4. Each applicant shall, at the time of applying for registration, file with the director:

Affidavits to accompany registration.

(1) Affidavits by any three persons listed in subsections 2 (1) through 2 (3), stating that they are acquainted with the applicant or its principal officers and that they believe him to be of good character and reputation.

(2) In the event the applicant is doing business under an assumed name, a certified copy of the certificate of assumed name as filed with the county clerk in the county or counties in which the applicant does business or proposes to do business, as provided in chapter 19.80 RCW.

SEC. 5. At the time of filing an application as an escrow agent, or any renewal or reinstatement thereof, the applicant shall satisfy the director that it has obtained a fidelity bond providing fidelity coverage on each officer and employee of the applicant. Such applicant shall keep said bond in effect at all times while his certificate of registration is in effect. Such bond shall be a primary commercial blanket bond written by an insurer authorized to transact surety insurance business in the state of Washington. Such bond shall provide fidelity cov-

Fidelity coverage—Type of bond.

Escrow agent registration.

erage in the amount of two hundred thousand dollars and may be canceled by the surety upon delivering thirty days written notice to the director and the principal.

Failure to deposit bond, effect on certificate.

SEC. 6. In the event of cancellation of a bond the director shall require the filing of a new bond. Failure to deposit such new bond after notification by the director that one is required shall be sufficient grounds for the suspension or revocation of the certificate of registration.

Records—Separate escrow fund—Violations as ground for suspension, revocation of certificate.

SEC. 7. Every certificated escrow agent shall keep adequate records of all transactions handled by or through him including itemization of all receipts and disbursements of each transaction, which records shall be open to inspection by the director or his authorized representatives.

Every certificated agent shall keep a separate escrow fund account in a recognized Washington state depository authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

Violation of this section shall constitute grounds for suspension or revocation of the registration and the certificate thereof of any person under this act.

Fees—Disposition of.

SEC. 8. The director shall charge and collect the following fees:

(1) For filing an original or a renewal application for registration as an escrow agent, an annual fee of fifty dollars for the first office or location and five dollars for each additional office or location.

(2) For filing an application for a duplicate of a certificate of registration lost, stolen, destroyed, or for replacement, five dollars.

(3) All fees received by the director under this act shall be paid by him into the state treasury to the credit of the general fund.

SEC. 9. Upon the filing of the application for registration as an escrow agent, the affidavits of character, the certificate of assumed name, if appropriate, the acceptance of the bond or other indemnity insurance, and the payment of the filing fee, the director shall issue and deliver to the applicant a certificate of registration to engage in the business of an escrow agent at the location or locations set forth in the certificate or certificates.

Issuance of certificate, when.

SEC. 10. An escrow agent's certificate or registration shall remain in effect until surrendered, revoked, suspended, or until it expires, and shall at all times be kept conspicuously posted in all places of business of the agent.

Certificate, posting of.

SEC. 11. Each escrow agent's certificate shall expire at noon on the thirty-first day of December of any calendar year if it is not renewed on or before the twentieth day of December of such year. Registration may be renewed by filing an application and paying the annual registration fee for the next succeeding calendar year.

Expiration and renewal of certificate.

SEC. 12. An escrow agent's certificate which has not been renewed may be reinstated at any time prior to the thirtieth day of January following its expiration, upon the payment to the director of the annual registration fees then in default and a penalty equal to one-half of the annual registration fees then in default.

—Penalty fee for late renewal.

SEC. 13. The revocation, suspension, surrender or expiration of an escrow agent's certificate shall not impair or affect preexisting escrows accepted by the agent prior to such revocation, suspension, surrender or expiration.

Revocation, etc., of certificate—Not to effect preexisting escrows.

Escrow agent registration. Acting as agent without valid certificate, misdemeanor— Punishment.

SEC. 14. Any person required by act to obtain a certificate of registration who engages in business as an escrow agent without applying for and receiving the certificate of registration required by this act, or wilfully continues to act as an escrow agent after surrender or revocation of his certificate, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days, or by a fine of not more than two hundred fifty dollars, or by both such fine and imprisonment.

Cut-off date for initial registration.

SEC. 15. All persons doing business within this state as an escrow agent as defined in this act, who may be required by this act to register with the department, shall comply with the provisions hereof not later than December 31, 1965.

Enforcement officials.

SEC. 16. The attorney general and the prosecuting attorneys of the several counties shall be responsible for the enforcement of this act.

Injunctive proceedings— Actions to revoke or suspend registration.

SEC. 17. Whenever it shall appear that any person, required by this act to register with the department, is conducting business as an escrow agent without having applied for and obtained a certificate of registration, or that any certificated escrow agent is conducting business in a manner deemed unsafe or injurious to the public or any party having business relations with such escrow agent as a contracting party to an escrow agreement as defined in section 1, or in violation of any of the provisions of this act, the attorney general or the prosecuting attorney of the appropriate county may, after such investigation as may be necessary, apply to the appropriate court for an order enjoining the person from engaging in or continuing to engage in the activity violative of this act, and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent or temporary in-

junction, restraining order, or other appropriate order may be issued by the court.

Alternatively or in addition, the attorney general or prosecuting attorney of the appropriate county may bring an action in the superior court to revoke or suspend the registration of any person under this act for violation of any provision thereof.

SEC. 18. Upon petition by the attorney general, the court may, in its discretion, order the dissolution, or suspension or forfeiture of franchise, of any corporation for repeated or flagrant violation of this act or the terms of any order of injunction hereunder.

Court order affecting franchise, grounds.

SEC. 19. No person engaged in the business or acting in the capacity of an escrow agent may bring or maintain any action in any court of this state for the collection or compensation for the performances of any services entered upon after December 31, 1965, for which registration is required under this act without alleging and proving that he was a duly certificated escrow agent at the time of commencement of such services.

Certificate essential for action for compensation as escrow agent.

SEC. 20. Nothing in this act shall be so construed as to authorize any escrow agent, or his employees or agents, to engage in the practice of law, and nothing in this act shall be so construed as to impose any additional liability on any depository authorized by this act and the receipt or acquittance of the persons so paid by such depository shall be a valid and sufficient release and discharge of such depository.

Practice of law prohibited—No additional liability on depositories.

SEC. 21. This act shall be known and cited as the “Escrow Agent Registration Act.”

Short title.

Passed the House March 11, 1965.

Passed the Senate March 10, 1965.

Approved by the Governor March 23, 1965.