

CHAPTER 156

[Engrossed Substitute Senate Bill No. 2197]

ESCROW

AN ACT Relating to escrow; amending section 1, chapter 153, Laws of 1965 as amended by section 1, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.010; amending section 2, chapter 153, Laws of 1965 as last amended by section 2, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.020; amending section 3, chapter 153, Laws of 1965 and RCW 18.44.030; amending section 4, chapter 153, Laws of 1965 as amended by section 3, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.040; amending section 5, chapter 153, Laws of 1965 as amended by section 4, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.050; amending section 7, chapter 153, Laws of 1965 and RCW 18.44.070; amending section 8, chapter 153, Laws of 1965 as amended by section 5, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.080; amending section 9, chapter 153, Laws of 1965 and RCW 18.44.090; amending section 13, chapter 153, Laws of 1965 and RCW 18.44.130; amending section 17, chapter 153, Laws of 1965 and RCW 18.44.160; amending section 7, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.200; amending section 8, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.210; amending section 9, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.220; amending section 11, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.240; amending section 12, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.250; amending section 13, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.260; amending section 14, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.270; adding new sections to chapter 18.44 RCW; repealing section 6, chapter 153, Laws of 1965 and RCW 18.44.060; repealing section 10, chapter 245, Laws of 1971 ex. sess., section 1, chapter 163, Laws of 1973 1st ex. sess. and RCW 18.44.230; declaring an emergency; and prescribing an effective date.

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

Section 1. Section 1, chapter 153, Laws of 1965 as amended by section 1, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.010 are each amended to read as follows:

Unless the context otherwise requires terms used in this chapter shall have the following meanings:

- (1) "Department" means the department of motor vehicles.
- (2) "Director" means the director of the department of motor vehicles, 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))~~ sole proprietorship, firm, association, partnership, or corporation engaged in the business of performing for compensation the duties of the third person referred to in RCW 18.44.010(3) above.
- (5) "Certificated escrow agent" means any ~~((person))~~ sole proprietorship, firm, association, partnership, or corporation holding a certificate of registration as an escrow agent under the provisions of this chapter ~~((, 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.

(7) "Escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(8) "Escrow commission" means the escrow commission of the state of Washington created by RCW 18.44.210.

(9) "Controlling person" is any person who owns or controls ten percent or more of the beneficial ownership of any escrow agent, regardless of the form of business organization employed and regardless of whether such interest stands in such person's true name or in the name of a nominee.

Sec. 2. Section 2, chapter 153, Laws of 1965 as last amended by section 2, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.020 are each amended to read as follows:

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~~) possesses a valid certificate of registration issued by the director pursuant to this chapter: **PROVIDED**, That the registration and licensing requirements of this chapter 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, the duly authorized agents of title insurance companies the business of which agents is exclusively devoted to the title insurance business, 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 disbursal or use in payment of the cost of labor, material, 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. Section 3, chapter 153, Laws of 1965 and RCW 18.44.030 are each amended to read as follows:

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 and directors of such corporation, and their addresses; if the applicant is a firm or ~~(copartnership))~~ partnership, the application shall include a list of the names and

addresses of the partners. The application shall include a consent to service of process, in such form as the director shall prescribe, and payment of the fee required by RCW 18.44.080.

Sec. 4. Section 4, chapter 153, Laws of 1965 as amended by section 3, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.040 are each amended to read as follows:

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

(1) ~~((Affidavits by any three persons listed in subsections (1) through (3) of RCW 18.44.020, stating that they are acquainted with the applicant or its principal officers and that they believe him to be of good character and reputation.))~~ The applicant's business form and place of organization.

(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.

(3) The qualification and business history including a commercial type credit and character report from a recognized credit reporting bureau satisfactory to the director on the applicant, principal officers, controlling person, or partners.

(4) Such proof as the director may require concerning the honesty, veracity, and good reputation, as well as the identity of the applicant, principal officers, controlling person, or partners. Identification of the applicant, principal officers, or partners shall include but not be limited to fingerprints.

(5) Whether the applicant, principal officers, or partners have been convicted of any crime within the preceding ten years which relate directly to the business or duties of escrow agents, or have suffered a judgment within the preceding five years in any civil action involving fraud, misrepresentation, or conversion.

(6) The identity of the natural person designated as the escrow officer to supervise the agent's escrow activity.

(7) Any other information the director may reasonably require.

Sec. 5. Section 5, chapter 153, Laws of 1965 as amended by section 4, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.050 are each amended to read as follows:

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 the applicant and on each officer and employee of the applicant engaged in escrow transactions. 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 or its equivalent as required by the director and written by an insurer authorized to transact surety insurance business in the state of Washington. Such bond shall provide fidelity coverage 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.))~~ the following as evidence of financial responsibility:

(1) A fidelity bond providing coverage in the amount of two hundred thousand dollars on each officer and employee of the applicant engaged in escrow transactions; and

(2) An errors and omissions policy issued to the escrow agent providing coverage in the minimum amount of fifty thousand dollars per loss.

For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact surety business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the employees or officers as defined in the bond, acting alone or in collusion with others. Said bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

Except as provided in section 30 of this 1977 amendatory act, the fidelity bond and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request.

Sec. 6. Section 7, chapter 153, Laws of 1965 and RCW 18.44.070 are each amended to read as follows:

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))~~ or license of any person under this chapter and such additional penalties as may be prescribed in Title 9A RCW.

Sec. 7. Section 8, chapter 153, Laws of 1965 as amended by section 5, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.080 are each amended to read as follows:

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 one hundred dollars for the first office or location and ~~((five))~~ twenty-five dollars for each additional office or location.

(2) For filing an ~~((original or a renewal application for registration as an escrow officer, an annual fee of fifty dollars))~~ application for a change of address, ten dollars for each certificate of registration and for each escrow officer license being so changed.

(3) For filing an application for a duplicate of a certificate of registration or of an escrow officer license lost, stolen, destroyed, or for replacement, ~~((five))~~ ten dollars.

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

Sec. 8. Section 9, chapter 153, Laws of 1965 and RCW 18.44.090 are each amended to read as follows:

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))~~ on a form provided by the director and satisfying the requirements as set forth in this chapter, 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)).

Sec. 9. Section 13, chapter 153, Laws of 1965 and RCW 18.44.130 are each amended to read as follows:

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: PROVIDED, That the escrow agent shall within five work days provide written notice to all principals of such preexisting escrows of the agent's loss of registration. The notice shall include as a minimum the reason for the loss of registration, the estimated date for completing the escrow, and the condition of the agent's bond and whether it is in effect or whether notice of cancellation has been given. The notice shall afford the principals the right to withdraw the escrow without monetary loss.

Sec. 10. Section 17, chapter 153, Laws of 1965 and RCW 18.44.160 are each amended to read as follows:

Whenever it shall appear that any person, required by this chapter 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 RCW 18.44.010, or in violation of any of the provisions of this chapter, 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 chapter, and upon a showing that such person has engaged, or is about to engage, in any such activity, a permanent

or temporary injunction, 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 chapter for violation of any provision thereof.))~~

Sec. 11. Section 7, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.200 are each amended to read as follows:

No escrow agent shall engage in the business of handling escrow transactions unless such transactions are ~~((handled by an agent))~~ supervised by a licensed ((as an)) "escrow officer": PROVIDED, That (1) in the case of a partnership, one licensed partner ((may)) shall act on behalf of the partnership; (2) in the case of a corporation, one licensed officer thereof ((may)) shall act on behalf of the corporation; and (3) each branch office shall be required to have at least one licensed escrow officer designated by the escrow agent. Responsibility for the conduct of any escrow agent, escrow officers, or branch escrow officers covered by this chapter shall rest with the escrow officer having direct supervision of such person's escrow activities. The branch escrow officer shall bear responsibility for persons operating under each branch escrow officer's supervision at a branch escrow office.

Sec. 12. Section 8, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.210 are each amended to read as follows:

There is established an escrow commission of the state of Washington, consisting of the director, who shall be chairman, and four commission members who shall act in an advisory capacity to the director. ~~The commission ((shall consist of five members, which shall consist of the director who shall be chairman, and the remaining))~~ members shall be appointed by the governor for a term of four years each: PROVIDED, That one of such appointees shall be selected from persons designated by the governing authority of the escrow association of Washington, and one shall be selected from designees of the governing authority of the Washington state bar association, and the remaining two members shall be selected from persons engaged in the business of handling escrow transactions ~~((PROVIDED FURTHER, That for the first term of office, the two members selected at the governor's discretion shall serve for a term of two years each))~~.

Sec. 13. Section 9, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.220 are each amended to read as follows:

Any person desiring to be an escrow officer ~~((shall meet the requirement of RCW 18.44.040 and))~~ must successfully pass an examination ~~((be a resident of the state of Washington and furnish such other proof as the director may require concerning his honesty, truthfulness, and good reputation))~~. The person shall make application for an escrow officer examination on a form provided by the director and pay an examination fee of twenty-five dollars. The applicant shall satisfy the director that the applicant is at least eighteen years old and is a resident of the state of Washington.

Sec. 14. Section 11, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.240 are each amended to read as follows:

The escrow officer examination ~~((given))~~ shall encompass the following:

(1) Appropriate knowledge of the English language, including reading, writing, and arithmetic((:));

(2) An understanding of the principles of real estate conveyancing, the general purposes and legal effects of deeds, mortgages, deeds of trust, contracts of sale, exchanges, rental and optional agreements, leases, earnest money agreements, personal property transfers, and encumbrances((:));

(3) An understanding of the obligations between principal and agent((:)); and

(4) An understanding of the meaning and nature of encumbrances upon real property.

The examination shall be in such form as prescribed by the director and approved by the commission, and shall be given at least annually.

~~((Upon successful completion of the examination the director shall issue an "escrow officer" license to the applicant which license shall be renewable annually.))~~

Sec. 15. Section 12, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.250 are each amended to read as follows:

The ~~((commission))~~ director shall have the authority to hold educational conferences for the benefit of the industry and shall conduct examinations for licenses as an escrow officer.

Sec. 16. Section 13, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.260 are each amended to read as follows:

The director may, ~~((upon his own motion, and shall, upon verified complaint in writing by any person, investigate the actions of any licensed escrow officer and may temporarily))~~ upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.050 as now or hereafter amended, by order deny, suspend, or ((permanently)) revoke ((or deny such license for any holder who)) the certificate of registration or license of any escrow agent or escrow officer if he finds that the applicant or any partner, officer, director, controlling person, or employee is guilty of the following:

(1) Obtaining a license or registration by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto.

(3) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(4) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word, representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his injury or damage.

(5) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his own use or to the use of his principal or of any other person, when delivered to him in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

(6) Failing, upon demand, to disclose any information within his knowledge to, or to produce any document, book, or record in his possession for inspection of, the director or his authorized representatives (~~((acting by authority of law))~~).

(7) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(8) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal.

Sec. 17. Section 14, chapter 245, Laws of 1971 ex. sess. and RCW 18.44.270 are each amended to read as follows:

The proceedings for revocation (~~((or))~~), suspension (~~((of a license))~~), or refusal to renew (~~((a license))~~) or accept an application for renewal of an escrow agent's registration or escrow officer license, and any appeal therefrom or review thereof shall be governed by the provisions of chapter 34.04 RCW.

NEW SECTION. Sec. 18. There is added to chapter 18.44 RCW a new section to read as follows:

No escrow agent, officer, or employee shall publish or otherwise place before the public any advertisement, announcement, or statement which uses or makes reference to the existence of the financial responsibility requirements of this chapter, including but not limited to references to "bonded" or "insured".

No firm or organization engaged in escrow transactions, whether or not such firm is doing business in a corporate form, shall use in the name of such firm any reference to the financial responsibility requirements of this chapter, including but not limited to "bonded" or "insured".

NEW SECTION. Sec. 19. There is added to chapter 18.44 RCW a new section to read as follows:

Notice in writing shall be given to the director and to the insurer providing coverage under RCW 18.44.050 as now or hereafter amended of any change of business location or of branch office location. Upon the surrender of the original registration for the agent or the registration applicable to a branch office and a payment of a fee, the director shall issue a new certificate covering the new location.

NEW SECTION. Sec. 20. There is added to chapter 18.44 RCW a new section to read as follows:

If the director determines after notice and hearing that a person has:

- (1) Violated any provision of this chapter; or
- (2) Directly, or through an agent or employee, engaged in any false, deceptive, or misleading
 - (a) advertising or promotional activity, or
 - (b) business practices; or
- (3) Violated any lawful order, rule, or regulation of the director; the director may issue an order requiring the person to cease and desist from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter.

If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the director, whenever possible by telephone or otherwise, shall give notice of the proposal to issue a temporary cease and desist order to the person. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent.

If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of a provision of this chapter, or a rule or order under this chapter, the director, with or without prior administrative proceedings, may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or any rule, regulation, or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted and a receiver or conservator may be appointed. The director shall not be required to post a bond in any court proceedings.

NEW SECTION. Sec. 21. There is added to chapter 18.44 RCW a new section to read as follows:

The director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule, regulation, or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths or affirmations, and upon his own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.04 RCW.

NEW SECTION. Sec. 22. There is added to chapter 18.44 RCW a new section to read as follows:

Any person desiring to be an escrow officer shall meet the requirements of RCW 18.44.220 as provided in this chapter. The applicant shall make application endorsed by a certificated escrow agent to the director on a form to be prescribed and furnished by the director. Such application must be received by the director within one year of passing the escrow officer examination. With this application the applicant shall:

(1) Pay a license fee as set forth in this chapter; and

(2) Furnish such proof as the director may require concerning his honesty, truthfulness, good reputation, and identity, including but not limited to fingerprints.

NEW SECTION. Sec. 23. There is added to chapter 18.44 RCW a new section to read as follows:

Any person desiring to be an escrow officer must include with the application a license fee of fifty dollars. Every escrow officer license issued under the provisions of this chapter expires on the date one year from the date of issue which date will henceforth be the renewal date. An annual license renewal fee in the same amount must be paid on or before each renewal date: PROVIDED, That licenses issued or renewed prior to the effective date of this 1977 amendatory act shall use the existing renewal date as the date of issue. If the application for a renewal license is not received by the director on or before the renewal date such license is expired. The license may be reinstated at any time prior to the next succeeding renewal date following its expiration upon the payment to the director of the annual renewal fee then in default. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency. Licenses not renewed within one year of the renewal date then in default shall be cancelled. A new license may be obtained by satisfying the procedures and qualifications for initial licensing, including where applicable successful completion of examinations.

NEW SECTION. Sec. 24. There is added to chapter 18.44 RCW a new section to read as follows:

The license of an escrow officer shall be retained and displayed at all times by the certificated escrow agent, and when the officer ceases to represent the agent, the license shall cease to be in force. Notice of such termination shall be given by the next regular business day by the escrow agent to the director and such notice shall be accompanied by and include the surrender of the escrow officer's license. Failure to notify the director of such termination after demand by the affected escrow officer shall work a forfeiture of the escrow agent's certificate of registration.

The director may hold the escrow officer's license inactive for a period not exceeding three consecutive years upon application of the escrow officer: PROVIDED, That the escrow officer shall pay the annual renewal fee. Such license may be activated upon application of a certificated escrow agent on a form provided by the director, endorsement by an escrow officer, and the payment of a ten dollar fee. The director shall thereupon issue a new license for the unexpired term if such escrow officer is otherwise entitled thereto. An escrow officer's first license shall not be issued inactive.

NEW SECTION. Sec. 25. There is added to chapter 18.44 RCW a new section to read as follows:

The director may issue rules and regulations to govern the activities of certificated escrow agents and escrow officers. The director shall enforce all laws, rules, and regulations relative to the registration of escrow agents and licensing of escrow officers. The director may hold hearings and suspend or revoke the registration or licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules and regulations.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.04 RCW, the administrative procedure act.

NEW SECTION. Sec. 26. There is added to chapter 18.44 RCW a new section to read as follows:

An escrow agent shall not operate an escrow business in a location other than the location set forth on the agent's certificate of registration issued by the director. The escrow agent may apply to the director for authority to establish one or more branch offices under the same name as the main office.

Any person desiring to operate a branch escrow office shall make application on a form provided by the director and pay a fee as set forth in this chapter. Such application shall identify the natural person designated as the escrow officer to supervise the agent's escrow activity at the escrow agent branch office.

No escrow agent branch office certificate of registration shall be issued until the applicant has satisfied the director that the escrow activity of said branch meets all financial responsibility requirements governing the conduct of escrow activity.

NEW SECTION. Sec. 27. There is added to chapter 18.44 RCW a new section to read as follows:

Upon the filing of the application for an escrow agent branch office and satisfying the requirements of this chapter, the director shall issue and deliver to the applicant a certificate of registration to engage in the business of an escrow agent at the branch location set forth on the certificate.

NEW SECTION. Sec. 28. There is added to chapter 18.44 RCW a new section to read as follows:

Each escrow agent and escrow agent branch office certificate of registration and each escrow officer license, when issued, shall be in the form and size prescribed by the director and shall state in addition to any other matter required by the director:

- (1) The name of the licensee or registrant;
- (2) The name under which the applicant will do business;
- (3) The address at which the applicant will do business;
- (4) The expiration date of the license or registration; and
- (5) In the case of a corporation, partnership, or branch office, the name of the natural person who is designated to act as the escrow officer on behalf thereof.

NEW SECTION. Sec. 29. There is added to chapter 18.44 RCW a new section to read as follows:

The four escrow commission members shall each receive fifty dollars per day for each day engaged in official business of the commission, plus travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the commission.

NEW SECTION. Sec. 30. There is added to chapter 18.44 RCW a new section to read as follows:

The director shall, within thirty days after the written request of the escrow commission, hold a public hearing to determine whether the fidelity bond and/or the errors and omissions policy specified in RCW 18.44.050 as now or hereafter amended is reasonably available to a substantial number of certificated escrow

agents. If the director determines and the insurance commissioner concurs that such bond and/or policy is not reasonably available, the director shall waive the requirements for such bond and/or policy for a fixed period of time not to exceed ninety days after the next regular session of the legislature.

NEW SECTION. Sec. 31. There is added to chapter 18.44 RCW a new section to read as follows:

After a written determination by the director, with the consent of the insurance commissioner, that the fidelity bond and/or the errors and omissions policy required under RCW 18.44.050 as now or hereafter amended is cost-prohibitive, or after a determination as provided in section 30 of this 1977 amendatory act that such bond or policy is not reasonably available, upon the request of an association comprised of certificated escrow agents, the director, with the consent of the insurance commissioner, may authorize such association to organize a mutual corporation pursuant to chapter 24.06 RCW, exempt from the provisions of Title 48 RCW, for the purpose of insuring or self-insuring against claims arising out of escrow transactions, if, in the director's judgment, there is a substantial likelihood that the corporation will operate for the benefit of the public and if the corporation shall have established rules, procedures, and reserves which satisfy the director that it will operate in a financially responsible manner which provides a substantial probability that it shall be able to pay any claims made against the corporation, up to the limits of financial responsibility as provided in RCW 18.44.050, as now or hereafter amended. The director, with the consent of the insurance commissioner, may limit the authority of the corporation to the insuring or self-insuring of claims which would be within the coverage specified in RCW 18.44.050. The director, with the consent of the insurance commissioner, may revoke the authority of the corporation to transact insurance or self-insurance if he determines, pursuant to chapter 34.04 RCW, that the corporation is not acting in a financially responsible manner or for the benefit of the public. Any corporation established pursuant to this section shall cease to exist, except for the payment of incurred claims, ninety days after the next regular session of the legislature unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 32. Section 10, chapter 245, Laws of 1971 ex. sess., section 1, chapter 163, Laws of 1973 1st ex. sess. and RCW 18.44.230 are each repealed.

NEW SECTION. Sec. 33. If any provision of this 1977 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

****NEW SECTION. Sec. 34. This 1977 amendatory 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 on June 15, 1977.

*Sec. 34. was vetoed, see message at end of chapter.

Passed the Senate May 27, 1977.

Passed the House May 19, 1977.

Approved by the Governor June 6, 1977, with the exception of section 34 which is vetoed.

Filed in Office of Secretary of State June 6, 1977.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section Substitute Senate Bill No. 2197 entitled:

"AN ACT Relating to escrow"

Section 34 of the bill declares an emergency and provides for the act to take effect on June 15, 1977. Under the Constitution, Article II, Sections 1(b) and 41, the use of an emergency clause does two things. First, it alters the time when a particular piece of legislation becomes effective, thereby eliminating what may be a desirable adjustment period for affected persons. Second, it excepts the legislation from the important referendum right reserved by the people. Because of these effects, the use of the clause should be restricted to those instances where the use is clearly warranted due to the urgency of the situation.

With the exception of Section 34, which I have vetoed, the remainder of Substitute Senate Bill No. 2197 is approved."

CHAPTER 157

[Substitute Senate Bill No. 2132]

PUBLIC UTILITY DISTRICTS—COMMISSIONERS' SALARIES

AN ACT Relating to public utility districts; and amending section 4, chapter 207, Laws of 1951 as last amended by section 5, chapter 106, Laws of 1969 and RCW 54.12.080.

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

Section 1. Section 4, chapter 207, Laws of 1951 as last amended by section 5, chapter 106, Laws of 1969 and RCW 54.12.080 are each amended to read as follows:

Each district commissioner of a district operating utility properties (~~serv~~ing more than two thousand customers) shall receive a salary (~~of one hundred fifty dollars per month~~) during a calendar year which shall depend upon the total gross revenue of the district from its distribution system and its generating system, if any, for the fiscal year ending June 30th prior to such calendar year, based upon the following schedule:

<u>REVENUE</u>	<u>SALARY</u>
<u>OVER \$15 million</u>	<u>\$500 per month</u>
<u>\$2 to 15 million</u>	<u>\$350 per month</u>

Commissioners of other districts shall serve without salary unless the district provides by resolution for the payment thereof, which however shall not exceed ~~((one))~~ two hundred ~~((fifty))~~ dollars per month for each commissioner: PROVIDED, That a commissioner serving a term of office on the effective date of this 1977 amendatory act in a district serving more than two thousand customers but with less than two million dollars gross annual revenue shall receive a salary of two