

## CHAPTER 178

[Substitute House Bill No. 1369]

## ESCROW

AN ACT Relating to escrow; amending RCW 18.44.070 and 18.44.360; and adding a new section to chapter 18.44 RCW.

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

Sec. 1. Section 7, chapter 153, Laws of 1965 as amended by section 6, chapter 156, Laws of 1977 ex. sess. 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))~~ the agent including itemization of all receipts and disbursements of each transaction, which records shall be open to inspection by the director or ~~((his))~~ the director's 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.

An escrow agent, unless exempted by RCW 18.44.020(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. The deposits shall be in one of the following forms:

- (1) Cash;
  - (2) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;
  - (3) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;
  - (4) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or
  - (5) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the Federal Expedited Funds Availability Act, 12 U.S.C. 400/et seq.
- The word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86

RCW and shall constitute grounds for suspension or revocation of the registration or license of any ~~((person under this chapter and such additional penalties as may be prescribed in Title 9A RCW))~~ certified escrow agent.

Sec. 2. Section 30, chapter 156, Laws of 1977 ex. sess. and RCW 18.44.360 are each amended 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. 3. A new section is added to chapter 18.44 RCW to read as follows:

(1) "Real property lender" as used in this section means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, or partnership that makes loans secured by real property located in this state.

(2) No real property lender, escrow agent, or officer or employee of any escrow agent or real property lender may give or agree to pay or give any money, service, or object of value to any real estate agent or broker, to any real property lender, or to any officer or employee of any agent, broker, or lender in return for the referral of any real estate escrow services. Nothing in this subsection prohibits the payment of fees or other compensation permitted under the federal Real Estate Settlement Procedures Act as amended (12 U.S.C. sections 2601 through 2617).

(3) A violation of this section constitutes a violation of RCW 19.86.020, and any person harmed in his or her business or property is entitled to the remedies provided under RCW 19.86.090.

NEW SECTION. Sec. 4. If any provision of this 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.

Passed the House March 9, 1988.

Passed the Senate March 6, 1988.

Approved by the Governor March 22, 1988.

Filed in Office of Secretary of State March 22, 1988.