

CERTIFICATION OF ENROLLMENT

SENATE BILL 5358

53rd Legislature
1993 Regular Session

Passed by the Senate March 13, 1993
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 8, 1993
YEAS 97 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5358** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5358

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senators Pelz, Fraser, Prince and Winsley; by request of Department of Licensing

Read first time 01/25/93. Referred to Committee on Ways & Means.

1 AN ACT Relating to the creation of an appropriated real estate
2 education account; amending RCW 18.85.220, 18.85.310, and 18.85.315;
3 adding a new section to chapter 18.85 RCW; providing an effective date;
4 and declaring an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 18.85.220 and 1991 c 277 s 1 are each amended to read
7 as follows:

8 All fees required under this chapter shall be set by the director
9 in accordance with RCW 43.24.086 and shall be paid to the state
10 treasurer. All fees paid under the provisions of this chapter shall be
11 placed in the real estate commission account in the state treasury. All
12 money derived from fines imposed under this chapter shall ~~((also))~~ be
13 deposited in the real estate ~~((commission account, shall be used solely~~
14 ~~for education for the benefit of licensees and shall be subject to~~
15 ~~appropriation pursuant to chapter 43.88 RCW))~~ education account created
16 by section 4 of this act.

17 **Sec. 2.** RCW 18.85.310 and 1988 c 286 s 2 are each amended to read
18 as follows:

1 (1) Every licensed real estate broker shall keep adequate records
2 of all real estate transactions handled by or through him. The records
3 shall include, but are not limited to, a copy of the earnest money
4 receipt, and an itemization of the broker's receipts and disbursements
5 with each transaction. These records and all other records hereinafter
6 specified shall be open to inspection by the director or his authorized
7 representatives.

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

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

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

28 (5) Every real estate broker shall maintain a pooled interest-
29 bearing escrow account for deposit of client funds, with the exception
30 of property management trust accounts, which are nominal. As used in
31 this section, a "nominal" deposit is a deposit of not more than five
32 thousand dollars.

33 The interest accruing on this account, net of any reasonable and
34 appropriate financial institution service charges or fees, shall be
35 paid to the state treasurer for deposit in the Washington housing trust
36 fund created in RCW 43.185.030 and the real estate education account
37 created in section 4 of this act. Appropriate service charges or fees
38 are those charges made by financial institutions on other demand

1 deposit or "now" accounts. An agent may, but shall not be required to,
2 notify the client of the intended use of such funds.

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

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

8 (b) The pooled interest-bearing trust account specified in
9 subsection (5) of this section if the parties to the transaction agree.

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

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

15 (a) Remit interest or dividends, net of any reasonable and
16 appropriate service charges or fees, on the average monthly balance in
17 the account, or as otherwise computed in accordance with an
18 institution's standard accounting practice, at least quarterly, to the
19 state treasurer for deposit in the housing trust fund created by RCW
20 43.185.030 and the real estate (~~commission account created by RCW~~
21 ~~18.85.220 as directed by RCW 18.85.315~~) education account created in
22 section 4 of this act; and

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

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

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

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

1 **Sec. 3.** RCW 18.85.315 and 1987 c 513 s 9 are each amended to read
2 as follows:

3 Remittances received by the treasurer pursuant to RCW 18.85.310
4 shall be divided between the housing trust fund created by RCW
5 43.185.030, which shall receive seventy-five percent and the real
6 estate ((~~commission~~)) education account created by ((~~RCW 18.85.220~~))
7 section 4 of this act, which shall receive twenty-five percent.

8 NEW SECTION. **Sec. 4.** A new section is added to chapter 18.85 RCW
9 to read as follows:

10 The real estate education account is created in the custody of the
11 state treasurer. All moneys received for credit to this account
12 pursuant to RCW 18.85.315 and all moneys derived from fines imposed
13 under this chapter shall be deposited into the account. Any fund
14 balance remaining in the real estate commission account attributable to
15 moneys received under RCW 18.85.315 and moneys derived from fines
16 imposed under this chapter as of the effective date of this act shall
17 be transferred to the real estate education account. Expenditures from
18 the account may be made only upon the authorization of the director or
19 a duly authorized representative of the director, and may be used only
20 for the purposes of carrying out the director's programs for education
21 of real estate licensees and others in the real estate industry as
22 described in RCW 18.85.040(4). All expenses and costs relating to the
23 implementation or administration of, or payment of contract fees or
24 charges for, the director's real estate education programs may be paid
25 from this account. The account is subject to appropriation under
26 chapter 43.88 RCW.

27 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and shall take
30 effect July 1, 1993.

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