

# FINAL BILL REPORT

## HB 1092

---

---

C 30 L 99

Synopsis as Enacted

**Brief Description:** Regulating escrow agents and escrow officers.

**Sponsors:** Representative Hatfield; by request of Department of Financial Institutions.

**House Committee on Financial Institutions & Insurance**

**Senate Committee on Commerce, Trade, Housing & Financial Institutions**

**Background:**

Responsibility for the regulation of escrow agents was transferred from the Department of Licensing to the Department of Financial Institutions (DFI) in 1995. This act regulates the registration and oversight of escrow agents within Washington except for the escrow activities of title insurance companies and agents. The Office of the Insurance Commissioner regulates title insurance companies, but does not have authority over the escrow activities of title insurance companies and agents.

An applicants for certification as an escrow agent must give evidence of financial responsibility by showing that the applicant has a fidelity bond for \$200,000 and an errors and omissions policy or self insurance in the amount of \$50,000. Escrow agents are prohibited from advertising that they are registered or bonded.

The DFI is authorized to charge fees for applications and renewal of registrations, changing certificates of registration, duplicate certificates, and providing support to the escrow commission. The DFI is authorized to assess fines and obtain injunctive relief for violations of the escrow agent registration Act. In addition to following the adjudicative procedures in the Administrative Procedure Act, the DFI must give prior notification that a cease and desist order will be issued to a person violating the act before issuing the cease and desist order.

1031 tax exchanges are transactions that allow for certain types of property trades that shelter capital gains. In a recent administrative decision, the DFI determined that 1031 tax exchanges are subject to regulation as an escrow activity.

**Summary:**

Changes are made to the regulation of escrow activities and escrow agents. These changes include provisions increasing consumer protection, clarifying the types of transactions regulated and making technical and other changes. The Office of the

Insurance Commissioner is authorized to regulate the escrow activities of title insurance companies and title insurance agents, making all escrow activities subject to regulation.

Escrow agents are licensed rather than certified. In addition to current financial responsibility requirements, the fidelity bond must have a deductible of less than \$10,000 a surety bond must be obtained in the amount of the deductible on the fidelity bond. Escrow agents and officers may advertise that they are licensed and bonded.

It is unlawful for an escrow agent, escrow officer, or other person to engage in fraudulent, misleading, or deceptive practices. It is unlawful for an escrow agent, escrow officer, or other person to fail to take actions that are required by law, fail to comply with an injunction, or fail to make any report or statement lawfully required by the director of DFI or any other public official.

The Department of Financial Institutions (DFI) may charge fees for filing an original or renewal application for an escrow agent license, an additional licensed location, change of address, and an annual fee for the first office or location and for each additional office or location. The annual fee may be up to \$565 in fiscal year 2000. The DFI may charge a fee for filing an original or renewal application for an escrow officer license, a change of address, to activate an inactive license, to transfer a license, and the DFI may set an annual fee up to \$235 in fiscal year 2000. DFI may also set an hourly audit fee.

The DFI is authorized to charge additional fees for the licensing and auditing of escrow agents. The department may assess fines and ban individuals from participating in the escrow industry. There is no longer a provision requiring notification of the imminent issuance of a cease and desist order outside of current Administrative Procedures Act requirements.

1031 tax exchanges are explicitly exempted from the definition of escrow.

**Votes on Final Passage:**

House 90 5  
Senate 45 0

**Effective:** July 25, 1999