

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1092

56th Legislature
1999 Regular Session

Passed by the House March 16, 1999
Yeas 90 Nays 5

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate April 7, 1999
Yeas 45 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Dean R. Foster and Timothy A. Martin, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1092** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1092

Passed Legislature - 1999 Regular Session

State of Washington 56th Legislature 1999 Regular Session

By Representative Hatfield; by request of Department of Financial Institutions

Read first time 03/01/1999.

1 AN ACT Relating to the licensing, regulation, and fees of escrow
2 agents and escrow officers; amending RCW 18.44.010, 18.44.020,
3 18.44.030, 18.44.050, 18.44.060, 18.44.067, 18.44.070, 18.44.080,
4 18.44.090, 18.44.100, 18.44.110, 18.44.120, 18.44.125, 18.44.130,
5 18.44.140, 18.44.160, 18.44.175, 18.44.180, 18.44.200, 18.44.260,
6 18.44.280, 18.44.290, 18.44.300, 18.44.310, 18.44.320, 18.44.330,
7 18.44.340, 18.44.350, 18.44.360, 18.44.370, and 18.44.145; adding new
8 sections to chapter 18.44 RCW; adding new sections to chapter 48.29
9 RCW; recodifying RCW 18.44.010, 18.44.020, 18.44.030, 18.44.330,
10 18.44.340, 18.44.067, 18.44.200, 18.44.290, 18.44.300, 18.44.310,
11 18.44.350, 18.44.080, 18.44.090, 18.44.100, 18.44.110, 18.44.120,
12 18.44.140, 18.44.180, 18.44.250, 18.44.050, 18.44.060, 18.44.360,
13 18.44.370, 18.44.375, 18.44.380, 18.44.385, 18.44.390, 18.44.395,
14 18.44.398, 18.44.070, 18.44.320, 18.44.280, 18.44.260, 18.44.175,
15 18.44.145, 18.44.125, 18.44.130, 18.44.190, 18.44.170, 18.44.160,
16 18.44.208, 18.44.215, 18.44.900, 18.44.910, 18.44.920, 18.44.921, and
17 18.44.922; repealing RCW 18.44.040, 18.44.065, 18.44.150, 18.44.220,
18 and 18.44.240; and prescribing penalties.

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

1 **Sec. 1.** RCW 18.44.010 and 1995 c 238 s 1 are each amended to read
2 as follows:

3 Unless a different meaning is apparent from the context (~~otherwise~~
4 ~~requires~~), terms used in this chapter shall have the following
5 meanings:

6 (1) "Department" means the department of financial institutions.

7 (2) "Director" means the director of financial institutions, or his
8 or her duly authorized representative.

9 (3) "Director of licensing" means the director of the department of
10 licensing, or his or her duly authorized representative.

11 (4) "Escrow" means any transaction, except the acts of a qualified
12 intermediary in facilitating an exchange under section 1031 of the
13 internal revenue code, wherein any person or persons, for the purpose
14 of effecting and closing the sale, purchase, exchange, transfer,
15 encumbrance, or lease of real or personal property to another person or
16 persons, delivers any written instrument, money, evidence of title to
17 real or personal property, or other thing of value to a third person to
18 be held by such third person until the happening of a specified event
19 or the performance of a prescribed condition or conditions, when it is
20 then to be delivered by such third person, in compliance with
21 instructions under which he or she is to act, to a grantee, grantor,
22 promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor,
23 or any agent or employee thereof.

24 (~~(4)~~) (5) "Split escrow" means a transaction in which two or more
25 escrow agents act to effect and close an escrow transaction.

26 (6) "Escrow agent" means any (~~sole proprietorship, firm,~~
27 ~~association, partnership, or corporation~~) person engaged in the
28 business of performing for compensation the duties of the third person
29 referred to in (~~RCW 18.44.010(3) above~~) subsection (4) of this
30 section.

31 (~~(5) "Certificated"~~) (7) "Licensed escrow agent" means any sole
32 proprietorship, firm, association, partnership, or corporation holding
33 a (~~certificate of registration~~) license as an escrow agent under the
34 provisions of this chapter.

35 (~~(6)~~) (8) "Person" (~~(unless a different meaning appears from the~~
36 ~~context, includes an individual, a)~~) means a natural person, firm,
37 association, partnership (~~(or)~~), corporation, limited liability
38 company, or the plural thereof, whether resident, nonresident, citizen,
39 or not.

1 (~~((7))~~ "Escrow)) (9) "Licensed escrow officer" means any natural
2 person handling escrow transactions and licensed as such by the
3 director.

4 (~~((8))~~) (10) "Designated escrow officer" means any licensed escrow
5 officer designated by a licensed escrow agent and approved by the
6 director as the licensed escrow officer responsible for supervising
7 that agent's handling of escrow transactions, management of the agent's
8 trust account, and supervision of all other licensed escrow officers
9 employed by the agent.

10 (11) "Escrow commission" means the escrow commission of the state
11 of Washington created by RCW 18.44.208 (as recodified by this act).

12 (~~((9))~~) (12) "Controlling person" is any person who owns or
13 controls ten percent or more of the beneficial ownership of any escrow
14 agent, regardless of the form of business organization employed and
15 regardless of whether such interest stands in such person's true name
16 or in the name of a nominee.

17 **Sec. 2.** RCW 18.44.020 and 1977 ex.s. c 156 s 2 are each amended to
18 read as follows:

19 It shall be unlawful for any person to engage in business as an
20 escrow agent (~~((within this state))~~) by performing escrows or any of the
21 functions of an escrow agent as described in RCW 18.44.010(4) within
22 this state or with respect to transactions that involve personal
23 property or real property located in this state unless such person
24 possesses a valid ((certificate of registration)) license issued by the
25 director pursuant to this chapter((:— PROVIDED, That)). The
26 (~~((registration and))~~) licensing requirements of this chapter shall not
27 apply to:

28 (1) Any person doing business under the law of this state or the
29 United States relating to banks, trust companies, mutual savings banks,
30 savings and loan associations, credit unions, insurance companies,
31 (~~((title insurance companies, the duly authorized agents of title~~
32 ~~insurance companies the business of which agents is exclusively devoted~~
33 ~~to the title insurance business,))~~) or any federally approved agency or
34 lending institution under the national housing act (12 U.S.C. Sec.
35 1703).

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

1 (3) Any real estate company, broker, or agent subject to the
2 jurisdiction of the director of licensing while performing acts in the
3 course of or incidental to sales or purchases of real or personal
4 property handled or negotiated by such real estate company, broker, or
5 agent: PROVIDED, (~~HOWEVER,~~) That no compensation is received for
6 escrow services.

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

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

15 (6) Title insurance companies having a valid certificate of
16 authority issued by the insurance commissioner of this state and title
17 insurance agents having a valid license as a title insurance agent
18 issued by the insurance commissioner of this state.

19 **Sec. 3.** RCW 18.44.030 and 1977 ex.s. c 156 s 3 are each amended to
20 read as follows:

21 An application for (~~registration as~~) an escrow agent license
22 shall be in writing in such form as is prescribed by the director, and
23 shall be verified on oath by the applicant. (~~If the applicant is a~~
24 ~~corporation, the application shall include a list of the officers and~~
25 ~~directors of such corporation, and their addresses; if the applicant is~~
26 ~~a firm or partnership, the application shall include a list of the~~
27 ~~names and addresses of the partners. The application shall include a~~
28 ~~consent to service of process, in such form as the director shall~~
29 ~~prescribe, and payment of the fee required by RCW 18.44.080-.) An
30 application for an escrow agent license shall include fingerprints for
31 all officers, directors, owners, partners, and controlling persons,
32 and, unless waived by the director, the following:~~

33 (1) The applicant's form of business organization and place of
34 organization;

35 (2) If the applicant is a corporation or limited liability company,
36 the address of its physical location, a list of officers, controlling
37 persons, and directors of such corporation or company and their
38 residential addresses, telephone numbers, and other identifying

1 information as the director may determine by rule. If the applicant is
2 a sole proprietorship or partnership, the address of its business
3 location, a list of owners, partners, or controlling persons and their
4 residential addresses, telephone numbers, and other identifying
5 information as the director may determine by rule. Any information in
6 the application regarding the personal residential address or telephone
7 number of any officer, director, partner, owner, controlling person, or
8 employee is exempt from the public records disclosure requirements of
9 chapter 42.17 RCW;

10 (3) In the event the applicant is doing business under an assumed
11 name, a copy of the master business license with the registered trade
12 name shown;

13 (4) The qualifications and business history of the applicant and
14 all of its officers, directors, owners, partners, and controlling
15 persons;

16 (5) A personal credit report from a recognized credit reporting
17 bureau satisfactory to the director on all officers, directors, owners,
18 partners, and controlling persons of the applicant;

19 (6) Whether any of the officers, directors, owners, partners, or
20 controlling persons have been convicted of any crime within the
21 preceding ten years which relates directly to the business or duties of
22 escrow agents, or have suffered a judgment within the preceding five
23 years in any civil action involving fraud, misrepresentation, any
24 unfair or deceptive act or practice, or conversion;

25 (7) The identity of the licensed escrow officer designated by the
26 escrow agent as the designated escrow officer responsible for
27 supervising the agent's escrow activity;

28 (8) Evidence of compliance with the bonding and insurance
29 requirements of RCW 18.44.050 (as recodified by this act); and

30 (9) Any other information the director may require by rule. The
31 director may share any information contained within a license
32 application, including fingerprints, with the federal bureau of
33 investigation and other regulatory or law enforcement agencies.

34 NEW SECTION. Sec. 4. (1) Any person desiring to become a licensed
35 escrow officer must successfully pass an examination.

36 (2) The escrow officer examination shall encompass the following:

37 (a) Appropriate knowledge of the English language, including
38 reading, writing, and arithmetic;

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

6 (c) An understanding of the obligations between principal and
7 agent;

8 (d) An understanding of the meaning and nature of encumbrances upon
9 real property;

10 (e) An understanding of the principles and practice of trust
11 accounting; and

12 (f) An understanding of the escrow agent registration act and other
13 applicable law such as the real estate settlement procedures act, 12
14 U.S.C. Sec. 2601, and regulation X, 24 C.F.R. Sec. 3500.

15 (3) The examination shall be in such form as prescribed by the
16 director with the advice of the escrow commission, and shall be given
17 at least annually.

18 **Sec. 5.** RCW 18.44.050 and 1979 c 70 s 1 are each amended to read
19 as follows:

20 (1) At the time of filing an application ~~((as))~~ for an escrow agent
21 license, or any renewal or reinstatement ~~((thereof))~~ of an escrow agent
22 license, the applicant shall ~~((satisfy))~~ provide satisfactory evidence
23 to the director ~~((that it has))~~ of having obtained the following as
24 evidence of financial responsibility:

25 ~~((+1))~~ (a) A fidelity bond providing coverage in the aggregate
26 amount of two hundred thousand dollars with a deductible no greater
27 than ten thousand dollars covering each corporate officer, partner,
28 escrow officer, and employee of the applicant engaged in escrow
29 transactions; ~~((and~~

30 ~~((+2))~~ (b) An errors and omissions policy issued to the escrow agent
31 providing coverage in the minimum aggregate amount of fifty thousand
32 dollars or, alternatively, cash or securities in the principal amount
33 of fifty thousand dollars deposited in an approved depository on
34 condition that they be available for payment of any claim payable under
35 an equivalent errors and omissions policy in that amount and pursuant
36 to rules and regulations adopted by the department for that purpose;
37 and

1 (c) A surety bond in the amount of ten thousand dollars executed by
2 the applicant as obligor and by a surety company authorized to do a
3 surety business in this state as surety, unless the fidelity bond
4 obtained by the licensee to satisfy the requirement in (a) of this
5 subsection does not have a deductible. The bond shall run to the state
6 of Washington as obligee, and shall run to the benefit of the state and
7 any person or persons who suffer loss by reason of the applicant's or
8 its employee's violation of this chapter. The bond shall be
9 conditioned that the obligor as licensee will faithfully conform to and
10 abide by this chapter and all rules adopted under this chapter, and
11 shall reimburse all persons who suffer loss by reason of a violation of
12 this chapter or rules adopted under this chapter. The bond shall be
13 continuous and may be canceled by the surety upon the surety giving
14 written notice to the director of its intent to cancel the bond. The
15 cancellation shall be effective thirty days after the notice is
16 received by the director. Whether or not the bond is renewed,
17 continued, reinstated, reissued, or otherwise extended, replaced, or
18 modified, including increases or decreases in the penal sum, it shall
19 be considered one continuous obligation, and the surety upon the bond
20 shall not be liable in an aggregate amount exceeding the penal sum set
21 forth on the face of the bond. In no event shall the penal sum, or any
22 portion thereof, at two or more points in time be added together in
23 determining the surety's liability. The bond shall not be liable for
24 any penalties imposed on the licensee, including but not limited to,
25 any increased damages or attorneys' fees, or both, awarded under RCW
26 19.86.090.

27 (2) For the purposes of this section, a "fidelity bond" shall mean
28 a primary commercial blanket bond or its equivalent satisfactory to the
29 director and written by an insurer authorized to transact (~~surety~~)
30 this line of business in the state of Washington. Such bond shall
31 provide fidelity coverage for any fraudulent or dishonest acts
32 committed by any one or more of the employees or officers as defined in
33 the bond, acting alone or in collusion with others. (~~Said~~) This bond
34 shall be for the sole benefit of the escrow agent and under no
35 circumstances whatsoever shall the bonding company be liable under the
36 bond to any other party. The bond shall name the escrow agent as
37 obligee and shall protect the obligee against the loss of money or
38 other real or personal property belonging to the obligee, or in which
39 the obligee has a pecuniary interest, or for which the obligee is

1 legally liable or held by the obligee in any capacity, whether the
2 obligee is legally liable therefor or not. The bond may be canceled by
3 the insurer upon delivery of thirty days' written notice to the
4 director and to the escrow agent.

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

13 (4) Except as provided in RCW 18.44.360 (as recodified by this
14 act), the fidelity bond, surety bond, and the errors and omissions
15 policy required by this section shall be kept in full force and effect
16 as a condition precedent to the escrow agent's authority to transact
17 escrow business in this state, and the escrow agent shall supply the
18 director with satisfactory evidence thereof upon request.

19 **Sec. 6.** RCW 18.44.060 and 1965 c 153 s 6 are each amended to read
20 as follows:

21 In the event of cancellation of ~~((a))~~ either the fidelity bond, the
22 surety bond, or both, the director shall require the filing of a new
23 bond or bonds. Failure to ~~((deposit such))~~ provide the director with
24 satisfactory evidence of a new bond after receipt by the director of
25 notification ((by the director)) that one is required or by the
26 effective date of the cancellation notice, whichever is later, shall be
27 sufficient grounds for the suspension or revocation of the
28 ~~((certificate of registration))~~ escrow agent's license.

29 **Sec. 7.** RCW 18.44.067 and 1977 ex.s. c 156 s 19 are each amended
30 to read as follows:

31 A licensed escrow agent shall provide notice in writing ((shall be
32 given)) to the director and to the insurer providing coverage under RCW
33 18.44.050 ((as now or hereafter amended)) (as recodified by this act)
34 of any change of business location ((or of)), branch office location,
35 or business name. Such notice shall be given in a form prescribed by
36 the director and shall be delivered at least ten business days prior to
37 the change in business location or name. Upon the surrender of the

1 original (~~(registration)~~) license for the agent or the (~~(registration)~~)
2 applicable (~~(to a)~~) branch office and a payment of a fee, the director
3 shall issue a new (~~(certificate covering)~~) license for the new
4 location.

5 **Sec. 8.** RCW 18.44.070 and 1990 c 203 s 1 are each amended to read
6 as follows:

7 (1) Every (~~(certificated)~~) licensed escrow agent shall keep
8 adequate records, as determined by rule by the director, of all
9 transactions handled by or through the agent including itemization of
10 all receipts and disbursements of each transaction(~~(, which)~~). These
11 records shall be maintained in this state, unless otherwise approved by
12 the director, for a period of six years from completion of the
13 transaction. These records shall be open to inspection by the director
14 or the director's authorized representatives.

15 (2) Every (~~(certificated)~~) licensed escrow agent shall keep ((a))
16 separate escrow fund accounts as determined by rule by the director in
17 ((a)) recognized Washington state (~~(depository)~~) depositories
18 authorized to receive funds, in which shall be kept separate and apart
19 and segregated from the agent's own funds, all funds or moneys of
20 clients which are being held by the agent pending the closing of a
21 transaction and such funds shall be deposited not later than the first
22 banking day following receipt thereof.

23 (3) An escrow agent, unless exempted by RCW 18.44.020(2) (as
24 recodified by this act), shall not make disbursements on any escrow
25 account without first receiving deposits directly relating to the
26 account in amounts at least equal to the disbursements. An escrow
27 agent shall not make disbursements until the next business day after
28 the business day on which the funds are deposited unless the deposit is
29 made in cash, by interbank electronic transfer, or in a form that
30 permits conversion of the deposit to cash on the same day the deposit
31 is made. The deposits shall be in one of the following forms:

32 ((+1)) (a) Cash;

33 ((+2)) (b) Interbank electronic transfers such that the funds are
34 unconditionally received by the escrow agent or the agent's depository;

35 ((+3)) (c) Checks, negotiable orders of withdrawal, money orders,
36 cashier's checks, and certified checks that are payable in Washington
37 state and drawn on financial institutions located in Washington state;

38 ((or

1 ~~(4)~~) (d) Checks, negotiable orders of withdrawal, money orders,
2 and any other item that has been finally paid as described in RCW
3 62A.4-213 before any disbursement; or

4 ~~((5))~~ (e) Any depository check, including any cashier's check,
5 certified check, or teller's check, which is governed by the provisions
6 of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et
7 seq.

8 (4) For purposes of this section, the word "item" means any
9 instrument for the payment of money even though it is not negotiable,
10 but does not include money.

11 (5) Violation of this section shall subject an escrow agent to
12 penalties as prescribed in Title 9A RCW and remedies as provided in
13 chapter 19.86 RCW and shall constitute grounds for suspension or
14 revocation of the ~~((registration or))~~ license of any ~~((certified))~~
15 licensed escrow agent or licensed escrow officer. In addition, an
16 escrow agent who is required to be licensed under this chapter and who
17 violates this section or an individual who is required to be licensed
18 as an escrow officer under this chapter and who violates this section,
19 may be subject to penalties as prescribed in RCW 18.44.260 (as
20 recodified by this act).

21 NEW SECTION. Sec. 9. It is a violation of this chapter for any
22 escrow agent, controlling person, officer, designated escrow officer,
23 independent contractor, employee of an escrow business, or other person
24 subject to this chapter to:

25 (1) Directly or indirectly employ any scheme, device, or artifice
26 to defraud or mislead borrowers or lenders or to defraud any person;

27 (2) Directly or indirectly engage in any unfair or deceptive
28 practice toward any person;

29 (3) Directly or indirectly obtain property by fraud or
30 misrepresentation;

31 (4) Knowingly make, publish, or disseminate any false, deceptive,
32 or misleading information in the conduct of the business of escrow, or
33 relative to the business of escrow or relative to any person engaged
34 therein;

35 (5) Knowingly receive or take possession for personal use of any
36 property of any escrow business, other than in payment authorized by
37 this chapter, and with intent to defraud, omit to make, or cause or

1 direct to be made, a full and true entry thereof in the books and
2 accounts of the business;

3 (6) Make or concur in making any false entry, or omit or concur in
4 omitting to make any material entry, in its books or accounts;

5 (7) Knowingly make or publish, or concur in making or publishing
6 any written report, exhibit, or statement of its affairs or pecuniary
7 condition containing any material statement which is false, or omit or
8 concur in omitting any statement required by law to be contained
9 therein;

10 (8) Willfully fail to make any proper entry in the books of the
11 escrow business as required by law;

12 (9) Fail to disclose in a timely manner to the other officers,
13 directors, controlling persons, designated escrow officer, or other
14 licensed escrow officers the receipt of service of a notice of an
15 application for an injunction or other legal process affecting the
16 property or business of an escrow agent, including in the case of a
17 licensed escrow agent an order to cease and desist or other order of
18 the director; or

19 (10) Fail to make any report or statement lawfully required by the
20 director or other public official.

21 **Sec. 10.** RCW 18.44.080 and 1995 c 238 s 2 are each amended to read
22 as follows:

23 The director shall charge and collect the following fees as
24 established by rule by the director:

25 (1) A fee for filing an original or a renewal application for
26 ((~~registration as~~)) an escrow agent((~~7~~)) license, a fee for each
27 application for an additional licensed location, a fee for an
28 application for a change of address for an escrow agent, annual fees
29 for the first office or location and for each additional office or
30 location, and under RCW 43.135.055 the director shall set the annual
31 fee for an escrow agent license up to five hundred sixty-five dollars
32 in fiscal year 2000.

33 (2) A fee for filing an original or a renewal application for an
34 escrow officer license, a fee for an application for a change of
35 address((~~7~~)) for each ((~~certificate of registration and for each~~))
36 escrow officer license being so changed, a fee to activate an inactive
37 escrow officer license or transfer an escrow officer license, and under
38 RCW 43.135.055 the director shall set the annual fee for an escrow

1 officer license up to two hundred thirty-five dollars in fiscal year
2 2000.

3 (3) A fee for filing an application for a duplicate of ((a
4 certificate of registration)) an escrow agent license or of an escrow
5 officer license lost, stolen, destroyed, or for replacement.

6 (4) A fee for providing ((administrative support to the escrow
7 commission)) license examinations.

8 (5) An hourly audit fee. In setting this fee, the director shall
9 ensure that every examination and audit, or any part of the examination
10 or audit, of any person licensed or subject to licensing in this state
11 requiring travel and services outside this state by the director or by
12 employees designated by the director, shall be at the expense of the
13 person examined or audited at the hourly rate established by the
14 director, plus the per diem compensation and actual travel expenses
15 incurred by the director or his or her employees conducting the
16 examination or audit. When making any examination or audit under this
17 chapter, the director may retain attorneys, appraisers, independent
18 certified public accountants, or other professionals and specialists as
19 examiners or auditors, the cost of which shall be borne by the person
20 who is the subject of the examination or audit.

21 ((All fees under this chapter shall be set by rule by the
22 director.)) In ((fixing)) establishing these fees, the director shall
23 set the fees at a sufficient level to defray the costs of administering
24 this chapter.

25 All fees received by the director under this chapter shall be paid
26 into the state treasury to the credit of the banking examination fund.

27 **Sec. 11.** RCW 18.44.090 and 1977 ex.s. c 156 s 8 are each amended
28 to read as follows:

29 Upon the filing of the application for ((registration as)) an
30 escrow agent license on a form provided by the director and satisfying
31 the requirements as set forth in this chapter, the director shall issue
32 and deliver to the applicant a ((certificate of registration)) license
33 to engage in the business of an escrow agent at the location set forth
34 in the ((certificate)) license.

35 **Sec. 12.** RCW 18.44.100 and 1965 c 153 s 10 are each amended to
36 read as follows:

1 An escrow agent's (~~certificate or [of] registration~~) license
2 shall remain in effect until surrendered, revoked, suspended, or until
3 it expires, and shall at all times be kept conspicuously posted in all
4 places of business of the agent.

5 **Sec. 13.** RCW 18.44.110 and 1985 c 340 s 2 are each amended to read
6 as follows:

7 Each escrow agent's (~~certificate~~) license shall expire at noon on
8 the thirty-first day of December of any calendar year.
9 (~~Registration~~) The license may be renewed by filing an application
10 and paying the annual (~~registration~~) license fee for the next
11 succeeding calendar year.

12 **Sec. 14.** RCW 18.44.120 and 1965 c 153 s 12 are each amended to
13 read as follows:

14 An escrow agent's (~~certificate~~) license which has not been
15 renewed may be reinstated at any time prior to the thirtieth day of
16 January following its expiration, upon the payment to the director of
17 the annual (~~registration~~) license fees then in default and a penalty
18 equal to one-half of the annual (~~registration~~) license fees then in
19 default.

20 **Sec. 15.** RCW 18.44.125 and 1996 c 293 s 11 are each amended to
21 read as follows:

22 The director shall suspend the (~~certificate of registration~~)
23 license of any person who has been certified by a lending agency and
24 reported to the director for nonpayment or default on a federally or
25 state-guaranteed educational loan or service-conditional scholarship.
26 Prior to the suspension, the agency must provide the person an
27 opportunity for a brief adjudicative proceeding under RCW 34.05.485
28 through 34.05.494 and issue a finding of nonpayment or default on a
29 federally or state-guaranteed educational loan or service-conditional
30 scholarship. The person's (~~certificate of registration~~) license
31 shall not be reissued until the person provides the director a written
32 release issued by the lending agency stating that the person is making
33 payments on the loan in accordance with a repayment agreement approved
34 by the lending agency. If the person has continued to meet all other
35 requirements for (~~registration~~) licensing during the suspension,

1 reinstatement shall be automatic upon receipt of the notice and payment
2 of any reinstatement fee the director may impose.

3 **Sec. 16.** RCW 18.44.130 and 1977 ex.s. c 156 s 9 are each amended
4 to read as follows:

5 The revocation, suspension, surrender, or expiration of an escrow
6 agent's ~~((certificate))~~ license shall not impair or affect preexisting
7 escrows accepted by the agent prior to such revocation, suspension,
8 surrender, or expiration: PROVIDED, That the escrow agent shall within
9 five work days provide written notice to all principals of such
10 preexisting escrows of the agent's loss of ~~((registration))~~ license.
11 The notice shall include as a minimum the reason for the loss of
12 ~~((registration))~~ license, the estimated date for completing the escrow,
13 and the condition of the agent's bond and whether it is in effect or
14 whether notice of cancellation has been given. The notice shall afford
15 the principals the right to withdraw the escrow without monetary loss.

16 **Sec. 17.** RCW 18.44.140 and 1965 c 153 s 14 are each amended to
17 read as follows:

18 Any person required by this chapter to obtain a ~~((certificate of~~
19 ~~registration))~~ license who engages in business as an escrow agent
20 without applying for and receiving the ~~((certificate of registration))~~
21 license required by this chapter, or ~~((wilfully))~~ willfully continues
22 to act as an escrow agent or licensed escrow officer after surrender,
23 expiration, suspension, or revocation of his ~~((certificate))~~ or her
24 license, is guilty of a misdemeanor punishable by imprisonment for not
25 more than ninety days, or by a fine of not more than ~~((two hundred~~
26 ~~fifty dollars))~~ one hundred dollars per day for each day's violation,
27 or by both such fine and imprisonment.

28 **Sec. 18.** RCW 18.44.160 and 1977 ex.s. c 156 s 10 are each amended
29 to read as follows:

30 (1) The director, through the attorney general, may prosecute an
31 action in any court of competent jurisdiction to enforce any order made
32 by him or her pursuant to this chapter and shall not be required to
33 post a bond in any such court proceedings.

34 (2) If the director has cause to believe that any person has
35 violated any penal provision of this chapter he or she may refer the

1 violation to the attorney general or the prosecuting attorney of the
2 county in which the offense was committed.

3 (3) Whenever ((it shall appear)) the director has cause to believe
4 that any person, required to be licensed by this chapter ((to register
5 with the department)), is conducting business as an escrow agent
6 without ((having applied for and obtained a certificate of
7 registration)) a valid license, or that any ((certificated)) licensed
8 escrow agent, directly or through an agent or employee, is engaged in
9 any false, unfair and deceptive, or misleading advertising or
10 promotional, activity or business practices, or is conducting business
11 in a manner deemed unsafe or injurious to the public ((or any party
12 having business relations with such escrow agent as a contracting party
13 to an escrow agreement as defined in RCW 18.44.010)), or ((in violation
14 of)) has violated, is violating, or is about to violate any of the
15 provisions of this chapter, ((the attorney general or the prosecuting
16 attorney of the appropriate county may, after such investigation as may
17 be necessary, apply to the appropriate court for an order enjoining the
18 person from engaging in or continuing to engage in the activity
19 violative of this chapter, and upon a showing that such person has
20 engaged, or is about to engage, in any such activity, a permanent or
21 temporary injunction, restraining order, or other appropriate order may
22 be issued by the court)) or a rule or order under this chapter, the
23 director, through the attorney general, may bring an action in any
24 court of competent jurisdiction to enjoin the person from continuing
25 the violation or doing any action in furtherance thereof. Upon proper
26 showing, injunctive relief or temporary restraining orders shall be
27 granted by the court and a receiver or conservator may be appointed.

28 (4) The attorney general and the several prosecuting attorneys
29 throughout the state may prosecute proceedings brought pursuant to this
30 chapter upon notification of the director.

31 **Sec. 19.** RCW 18.44.175 and 1977 ex.s. c 156 s 20 are each amended
32 to read as follows:

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

35 (1) Violated any provision of this chapter; or

36 (2) Directly, or through an agent or employee, engaged in any
37 false, unfair and deceptive, or misleading:

38 (a) Advertising or promotional activity((~~7~~)) or

1 (b) Business practices; or

2 (3) Violated any lawful order(~~(7)~~) or rule(~~(7-or-regulation)~~) of
3 the director; the director may issue an order requiring the person to
4 cease and desist from the unlawful practice and to take such
5 affirmative action as in the judgment of the director will carry out
6 the purposes of this chapter.

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

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

26 **Sec. 20.** RCW 18.44.180 and 1965 c 153 s 19 are each amended to
27 read as follows:

28 No person engaged in the business or acting in the capacity of an
29 escrow agent may bring or maintain any action in any court of this
30 state for the collection or compensation for the performances of any
31 services entered upon after December 31, 1965, for which
32 (~~registration~~) licensing is required under this chapter without
33 alleging and proving that he or she was a duly (~~certificated~~)
34 licensed escrow agent at the time of commencement of such services.

35 **Sec. 21.** RCW 18.44.200 and 1977 ex.s. c 156 s 11 are each amended
36 to read as follows:

1 ~~((No))~~ Every licensed escrow agent shall ~~((engage in the business~~
2 ~~of handling escrow transactions unless such))~~ ensure that all escrow
3 transactions are supervised by a licensed ~~((escrow officer))~~
4 ~~PROVIDED, That (1))~~. In the case of a partnership, ((one licensed
5 partner)) the designated escrow officer shall be a partner in the
6 partnership and shall act on behalf of the partnership~~((; (2))~~. In
7 the case of a corporation, ((one licensed officer thereof)) the
8 designated escrow officer shall be an officer of the corporation and
9 shall act on behalf of the corporation~~((; and (3) each branch office~~
10 ~~shall be required to have at least one licensed escrow officer~~
11 ~~designated by the escrow agent))~~. The designated escrow officer shall
12 be responsible for that agent's handling of escrow transactions,
13 management of the agent's trust account, and supervision of all other
14 licensed escrow officers employed by the agent. Responsibility for the
15 conduct of any licensed escrow ~~((agent, escrow))~~ officer~~((s, or branch~~
16 ~~escrow officers))~~ covered by this chapter shall rest with the
17 designated escrow officer or designated branch escrow officer having
18 direct supervision of such person's escrow activities. The branch
19 designated escrow officer shall bear responsibility for ~~((persons~~
20 ~~operating under each branch escrow officer's))~~ supervision of all other
21 licensed escrow officers or other persons performing escrow
22 transactions at a branch escrow office.

23 **Sec. 22.** RCW 18.44.260 and 1977 ex.s. c 156 s 16 are each amended
24 to read as follows:

25 (1) The director may, upon notice to the escrow agent and to the
26 insurer providing coverage under RCW 18.44.050 ~~((as now or hereafter~~
27 ~~amended, by order))~~ (as recodified by this act), deny, suspend, decline
28 to renew, or revoke the ~~((certificate of registration or))~~ license of
29 any escrow agent or escrow officer if ~~((he))~~ the director finds that
30 the applicant or any partner, officer, director, controlling person, or
31 employee ~~((is guilty))~~ has committed any of the following acts or
32 engaged in any of the following conduct:

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

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

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

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

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

19 (~~(6)~~) (f) Failing, upon demand, to disclose any information
20 within his or her knowledge to, or to produce any document, book, or
21 record in his or her possession for inspection of, the director or his
22 or her authorized representatives.

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

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

30 (i) Committing acts or engaging in conduct that demonstrates the
31 applicant or licensee to be incompetent or untrustworthy, or a source
32 of injury and loss to the public.

33 (2) Any conduct of an applicant or licensee that constitutes
34 grounds for enforcement action under this chapter is sufficient
35 regardless of whether the conduct took place within or outside of the
36 state of Washington.

37 (3) In addition to or in lieu of a license suspension, revocation,
38 or denial, the director may assess a fine of up to one hundred dollars
39 per day for each day's violation of this chapter or rules adopted under

1 this chapter and may remove and/or prohibit from participation in the
2 conduct of the affairs of any licensed escrow agent, any officer,
3 controlling person, director, employee, or licensed escrow officer.

4 **Sec. 23.** RCW 18.44.280 and 1977 ex.s. c 156 s 21 are each amended
5 to read as follows:

6 The director may:

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

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

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

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

29 Except as otherwise provided in this chapter, all proceedings under
30 this chapter shall be in accordance with the administrative procedure
31 act, chapter 34.05 RCW.

32 **Sec. 24.** RCW 18.44.290 and 1995 c 238 s 4 are each amended to read
33 as follows:

34 Any person desiring to be (~~(an)~~) a licensed escrow officer shall
35 meet the requirements of (~~(RCW 18.44.220)~~) section 4 of this act as
36 provided in this chapter. The applicant shall make application
37 endorsed by a (~~(certificated)~~) licensed escrow agent to the director on

1 a form to be prescribed and furnished by the director. Such
2 application must be received by the director within one year of passing
3 the escrow officer examination. With this application the applicant
4 shall:

5 (1) Pay a license fee as set forth by rule; and

6 (2) Furnish such proof as the director may require concerning his
7 or her honesty, truthfulness, good reputation, and identity, including
8 but not limited to fingerprints, residential address and telephone
9 number, qualifications and employment history, a personal credit
10 report, and any other information required under RCW 18.44.030 (as
11 recodified by this act).

12 **Sec. 25.** RCW 18.44.300 and 1985 c 340 s 5 are each amended to read
13 as follows:

14 (~~Any person desiring to be an escrow officer must include with the~~
15 ~~application a license fee.~~) Every escrow officer license issued under
16 the provisions of this chapter expires on the date one year from the
17 date of issue which date will henceforth be the renewal date. An
18 annual license renewal fee in the same amount must be paid on or before
19 each renewal date: PROVIDED, That licenses issued or renewed prior to
20 September 21, 1977, shall use the existing renewal date as the date of
21 issue. If the application for a (~~renewal~~) license renewal is not
22 received by the director on or before the renewal date such license is
23 expired. The license may be reinstated at any time prior to the next
24 succeeding renewal date following its expiration upon the payment to
25 the director of the annual renewal fee then in default. Acceptance by
26 the director of an application for renewal after the renewal date shall
27 not be a waiver of the delinquency. Licenses not renewed within one
28 year of the renewal date then in default shall be canceled. A new
29 license may be obtained by satisfying the procedures and qualifications
30 for initial licensing, including where applicable successful completion
31 of examinations.

32 **Sec. 26.** RCW 18.44.310 and 1989 c 51 s 1 are each amended to read
33 as follows:

34 The license of (~~an~~) a licensed escrow officer shall be retained
35 and displayed at all times by the (~~certificated~~) licensed escrow
36 agent(~~, and~~). When the officer ceases for any reason to represent
37 the agent, the license shall cease to be in force. (~~Notice of such~~

1 termination shall be given by the next regular business day by the
2 escrow agent to the director and such notice shall be accompanied by
3 and include the surrender of the escrow officer's license. Failure to
4 notify the director of such termination after demand by the affected
5 escrow officer shall work a forfeiture of the escrow agent's
6 certificate of registration)) Within three business days of termination
7 of the licensed escrow officer's employment, the licensed escrow agent
8 shall notify the director that the terminated escrow officer no longer
9 represents the escrow agent. Within ten business days of termination
10 of the licensed escrow officer's employment, the licensed escrow agent
11 shall deliver the surrendered escrow officer license to the director.
12 Failure to notify the director within three business days or deliver
13 the surrendered license to the director within ten business days shall,
14 at the discretion of the director, subject the escrow agent to
15 penalties under RCW 18.44.260 (as recodified by this act).

16 The director may hold the licensed escrow officer's license
17 inactive upon (~~application of the escrow officer: PROVIDED, That the~~
18 ~~escrow officer shall pay the annual renewal fee. Such~~) notification
19 of termination by the escrow agent or designated escrow officer. The
20 licensed escrow officer shall pay the renewal fee annually to maintain
21 an inactive license. An inactive license may be activated upon
22 application of a ((certificated)) licensed escrow agent on a form
23 provided by the director and the payment of a fee. If the licensed
24 escrow officer continues to meet the requirements of licensing in RCW
25 18.44.290 (as recodified by this act), the director shall thereupon
26 issue a new license for the unexpired term ((if such)) of the licensed
27 escrow officer ((is otherwise entitled thereto)). An escrow officer's
28 first license shall not be issued inactive.

29 **Sec. 27.** RCW 18.44.320 and 1977 ex.s. c 156 s 25 are each amended
30 to read as follows:

31 (1) The director has the power and broad administrative discretion
32 to administer and interpret this chapter to facilitate the delivery of
33 services to citizens of this state by escrow agents and others subject
34 to this chapter.

35 (2) The director may issue rules and regulations to govern the
36 activities of ((certificated)) licensed escrow agents and escrow
37 officers. The director shall enforce all laws((~~7~~)) and rules((~~7~~ and
38 regulations relative)) relating to the ((registration)) licensing of

1 escrow agents and ~~((licensing of))~~ escrow officers and fix the time and
2 places for holding examinations of applicants for licenses and
3 prescribe the method of conducting the examinations. The director may
4 hold hearings and suspend or revoke the ~~((registration or))~~ licenses of
5 violators and may deny, suspend, or revoke the authority of an escrow
6 officer to act as the designated escrow officer of a person who commits
7 violations of this chapter or of the rules ~~((and regulations))~~ under
8 this chapter.

9 Except as specifically provided in this chapter, the rules adopted
10 and the hearings conducted shall be in accordance with the provisions
11 of chapter 34.05 RCW, the administrative procedure act.

12 **Sec. 28.** RCW 18.44.330 and 1977 ex.s. c 156 s 26 are each amended
13 to read as follows:

14 ~~((An))~~ (1) A licensed escrow agent shall not operate an escrow
15 business in a location other than the location set forth on the agent's
16 ~~((certificate of registration))~~ license or branch office license issued
17 by the director. The licensed escrow agent may apply to the director
18 for authority to establish one or more branch offices under the same
19 name as the main office.

20 (2) Each branch office operated by a licensed escrow agent shall be
21 supervised by a licensed escrow officer designated by the licensed
22 escrow agent as the designated branch escrow officer for that branch.

23 (3) Any person desiring to operate a branch escrow office shall
24 make application on a form provided by the director and pay a fee as
25 set forth in ~~((this chapter))~~ rule by the director. Such application
26 shall identify the ~~((natural person))~~ licensed escrow officer
27 designated as the designated branch escrow officer to supervise the
28 agent's escrow activity at the ~~((escrow agent))~~ branch office.

29 (4) No escrow agent branch office ~~((certificate of registration))~~
30 license shall be issued until the applicant has satisfied the director
31 that the escrow activity of ~~((said))~~ the branch meets all financial
32 responsibility requirements governing the conduct of escrow activity.

33 **Sec. 29.** RCW 18.44.340 and 1977 ex.s. c 156 s 27 are each amended
34 to read as follows:

35 Upon the filing of the application for an escrow agent branch
36 office and satisfying the requirements of this chapter, the director
37 shall issue and deliver to the applicant a ~~((certificate of~~

1 registration)) license to engage in the business of an escrow agent at
2 the branch location set forth on the ((certificate)) license.

3 **Sec. 30.** RCW 18.44.350 and 1977 ex.s. c 156 s 28 are each amended
4 to read as follows:

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

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

18 **Sec. 31.** RCW 18.44.360 and 1988 c 178 s 2 are each amended to read
19 as follows:

20 The director shall, within thirty days after the written request of
21 the escrow commission, hold a public hearing to determine whether the
22 fidelity bond, surety bond, and/or the errors and omissions policy
23 specified in RCW 18.44.050 ((as now or hereafter amended)) (as
24 recodified by this act) is reasonably available to a substantial number
25 of ((certificated)) licensed escrow agents. If the director determines
26 and the insurance commissioner concurs that such bond or bonds and/or
27 policy is not reasonably available, the director shall waive the
28 requirements for such bond or bonds and/or policy for a fixed period of
29 time.

30 **Sec. 32.** RCW 18.44.370 and 1987 c 471 s 4 are each amended to read
31 as follows:

32 After a written determination by the director, with the consent of
33 the insurance commissioner, that the fidelity bond, the surety bond,
34 and/or the errors and omissions policy required under RCW 18.44.050
35 ((as now or hereafter amended)) (as recodified by this act) is cost-
36 prohibitive, or after a determination as provided in RCW 18.44.360 (as

1 recodified by this act) that such bond or policy is not reasonably
2 available, (~~upon the request of~~) an association comprised of
3 (~~certificated~~) licensed escrow agents, (~~the director,~~) with the
4 consent of the insurance commissioner, may (~~authorize such association~~
5 ~~to~~) organize a (~~mutual~~) corporation pursuant to chapter 24.06 RCW,
6 exempt from the provisions of Title 48 RCW, for the purpose of insuring
7 or self-insuring against claims arising out of escrow transactions(~~(~~
8 ~~if, in the director's judgment, there is a substantial likelihood that~~
9 ~~the corporation will operate for the benefit of the public and if the~~
10 ~~corporation shall have established rules, procedures, and reserves~~
11 ~~which satisfy the director that it will operate in a financially~~
12 ~~responsible manner which provides a substantial probability that it~~
13 ~~shall be able to pay any claims made against the corporation, up to the~~
14 ~~limits of financial responsibility as provided in RCW 18.44.050, as now~~
15 ~~or hereafter amended~~)). The (~~director, with the consent of the~~)
16 insurance commissioner(~~)~~) may limit the authority of the corporation
17 to the insuring or self-insuring of claims which would be within the
18 coverage specified in RCW 18.44.050 (as recodified by this act). The
19 (~~director, with the consent of the~~) insurance commissioner(~~)~~) may
20 revoke the authority of the corporation to transact insurance or self-
21 insurance if he or she determines, pursuant to chapter 34.05 RCW, that
22 the corporation is not acting in a financially responsible manner or
23 for the benefit of the public.

24 **Sec. 33.** RCW 18.44.145 and 1988 c 178 s 3 are each amended to read
25 as follows:

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

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

1 (3) (~~A violation of this section constitutes a violation of RCW~~
2 ~~19.86.020, and any person harmed in his or her business or property is~~
3 ~~entitled to the remedies provided under RCW 19.86.090.~~) The
4 legislature finds that the practices governed by this subsection are
5 matters vitally affecting the public interest for the purpose of
6 applying the consumer protection act, chapter 19.86 RCW. Any violation
7 of this section is not reasonable in relation to the development and
8 preservation of business and is an unfair and deceptive act or practice
9 and unfair method of competition in the conduct of trade or commerce in
10 violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are
11 cumulative and not exclusive.

12 NEW SECTION. Sec. 34. A new section is added to chapter 48.29 RCW
13 to read as follows:

14 (1) Every title insurance company and title insurance agent
15 conducting the business of an escrow agent as defined in RCW 18.44.010
16 (as recodified by this act) and exempt from licensing under RCW
17 18.44.020(6) (as recodified by this act) shall:

18 (a) Keep adequate records, as determined by rule by the insurance
19 commissioner, of all transactions handled by the title insurance
20 company or title insurance agent, including itemization of all receipts
21 and disbursements of each transaction. These records shall be
22 maintained in this state, unless otherwise approved by the insurance
23 commissioner, for a period of six years from completion of the
24 transaction. These records shall be open to inspection by the
25 insurance commissioner or his or her authorized representatives;

26 (b) Keep separate escrow fund account or accounts in a recognized
27 Washington state depository or depositories authorized to receive
28 funds, in which shall be kept separate and apart and segregated from
29 the title insurance company or title insurance agent's own funds, all
30 funds or moneys of clients which are being held by the title insurance
31 company or title insurance agent pending the closing of a transaction
32 and such funds shall be deposited not later than the first banking day
33 following receipt thereof; and

34 (c) Not make disbursements on any escrow account without first
35 receiving deposits directly relating to the account in amounts at least
36 equal to the disbursements. A title insurance company or title
37 insurance agent shall not make disbursements until the next business
38 day after the business day on which the funds are deposited unless the

1 deposit is made in cash, by interbank electronic transfer, or in a form
2 that permits conversion of the deposit to cash on the same day the
3 deposit is made. The deposits shall be in one of the following forms:

4 (i) Cash;

5 (ii) Interbank electronic transfers such that the funds are
6 unconditionally received by the title insurance company or the title
7 insurance agent or the title insurance company or title insurance
8 agent's depository;

9 (iii) Checks, negotiable orders of withdrawal, money orders,
10 cashier's checks, and certified checks that are payable in Washington
11 state and drawn on financial institutions located in Washington state;

12 (iv) Checks, negotiable orders of withdrawal, money orders, and any
13 other item that has been finally paid as described in RCW 62A.4-213
14 before any disbursement; or

15 (v) Any depository check, including any cashier's check, certified
16 check, or teller's check, which is governed by the provisions of the
17 federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

18 (2) For purposes of this section, "item" means any instrument for
19 the payment of money even though it is not negotiable, but does not
20 include money.

21 (3) Violation of this section shall subject a title insurance
22 company or title insurance agent to penalties as prescribed in Title 9A
23 RCW and remedies as provided in chapter 19.86 RCW and shall constitute
24 grounds for suspension or revocation of the certificate of authority of
25 a title insurance company or the license of a title insurance agent. In
26 addition, a violation of this section may subject a title insurance
27 company or a title insurance agent to penalties as prescribed in this
28 title.

29 NEW SECTION. **Sec. 35.** A new section is added to chapter 48.29 RCW
30 to read as follows:

31 It is a violation of this chapter for any title insurance company
32 and title insurance agent in the conduct of the business of an escrow
33 agent as defined in RCW 18.44.010 (as recodified by this act) and
34 exempt from licensing under RCW 18.44.020(6) (as recodified by this
35 act) to:

36 (1) Directly or indirectly employ any scheme, device, or artifice
37 to defraud or mislead borrowers or lenders or to defraud any person;

1 (2) Directly or indirectly engage in any unfair or deceptive act or
2 practice toward any person;

3 (3) Directly or indirectly obtain property by fraud or
4 misrepresentation;

5 (4) Knowingly make, publish, or disseminate any false, deceptive,
6 or misleading information in the conduct of the business of escrow, or
7 relative to the business of escrow or relative to any person engaged
8 therein;

9 (5) Knowingly receive or take possession for personal use of any
10 property of any escrow business, other than in payment authorized by
11 this chapter, and with intent to defraud, omit to make, or cause or
12 direct to be made, a full and true entry thereof in the books and
13 accounts of the title insurance company or title insurance agent;

14 (6) Make or concur in making any false entry, or omit or concur in
15 omitting to make any material entry, in its books or accounts;

16 (7) Knowingly make or publish, or concur in making or publishing
17 any written report, exhibit, or statement of its affairs or pecuniary
18 condition containing any material statement which is false, or omit or
19 concur in omitting any statement required by law to be contained
20 therein;

21 (8) Willfully fail to make any proper entry in the books of the
22 escrow business as required by law;

23 (9) Fail to disclose in a timely manner to the other officers,
24 directors, controlling persons, or employees the receipt of service of
25 a notice of an application for an injunction or other legal process
26 affecting the property or business of a title insurance company or
27 title insurance agent conducting an escrow business, including an order
28 to cease and desist or other order of the insurance commissioner; or

29 (10) Fail to make any report or statement lawfully required by the
30 insurance commissioner or other public official.

31 NEW SECTION. **Sec. 36.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 18.44.040 and 1977 ex.s. c 156 s 4, 1971 ex.s. c 245 s 3,
34 & 1965 c 153 s 4;

35 (2) RCW 18.44.065 and 1977 ex.s. c 156 s 18;

36 (3) RCW 18.44.150 and 1965 c 153 s 16;

37 (4) RCW 18.44.220 and 1985 c 340 s 4, 1977 ex.s. c 156 s 13, & 1971
38 ex.s. c 245 s 9; and

1 (5) RCW 18.44.240 and 1977 ex.s. c 156 s 14 & 1971 ex.s. c 245 s
2 11.

3 NEW SECTION. **Sec. 37.** The following sections are codified or
4 recodified within chapter 18.44 RCW in the following order:

5 (1) The following section is recodified and designated as a
6 subchapter of chapter 18.44 RCW under the subchapter designation
7 "Definitions":

8 RCW 18.44.010

9 (2) The following sections are codified or recodified and
10 designated as a subchapter of chapter 18.44 RCW under the subchapter
11 designation "Licensing":

12 RCW 18.44.020

13 RCW 18.44.030

14 RCW 18.44.330

15 RCW 18.44.340

16 RCW 18.44.067

17 RCW 18.44.200

18 RCW 18.44.290

19 RCW 18.44.300

20 RCW 18.44.310

21 RCW 18.44.350

22 RCW 18.44.080

23 RCW 18.44.090

24 RCW 18.44.100

25 RCW 18.44.110

26 RCW 18.44.120

27 RCW 18.44.140

28 RCW 18.44.180

29 RCW 18.44.250

30 Section 4 of this act

31 (3) The following sections are recodified and designated as a
32 subchapter of chapter 18.44 RCW under the subchapter designation
33 "Bonding":

34 RCW 18.44.050

35 RCW 18.44.060

36 RCW 18.44.360

37 RCW 18.44.370

38 RCW 18.44.375

1 RCW 18.44.380
2 RCW 18.44.385
3 RCW 18.44.390
4 RCW 18.44.395
5 RCW 18.44.398

6 (4) The following section is codified and designated as a
7 subchapter of chapter 18.44 RCW under the subchapter designation
8 "Prohibited Practices":

9 Section 9 of this act

10 (5) The following sections are recodified and designated as a
11 subchapter of chapter 18.44 RCW under the subchapter designation
12 "Enforcement":

13 RCW 18.44.070
14 RCW 18.44.320
15 RCW 18.44.280
16 RCW 18.44.260
17 RCW 18.44.175
18 RCW 18.44.145
19 RCW 18.44.125
20 RCW 18.44.130
21 RCW 18.44.190
22 RCW 18.44.170
23 RCW 18.44.160

24 (6) The following sections are recodified and designated as a
25 subchapter of chapter 18.44 RCW under the subchapter designation
26 "Escrow Commission":

27 RCW 18.44.208
28 RCW 18.44.215

29 (7) The following sections are recodified and designated as a
30 subchapter of chapter 18.44 RCW under the subchapter designation
31 "Miscellaneous":

32 RCW 18.44.900
33 RCW 18.44.910
34 RCW 18.44.920
35 RCW 18.44.921
36 RCW 18.44.922

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