
SUBSTITUTE HOUSE BILL 1339

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Simpson, Benson and Schual-Berke; by request of Department of Financial Institutions)

READ FIRST TIME 02/27/03.

1 AN ACT Relating to escrow agents and officers; amending RCW
2 18.44.011, 18.44.031, 18.44.041, 18.44.051, 18.44.071, 18.44.081,
3 18.44.091, 18.44.101, 18.44.111, 18.44.121, 18.44.127, 18.44.195,
4 18.44.201, 18.44.410, 18.44.430, and 18.44.450; adding new sections to
5 chapter 18.44 RCW; and repealing RCW 18.44.131.

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

7 **Sec. 1.** RCW 18.44.011 and 1999 c 30 s 1 are each amended to read
8 as follows:

9 Unless a different meaning is apparent from the context, terms used
10 in this chapter shall have the following meanings:

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

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

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

16 (4) "Escrow" means any transaction, except the acts of a qualified
17 intermediary in facilitating an exchange under section 1031 of the
18 internal revenue code, wherein any person or persons, for the purpose
19 of effecting and closing the sale, purchase, exchange, transfer,

1 encumbrance, or lease of real or personal property to another person or
2 persons, delivers any written instrument, money, evidence of title to
3 real or personal property, or other thing of value to a third person to
4 be held by such third person until the happening of a specified event
5 or the performance of a prescribed condition or conditions, when it is
6 then to be delivered by such third person, in compliance with
7 instructions under which he or she is to act, to a grantee, grantor,
8 promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor,
9 or any agent or employee thereof.

10 (5) "Split escrow" means a transaction in which two or more escrow
11 agents act to effect and close an escrow transaction.

12 (6) "Escrow agent" means any person engaged in the business of
13 performing for compensation the duties of the third person referred to
14 in subsection (4) of this section.

15 (7) "Licensed escrow agent" means any sole proprietorship, firm,
16 association, partnership, limited liability company, limited liability
17 partnership, or corporation holding a license as an escrow agent under
18 the provisions of this chapter.

19 (8) "Person" means a natural person, firm, association,
20 partnership, corporation, limited liability company, limited liability
21 partnership, trust, or any other legal entity, or the plural thereof,
22 whether resident, nonresident, citizen, or not.

23 (9) "~~((Licensed)) Escrow officer~~" means any natural person
24 ~~((handling escrow transactions and licensed))~~ who meets the
25 requirements of RCW 18.44.195(1) and who is granted a license as such
26 by the director.

27 (10) "Designated escrow officer" means any ~~((licensed))~~ senior
28 escrow officer designated by a licensed escrow agent and approved by
29 the director as the ~~((licensed))~~ senior escrow officer responsible for
30 supervising that agent's handling of escrow transactions, management of
31 the agent's trust account, and supervision of all other ~~((licensed))~~
32 escrow officers and senior escrow officers employed by the agent.

33 (11) "Escrow commission" means the escrow commission of the state
34 of Washington created by RCW 18.44.500.

35 (12) "Controlling person" is any person who owns or controls ten
36 percent or more of the beneficial ownership of any escrow agent,
37 regardless of the form of business organization employed and regardless

1 of whether such interest stands in such person's true name or in the
2 name of a nominee.

3 (13) "Applicant" means a person that files an application for a
4 license as an escrow agent under this chapter, including a natural
5 person, and in the event the applicant is a legal entity other than a
6 natural person, including the applicant's proposed designated escrow
7 officer, executive officers, sole proprietor, owners, partners,
8 members, and controlling persons, or a natural person who files an
9 application for an escrow officer license or a senior escrow officer
10 license.

11 (14) "Senior escrow officer" means any natural person who meets the
12 requirements of RCW 18.44.195(2) and who is granted a license as such
13 by the director.

14 **Sec. 2.** RCW 18.44.031 and 1999 c 30 s 3 are each amended to read
15 as follows:

16 An application for an escrow agent license shall be in writing in
17 such form as is prescribed by the director, and shall be verified on
18 oath by the applicant. An application for an escrow agent license
19 shall include (~~((fingerprints for all officers, directors, owners,~~
20 ~~partners, and controlling persons, and, unless waived by the~~
21 ~~director,))~~) the following:

22 (1) The applicant's form of business organization and place of
23 organization;

24 (2) If the applicant is a corporation or limited liability company,
25 the address of its physical location, a list of officers, controlling
26 persons, and directors of such corporation or company and their
27 residential addresses, telephone numbers, and other identifying
28 information as the director may determine by rule. If the applicant is
29 a sole proprietorship or partnership, the address of its business
30 location, a list of owners, partners, or controlling persons and their
31 residential addresses, telephone numbers, and other identifying
32 information as the director may determine by rule. Any information in
33 the application regarding the personal residential address or telephone
34 number of any officer, director, partner, owner, controlling person, or
35 employee is exempt from the public records disclosure requirements of
36 chapter 42.17 RCW;

1 (3) Fingerprints of all officers, directors, partners, sole
2 proprietors, and controlling persons;

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

6 ((+4)) (5) The qualifications and business history of the
7 applicant and all of its officers, directors, owners, partners, and
8 controlling persons;

9 ((+5)) (6) A personal credit report from a recognized credit
10 reporting bureau satisfactory to the director on all officers,
11 directors, owners, partners, and controlling persons of the applicant;

12 ((+6)) (7) Whether any of the officers, directors, owners,
13 partners, or controlling persons have been convicted of any crime
14 within the preceding ten years which relates directly to the business
15 or duties of escrow agents, or have suffered a judgment within the
16 preceding five years in any civil action involving fraud,
17 misrepresentation, any unfair or deceptive act or practice, or
18 conversion;

19 ((+7)) (8) The identity of the ((~~licensed~~)) senior escrow officer
20 designated by the escrow agent as the designated escrow officer
21 responsible for supervising the agent's escrow activity;

22 ((+8)) (9) Evidence of compliance with the bonding and insurance
23 requirements of RCW 18.44.201; and

24 ((+9)) (10) Any other information the director may require by
25 rule. The director may share any information contained within a
26 license application, including fingerprints, with the federal bureau of
27 investigation and other regulatory or law enforcement agencies.

28 NEW SECTION. Sec. 3. A new section is added to chapter 18.44 RCW
29 to read as follows:

30 Upon the filing of a complete application for an escrow agent
31 license, the director shall issue and deliver to the applicant a
32 license to engage in the business of an escrow agent at the location
33 set forth on the license when the director finds that the applicant:

34 (1) Has identified a senior escrow officer, who is not currently
35 the subject of an investigation or administrative enforcement action by
36 the department or any other jurisdiction under a similar statute, to
37 serve as the designated escrow officer for the escrow agent;

1 (2) Is not the subject of a current investigation or administrative
2 enforcement action by the department or any other jurisdiction under a
3 similar statute;

4 (3) Has not or is not committing acts or engaging in conduct that
5 demonstrates:

6 (a) Grounds for enforcement action under this chapter;

7 (b) That the applicant is incompetent or untrustworthy; or

8 (c) That the applicant is or may be a source of injury or loss to
9 the public;

10 (4) Has not been convicted of any felony during the ten years
11 preceding the date of the current application and has not suffered a
12 judgment in any civil or administrative action in the five years
13 preceding the current application involving fraud, misrepresentation,
14 any unfair or deceptive act or practice, or conversion of funds;

15 (5) Has complied with the insurance and bonding requirements in RCW
16 18.44.201; and

17 (6) Has paid all fees required in RCW 18.44.121 and in rule by the
18 director.

19 **Sec. 4.** RCW 18.44.041 and 1999 c 30 s 28 are each amended to read
20 as follows:

21 (1) A licensed escrow agent shall not operate an escrow business in
22 a location other than the location set forth on the agent's license or
23 branch office license issued by the director. The licensed escrow
24 agent may apply to the director for authority to establish one or more
25 branch offices under the same name as the main office.

26 (2) Each branch office operated by a licensed escrow agent shall be
27 supervised by a (~~licensed~~) senior escrow officer designated by the
28 licensed escrow agent as the designated branch escrow officer for that
29 branch.

30 (3) Any person desiring to operate a branch escrow office shall
31 make application on a form provided by the director and pay a fee as
32 set forth in rule by the director. Such application shall identify the
33 (~~licensed~~) senior escrow officer designated as the designated branch
34 escrow officer to supervise the agent's escrow activity at the branch
35 office.

36 (4) No escrow agent branch office license shall be issued until the

1 applicant has satisfied the director that the escrow activity of the
2 branch meets all financial responsibility requirements governing the
3 conduct of escrow activity.

4 **Sec. 5.** RCW 18.44.051 and 1999 c 30 s 29 are each amended to read
5 as follows:

6 Upon the filing of (~~the~~) a complete application for an escrow
7 agent branch office and satisfying the requirements of this chapter,
8 the director shall issue and deliver to the applicant a license to
9 engage in the business of an escrow agent at the branch location set
10 forth on the license when the director finds that the applicant:

11 (1) Has a valid escrow agent license;

12 (2) Has identified a senior escrow officer to serve as the
13 designated branch escrow officer for the proposed branch office;

14 (3) Is not the subject of a current administrative enforcement
15 action by the department under this chapter, or in any other
16 jurisdiction under a similar statute;

17 (4) Has not or is not committing acts or engaging in conduct that
18 demonstrates;

19 (a) Grounds for administrative enforcement action under this
20 chapter;

21 (b) That the applicant is incompetent or untrustworthy; or

22 (c) That the applicant is or may be a source of injury or loss to
23 the public; and

24 (5) Has paid all fees as required in RCW 18.44.121 and in rule by
25 the director.

26 **Sec. 6.** RCW 18.44.071 and 1999 c 30 s 21 are each amended to read
27 as follows:

28 Every licensed escrow agent shall ensure that all escrow
29 transactions are supervised by a (~~licensed~~) designated escrow
30 officer. In the case of a partnership, the designated escrow officer
31 shall be a partner in the partnership and shall act on behalf of the
32 partnership. In the case of a corporation, the designated escrow
33 officer shall be an officer of the corporation and shall act on behalf
34 of the corporation. The designated escrow officer shall be responsible
35 for that agent's handling of escrow transactions, management of the
36 agent's trust account, and supervision of all other licensed escrow

1 officers (~~employed by~~) or other persons performing escrow
2 transactions for the escrow agent. Responsibility for the conduct of
3 any (~~licensed~~) escrow officer or senior escrow officer covered by
4 this chapter shall rest with the designated escrow officer or
5 designated branch escrow officer having direct supervision of such
6 person's escrow activities. The (~~branch~~) designated branch escrow
7 officer shall bear responsibility for supervision of all other
8 (~~licensed~~) escrow officers, senior escrow officers, or other persons
9 performing escrow transactions at a branch escrow office.

10 **Sec. 7.** RCW 18.44.081 and 1999 c 30 s 24 are each amended to read
11 as follows:

12 (1) Any person desiring to be ((a)) licensed as an escrow officer
13 shall ((meet the requirements of)) pass an examination as required by
14 RCW 18.44.195(1) ((as provided in this chapter)). In addition, the
15 applicant shall make application ((endorsed by a licensed escrow
16 agent)) to the director on a form to be prescribed and furnished by the
17 director. Such application must be received by the director within one
18 year of passing the escrow officer examination. ((With)) This
19 application ((the applicant shall)) must include:

20 ((1) Pay a) (a) The license fee as set forth by rule; ((and
21 (2) Furnish such proof as the director may require concerning his
22 or her honesty, truthfulness, good reputation, and identity, including
23 but not limited to fingerprints, residential address and telephone
24 number, qualifications and employment history, a personal credit
25 report, and any other information required under RCW 18.44.031.))

26 (b) The applicant's residential address and telephone number;

27 (c) The applicant's business address and telephone number;

28 (d) Two sets of fingerprints of the applicant;

29 (e) The applicant's current personal credit report;

30 (f) The applicant's qualifications and employment history for the
31 previous ten years; and

32 (g) Any other information the director may require in rule to
33 establish the applicant's identity, character, and general fitness to
34 be licensed as an escrow officer.

35 (2) Any person desiring to be licensed as a senior escrow officer
36 must pass an examination as required under RCW 18.44.195(2) and must
37 submit a complete application for a senior escrow officer license on a

1 form to be prescribed by the director. A complete application must be
2 submitted within one year of passing the certified escrow officer
3 examination. This application must include:

- 4 (a) The license fee as provided in rule;
- 5 (b) The applicant's residential address and telephone number;
- 6 (c) The applicant's business address and telephone number;
- 7 (d) Two sets of fingerprints of the applicant;
- 8 (e) The applicant's current personal credit report;
- 9 (f) The applicant's qualification and employment history for the
10 previous ten years;
- 11 (g) Evidence of three years of experience as an escrow officer or
12 performing equivalent duties as defined in rule by the director; and
- 13 (h) Other information the director may require in rule to establish
14 the applicant's identity, character, and general fitness to be licensed
15 as a senior escrow officer.

16 NEW SECTION. Sec. 8. A new section is added to chapter 18.44 RCW
17 to read as follows:

18 (1) The director shall issue and deliver to the applicant an escrow
19 officer license when the director finds that the applicant:

20 (a) Has submitted a complete application and paid all fees as
21 required under RCW 18.44.081(1);

22 (b) Has successfully passed the escrow officer examination as
23 required under RCW 18.44.195(1);

24 (c) Is not the subject of a current administrative enforcement
25 action by the department or in any other jurisdiction under a similar
26 statute;

27 (d) Has not or is not committing acts or engaging in conduct that
28 demonstrates:

- 29 (i) Grounds for enforcement action under this chapter;
- 30 (ii) That the applicant is incompetent or untrustworthy; or
- 31 (iii) That the applicant is or may be a source of injury or loss to
32 the public; and

33 (e) Has not been convicted of any felony during the ten years
34 preceding the date of the current application and has not suffered a
35 judgment in any civil or administrative action in the five years
36 preceding the current application involving fraud, misrepresentation,
37 any unfair or deceptive act or practice, or conversion of funds.

1 (2) The director shall issue and deliver to the applicant a senior
2 escrow officer license when the director finds that the applicant:

3 (a) Has submitted a complete application and paid all fees as
4 required under RCW 18.44.081(2);

5 (b) Has successfully passed the senior escrow officer examination
6 as required under RCW 18.44.195(2);

7 (c) Is not the subject of a current administrative enforcement
8 action by the department or in any other jurisdiction under a similar
9 statute;

10 (d) Has not or is not committing acts or engaging in conduct that
11 demonstrates:

12 (i) Grounds for enforcement action under this chapter;

13 (ii) That the applicant is incompetent or untrustworthy; or

14 (iii) That the applicant is or may be a source of injury or loss to
15 the public;

16 (e) Has not been convicted of any felony during the ten years
17 preceding the date of the current application and has not suffered a
18 judgment in any civil or administrative action in the five years
19 preceding the current application involving fraud, misrepresentation,
20 any unfair or deceptive act or practice, or conversion of funds; and

21 (f) Has three years of experience as an escrow officer or
22 performing equivalent duties as defined in rule by the director.

23 (3) Both an escrow officer and a senior officer license may be
24 issued in inactive status.

25 (4) On the effective date of this act, the director shall issue and
26 deliver a senior escrow officer license to each licensed escrow officer
27 that:

28 (a) Is currently licensed as an escrow officer;

29 (b) Has paid all fees associated with the escrow officer license;

30 (c) Is not the subject of a current administrative enforcement
31 action by the department or any other jurisdiction under a similar
32 statute;

33 (d) Has not or is not committing acts or engaging in conduct that
34 demonstrates:

35 (i) Grounds for enforcement action under this chapter;

36 (ii) That the licensee is incompetent or untrustworthy; or

37 (iii) That the licensee is or may be a source of injury or loss to
38 the public; and

1 (e) Currently serves as the designated escrow officer of a licensed
2 escrow agent or serves as a designated branch escrow officer of a
3 licensed escrow agent.

4 (5) A licensed escrow officer that is not serving as the designated
5 escrow officer or designated branch escrow officer of a licensed escrow
6 agent, as of the effective date of this act, may apply to the director
7 for a senior escrow officer license without taking the required
8 examination prior to or upon their next escrow officer license renewal
9 date. If the director finds that such an applicant meets the
10 requirements of subsection (4)(a) through (d) of this section, and has
11 ten years or more of experience as a licensed escrow officer in active
12 status, the director shall issue such an applicant a senior escrow
13 officer license.

14 **Sec. 9.** RCW 18.44.091 and 1999 c 30 s 25 are each amended to read
15 as follows:

16 Every escrow officer and senior escrow officer license issued under
17 the provisions of this chapter expires on the date one year from the
18 date of issue which date will henceforth be the renewal date. ~~((An))~~
19 Each escrow officer and senior escrow officer must submit to the
20 director an application for license renewal and pay an annual license
21 renewal fee ~~((in the same amount must be paid))~~ as required under RCW
22 18.44.121 and as specified in rule by the director on or before each
23 renewal date ~~((: PROVIDED, That licenses issued or renewed prior to~~
24 ~~September 21, 1977, shall use the existing renewal date as the date of~~
25 ~~issue))~~. If the application for a license renewal ~~((is))~~ and the
26 annual license renewal fee are not received by the director on or
27 before the renewal date, such license is expired. The license may be
28 reinstated at any time prior to the next succeeding renewal date
29 following its expiration upon the payment to the director of the annual
30 renewal fee then in default and a late payment penalty equal to one-
31 quarter of the annual license renewal fee. Acceptance by the director
32 of an application for renewal after the renewal date shall not be a
33 waiver of the delinquency. Licenses not renewed within one year of the
34 renewal date then in default shall be canceled. A new license may be
35 obtained by satisfying the procedures and qualifications for initial
36 licensing, including where applicable successful completion of
37 examinations.

1 **Sec. 10.** RCW 18.44.101 and 1999 c 30 s 26 are each amended to read
2 as follows:

3 ~~((The license of a licensed escrow officer shall be retained and
4 displayed at all times by the licensed escrow agent. When the officer
5 ceases for any reason to represent the agent, the license shall cease
6 to be in force. Within three business days of termination of the
7 licensed escrow officer's employment, the licensed escrow agent shall
8 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 18.44.430.))~~

16 Upon the request of the escrow officer or senior escrow officer,
17 the director may issue or hold the ~~((licensed escrow officer's))~~
18 license in inactive ~~((upon notification of termination by the escrow
19 agent or designated escrow officer))~~ status. The ~~((licensed))~~ escrow
20 officer or senior escrow officer shall pay ~~((the))~~ an annual renewal
21 fee ~~((annually))~~ as established in rule by the director to maintain an
22 inactive license. An inactive license may be activated upon
23 application ~~((of a licensed escrow agent))~~ to the director on a form
24 provided by the director and the payment of a fee as established in
25 rule by the director. If the ~~((licensed))~~ escrow officer or senior
26 escrow officer continues to meet the requirements ~~((of licensing in RCW
27 18.44.081))~~ for issuance of a license as specified in section 8 of this
28 act, has met the continuing education requirements in RCW 18.44.195,
29 and has paid the required fee, the director shall ~~((thereupon issue a
30 new license for the unexpired term of the licensed escrow officer. An
31 escrow officer's first license shall not be issued inactive))~~ activate
32 the license.

33 **Sec. 11.** RCW 18.44.111 and 1999 c 30 s 30 are each amended to read
34 as follows:

35 Each escrow agent license, each escrow agent branch office license,
36 and each escrow officer or senior escrow officer license shall be

1 issued in the form and size prescribed by the director and shall state
2 in addition to any other matter required by the director:

- 3 (1) The name of the licensee;
- 4 (2) The name under which the applicant will do business;
- 5 (3) The address at which the applicant will do business;
- 6 (4) The expiration date of the license; and
- 7 (5) In the case of (~~a corporation, partnership, or branch~~
8 ~~office,~~) an escrow agent license or escrow agent branch office
9 license, the name of the designated escrow officer or designated branch
10 escrow officer.

11 **Sec. 12.** RCW 18.44.121 and 2001 c 177 s 3 are each amended to read
12 as follows:

13 The director shall charge and collect the following fees as
14 established by rule by the director:

15 (1) A fee for filing an original or a renewal application for an
16 escrow agent license, a fee for each application for an additional
17 licensed location, a fee for an application for a change of address for
18 an escrow agent, annual fees for the first office or location and for
19 each additional office or location, and under RCW 43.135.055 the
20 director shall set the annual fee for an escrow agent license up to
21 five hundred sixty-five dollars in fiscal year (~~2000~~) 2004.

22 (2) A fee for filing an original or a renewal application for an
23 escrow officer or senior escrow officer license, a fee for an
24 application for a change of address for each escrow officer or senior
25 escrow officer license being so changed, a fee to activate an inactive
26 escrow officer or senior escrow officer license (~~or transfer an escrow~~
27 ~~officer license~~), and under RCW 43.135.055 (~~the director shall set~~
28 ~~the~~) an annual fee for an escrow officer license and senior escrow
29 officer license up to two hundred thirty-five dollars in fiscal year
30 (~~2000~~) 2004.

31 (3) A fee for filing an application for a duplicate of an escrow
32 agent license or of an escrow officer or senior escrow officer license
33 lost, stolen, destroyed, or for replacement.

34 (4) A fee for providing license examinations.

35 (5) An hourly audit fee. In setting this fee, the director shall
36 ensure that every examination and audit, or any part of the examination
37 or audit, of any person licensed or subject to licensing in this state

1 requiring travel and services outside this state by the director or by
2 employees designated by the director, shall be at the expense of the
3 person examined or audited at the hourly rate established by the
4 director, plus the per diem compensation and actual travel expenses
5 incurred by the director or his or her employees conducting the
6 examination or audit. When making any examination or audit under this
7 chapter, the director may retain attorneys, appraisers, independent
8 certified public accountants, or other professionals and specialists as
9 examiners or auditors, the cost of which shall be borne by the person
10 who is the subject of the examination or audit.

11 In establishing these fees, the director shall set the fees at a
12 sufficient level to defray the costs of administering this chapter.

13 All fees received by the director under this chapter shall be paid
14 into the state treasury to the credit of the financial services
15 regulation fund.

16 **Sec. 13.** RCW 18.44.127 and 1997 c 58 s 822 are each amended to
17 read as follows:

18 The department shall immediately suspend the (~~certificate of~~
19 ~~registration~~) license of a person who has been certified pursuant to
20 RCW 74.20A.320 by the department of social and health services as a
21 person who is not in compliance with a support order or a residential
22 or visitation order. If the person has continued to meet all other
23 requirements for (~~certification~~) licensing during the suspension,
24 reissuance of the (~~certificate~~) license shall be automatic upon the
25 department's receipt of a release issued by the department of social
26 and health services stating that the person is in compliance with the
27 order.

28 **Sec. 14.** RCW 18.44.195 and 1999 c 30 s 4 are each amended to read
29 as follows:

30 (1)(a) Any person desiring to become (~~a licensed~~) an escrow
31 officer must successfully pass an examination.

32 (~~2~~) (b) The escrow officer examination shall encompass the
33 following:

34 (~~a~~) ~~Appropriate knowledge of the English language, including~~
35 ~~reading, writing, and arithmetic;~~

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

6 ~~((e))~~ (ii) An understanding of the obligations between principal
7 and agent;

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

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

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

15 ~~((3))~~ (2)(a) Any person desiring to become a senior escrow
16 officer must successfully pass an examination.

17 (b) The senior escrow officer examination must encompass the
18 following:

19 (i) All topics listed in subsection (1)(b) of this section;

20 (ii) Ethics;

21 (iii) Trust account management; and

22 (iv) Internal routine and control.

23 (3) Each escrow officer and senior escrow officer shall complete
24 continuing education each year as specified in rule by the director.
25 The continuing education must be in courses approved by the director.
26 At least four hours of the continuing education required for a senior
27 escrow officer must be in the areas of ethics, trust account
28 management, and internal routine and control.

29 (4) The examination shall be in such form as prescribed by the
30 director with the advice of the escrow commission, and shall be given
31 at least annually.

32 **Sec. 15.** RCW 18.44.201 and 1999 c 30 s 5 are each amended to read
33 as follows:

34 (1) At the time of filing an application for an escrow agent
35 license, or any renewal or reinstatement of an escrow agent license,
36 the applicant shall provide satisfactory evidence to the director of
37 having obtained the following as evidence of financial responsibility:

1 (a) A fidelity bond providing coverage in the aggregate amount of
2 (~~two hundred thousand~~) one million dollars with a deductible no
3 greater than ten thousand dollars covering each corporate officer,
4 partner, escrow officer, senior escrow officer, and employee of the
5 applicant engaged in escrow transactions;

6 (b) An errors and omissions policy issued to the escrow agent
7 providing coverage in the minimum aggregate amount of fifty thousand
8 dollars or, alternatively, cash or securities in the principal amount
9 of fifty thousand dollars deposited in an approved depository on
10 condition that they be available for payment of any claim payable under
11 an equivalent errors and omissions policy in that amount and pursuant
12 to rules and regulations adopted by the department for that purpose;
13 and

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

1 any increased damages or attorneys' fees, or both, awarded under RCW
2 19.86.090.

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

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

27 (4) Except as provided in RCW 18.44.221, the fidelity bond, surety
28 bond, and the errors and omissions policy required by this section
29 shall be kept in full force and effect as a condition precedent to the
30 escrow agent's authority to transact escrow business in this state, and
31 the escrow agent shall supply the director with satisfactory evidence
32 thereof upon request.

33 **Sec. 16.** RCW 18.44.410 and 1999 c 30 s 27 are each amended to read
34 as follows:

35 (1) The director has the power and broad administrative discretion
36 to administer and interpret this chapter to facilitate the delivery of

1 services to citizens of this state by escrow agents and others subject
2 to this chapter.

3 (2) The director may ~~((issue))~~ adopt rules ~~((and regulations))~~ to
4 govern the activities of licensed escrow agents ~~((and))~~, escrow
5 officers, and senior escrow officers. The director shall enforce all
6 laws and rules relating to the licensing of escrow agents ~~((and))~~,
7 escrow officers, and senior escrow officers and fix the time and places
8 for holding examinations of applicants for escrow officer or senior
9 escrow officer licenses and prescribe the method of conducting the
10 examinations. The director may hold hearings and suspend or revoke the
11 licenses of violators and may deny, suspend, or revoke the authority of
12 ~~((an))~~ a senior escrow officer to act as the designated escrow officer
13 of a ~~((person who commits violations of this chapter or of the rules~~
14 ~~under this chapter))~~ licensed escrow agent.

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

18 NEW SECTION. Sec. 17. A new section is added to chapter 18.44 RCW
19 to read as follows:

20 Each licensed escrow agent shall submit to the director a periodic
21 report detailing the current status of its trust account, including but
22 not limited to a summary of recent account reconciliations and the
23 status of any exceptions noted in the reconciliation. The director
24 shall specify in rule the content, frequency, and format of the
25 required report. The director may require more or less frequent
26 reports from an escrow agent licensee depending upon the licensee's
27 examination history, reporting history, consumer complaint history, and
28 administrative enforcement history.

29 **Sec. 18.** RCW 18.44.430 and 1999 c 30 s 22 are each amended to read
30 as follows:

31 (1) The director may, upon notice to the escrow agent and to the
32 insurer providing coverage under RCW 18.44.201, deny, suspend, decline
33 to renew, or revoke the license of any licensed escrow agent, senior
34 escrow officer, or escrow officer if the director finds that the
35 applicant or any partner, officer, director, controlling person, escrow

1 officer, senior escrow officer, or employee has committed any of the
2 following acts or engaged in any of the following conduct:

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

5 (b) Violating any of the provisions of this chapter or any lawful
6 rules made by the director pursuant thereto.

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

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

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

24 (f) Failing, upon demand, to disclose any information within his or
25 her knowledge to, or to produce any document, book, or record in his or
26 her possession for inspection of, the director or his or her authorized
27 representatives.

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

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

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

37 (2) Any conduct of an applicant or licensee that constitutes

1 grounds for enforcement action under this chapter is sufficient
2 regardless of whether the conduct took place within or outside of the
3 state of Washington.

4 (3) In addition to or in lieu of a license suspension, revocation,
5 or denial, the director may assess a fine of up to one hundred dollars
6 per day for each day's violation of this chapter or rules adopted under
7 this chapter (~~(and)~~) against any licensed escrow agent, escrow officer,
8 senior escrow officer, and any applicant, officer, partner, director,
9 controlling person, or employee of the escrow agent. In addition, the
10 director may remove and/or prohibit from participation in the conduct
11 of the affairs of any licensed escrow agent, any officer, applicant,
12 partner, controlling person, director, employee, senior escrow officer,
13 or (~~(licensed)~~) escrow officer.

14 **Sec. 19.** RCW 18.44.450 and 2000 c 171 s 17 are each amended to
15 read as follows:

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

20 (2) No real property lender, escrow agent, or officer or employee
21 of any escrow agent or real property lender may give or agree to pay or
22 give any money, service, or object of value to any real estate agent or
23 broker, to any real property lender, or to any officer or employee of
24 any agent, broker, or lender in return for the referral of any real
25 estate escrow services. (~~(Nothing in this subsection prohibits the~~
26 ~~payment of fees or other compensation permitted under the federal)~~)
27 Compliance with the Real Estate Settlement Procedures Act ((as amended
28 ~~(12 U.S.C. sections 2601 through 2617))~~), 12 U.S.C. Secs. 2601 through
29 2617, and Regulation X 24 C.F.R. Part 3500, as now or hereafter
30 amended, constitutes compliance with the requirements of this
31 subsection.

32 (3) The legislature finds that the practices governed by this
33 subsection are matters vitally affecting the public interest for the
34 purpose of applying the consumer protection act, chapter 19.86 RCW.
35 Any violation of this section is not reasonable in relation to the
36 development and preservation of business and is an unfair and deceptive

1 act or practice and an unfair method of competition in the conduct of
2 trade or commerce in violation of RCW 19.86.020. Remedies provided by
3 chapter 19.86 RCW are cumulative and not exclusive.

4 NEW SECTION. **Sec. 20.** RCW 18.44.131 (License application--
5 Issuance) and 1999 c 30 s 11, 1977 ex.s. c 156 s 8, & 1965 c 153 s 9
6 are each repealed.

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