

SENATE BILL REPORT

SB 6218

As Passed Senate, February 13, 2012

Title: An act relating to escrow licensing requirement exceptions.

Brief Description: Concerning escrow licensing requirement exceptions relating to the practice of law.

Sponsors: Senators Frockt, Chase, Kline, Harper, Pflug and Hobbs; by request of Washington State Bar Association.

Brief History:

Committee Activity: Judiciary: 1/24/12, 1/26/12 [DP].

Passed Senate: 2/13/12, 48-0.

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Carrell, Kohl-Welles, Padden and Regala.

Staff: Juliana Roe (786-7438)

Background: It is unlawful for a person to engage in business as an escrow agent with respect to personal or real property transactions in Washington State unless the person has a valid license issued by the director of financial institutions. The license requirement does not apply to, among others, a person licensed to practice law in this state while engaged in the performance of the person's professional duties, provided that no separate compensation or gain is received for escrow services, and the service is provided under the same legal entity as the law practice. Any attorney who is principally engaged as an escrow agent must obtain a license.

Summary of Bill: The license requirement does not apply to a person licensed to practice law in this state if:

- the escrow transactions are performed by either the lawyer engaged in the practice of law or any employee under direct supervision of the lawyer;
- all escrow transactions are performed under a legal entity that is operated as a law practice; and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- all escrow funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington Supreme Court that regulates the conduct of lawyers.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Department of Financial Institutions (DFI) has inadvertently been regulating the practice of law which has caused some lawyers to threaten to file suit. Instead, DFI and the Washington State Bar Association (WSBA) decided to come up with a legislative fix that would remedy this situation. That fix is before you today.

It is improper for lawyers to hide behind an escrow company, but if escrow transactions are done under the auspices of their legal practice, then there should be an exemption.

OTHER: DFI did not intend to regulate the practice of law and does not have that sort of authority. DFI has agreed to draw a line with regard to lawyers. DFI is neutral, but did work with the WSBA to come up with this legislation.

Persons Testifying: PRO: Nancy Isserlis, WSBA.

OTHER: Deb Bortner, DFI.