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SENATE BILL 6235

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Hobbs, Benton, Prentice, Keiser, and Litzow

Read first time 01/16/12. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to the licensing of escrow agents; and amending RCW  
2 18.44.011 and 31.04.025.

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

4 **Sec. 1.** RCW 18.44.011 and 2011 1st sp.s. c 21 s 45 are each  
5 amended to read as follows:

6 The definitions in this section apply throughout this chapter  
7 unless the context clearly requires otherwise.

8 (1) "Committee" means the escrow advisory committee of the state of  
9 Washington created by RCW 18.44.500.

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

15 (3) "Department" means the department of financial institutions.

16 (4) "Designated escrow officer" means any licensed escrow officer  
17 designated by a licensed escrow agent and approved by the director as  
18 the licensed escrow officer responsible for supervising that agent's

1 handling of escrow transactions, management of the agent's trust  
2 account, and supervision of all other licensed escrow officers employed  
3 by the agent.

4 (5) "Director" means the director of financial institutions, or his  
5 or her duly authorized representative.

6 (6) "Director of licensing" means the director of the department of  
7 licensing, or his or her duly authorized representative.

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

24 (8) "Escrow agent" means any person engaged in the business of  
25 performing for compensation the duties of the third person referred to  
26 in subsection (7) of this section.

27 (9) "Licensed escrow agent" means any sole proprietorship, firm,  
28 association, partnership, or corporation holding a license as an escrow  
29 agent under the provisions of this chapter.

30 (10) "Licensed escrow officer" means any natural person handling  
31 escrow transactions and licensed as such by the director.

32 (11) "Person" means a natural person, firm, association,  
33 partnership, corporation, limited liability company, or the plural  
34 thereof, whether resident, nonresident, citizen, or not.

35 (12) "Split escrow" means a transaction in which two or more escrow  
36 agents act to effect and close an escrow transaction.

1       **Sec. 2.** RCW 31.04.025 and 2011 c 191 s 1 are each amended to read  
2 as follows:

3       (1) Each loan made to a resident of this state by a licensee, or  
4 persons subject to this chapter, is subject to the authority and  
5 restrictions of this chapter, unless such loan is made under the  
6 authority of chapter 63.14 RCW.

7       (2) This chapter does not apply to the following:

8       (a) Any person doing business under, and as permitted by, any law  
9 of this state or of the United States relating to banks, savings banks,  
10 trust companies, savings and loan or building and loan associations, or  
11 credit unions;

12       (b) Entities making loans under chapter 19.60 RCW (pawnbroking);

13       (c) Entities making loans under chapter 63.14 RCW (retail  
14 installment sales of goods and services);

15       (d) Entities making loans under chapter 31.45 RCW (check cashers  
16 and sellers);

17       (e) Any person making a loan primarily for business, commercial, or  
18 agricultural purposes unless the loan is secured by a lien on the  
19 borrower's primary residence;

20       (f) Any person making loans made to government or government  
21 agencies or instrumentalities or making loans to organizations as  
22 defined in the federal truth in lending act;

23       (g) Entities making loans under chapter 43.185 RCW (housing trust  
24 fund);

25       (h) Entities making loans under programs of the United States  
26 department of agriculture, department of housing and urban development,  
27 or other federal government program that provides funding or access to  
28 funding for single-family housing developments or grants to low-income  
29 individuals for the purchase or repair of single-family housing;

30       (i) Nonprofit housing organizations making loans, or loans made,  
31 under housing programs that are funded in whole or in part by federal  
32 or state programs if the primary purpose of the programs is to assist  
33 low-income borrowers with purchasing or repairing housing or the  
34 development of housing for low-income Washington state residents;  
35 ((and))

36       (j) Entities making loans which are not residential mortgage loans  
37 under a credit card plan; and

38       (k) Persons or entities licensed under chapter 18.44 RCW.

1           (3) The director may, at his or her discretion, waive applicability  
2 of the consumer loan company licensing provisions of this chapter to  
3 other persons, not including individuals subject to the S.A.F.E. act,  
4 making or servicing loans when the director determines it necessary to  
5 facilitate commerce and protect consumers. The director may adopt  
6 rules interpreting this section.

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