

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1730

64th Legislature
2015 Regular Session

Passed by the House March 10, 2015
Yeas 97 Nays 0

Speaker of the House of Representatives

Passed by the Senate April 8, 2015
Yeas 48 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1730** as passed by House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1730

Passed Legislature - 2015 Regular Session

State of Washington **64th Legislature** **2015 Regular Session**

By House Business & Financial Services (originally sponsored by Representatives Kirby and Vick)

READ FIRST TIME 02/20/15.

1 AN ACT Relating to the handling of earnest money; amending RCW
2 4.28.080; and adding a new section to chapter 64.04 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 64.04
5 RCW to read as follows:

6 (1) As used in this section:

7 (a) "Day" means calendar day.

8 (b) "Earnest money" means money placed with a holder by a
9 prospective buyer of residential real property to show a good-faith
10 intention to perform pursuant to an executed purchase and sale
11 agreement.

12 (c) "Holder" means the party holding the earnest money pursuant
13 to an executed purchase and sale agreement including, but not limited
14 to, any of the following:

15 (i) A real estate firm, as defined in RCW 18.85.011;

16 (ii) An escrow agent, as defined in RCW 18.44.011;

17 (iii) A title insurance company issued a certificate of authority
18 pursuant to chapters 48.05 and 48.29 RCW; or

19 (iv) A title insurance agent licensed pursuant to chapter 48.29
20 RCW.

1 (d) "Party" means a person or entity identified as a buyer or
2 seller in an executed purchase and sale agreement for residential
3 real property.

4 (e) "Residential real property" has the same meaning as defined
5 in RCW 64.06.005.

6 (2) If a holder receives a written demand from a party to a
7 transaction for all or any part of the earnest money held by the
8 holder in relation to that transaction, the holder must, within
9 fifteen days of receipt of the written demand: (a) Notify all other
10 parties to the transaction of the demand in writing and comply with
11 the other requirements of this section; (b) release the earnest money
12 to one or more of the parties; or (c) commence an interpleader
13 action.

14 (3) The holder's notice to the other parties must include a copy
15 of the demand and advise the other parties that: (a) They have twenty
16 days from the date of the holder's notice to notify the holder in
17 writing of their objection to the release of the earnest money; and
18 (b) their failure to deliver a timely written objection will result
19 in the holder releasing the earnest money to the demanding party in
20 accordance with the demand upon expiration of the twenty-day
21 period. The holder's notice must also specify an address where
22 written objections to the release of the earnest money must be sent.

23 (4) The twenty-day period commences upon the date the holder
24 places the holder's notice in the United States postal service mail
25 and sends an email pursuant to subsection (6) of this section. The
26 holder must maintain a log or other method of evidencing the mailing
27 of the holder's notice.

28 (5) If the holder does not receive, at the address specified in
29 the holder's notice, a written objection from one or more of the
30 other parties within the twenty-day period, the holder must, within
31 ten days of the expiration of the twenty-day period, deliver the
32 earnest money to the demanding party in accordance with the party's
33 written demand. If the holder receives, at the specified address, a
34 written objection or inconsistent demand from another party to the
35 transaction within the twenty-day period, the holder must not release
36 the funds to any party, but must commence an interpleader action
37 within sixty days of receipt of the objection or inconsistent demand,
38 unless the parties provide subsequent consistent instructions that
39 authorize the holder to (a) disburse the earnest money or (b) refrain

1 from commencing an interpleader action for a specified period of
2 time.

3 (6) The notice from the holder to the other parties must be sent
4 via United States postal service mail and via email using the last
5 known mailing address and email address for such parties to the
6 extent such information is provided by the parties and is
7 contained in the holder's records for that transaction. The holder
8 has no obligation to search outside its records to determine the
9 current mailing or email address of the other parties, and is not
10 liable for unsuccessfully locating the other parties' current mailing
11 or email addresses if outside records are used.

12 (7) Unless a holder releases the earnest money pursuant to
13 subsection (2)(b) of this section, a holder that complies with this
14 section is not liable to any party to the transaction, or to any
15 other person, for releasing the earnest money to the demanding party.

16 (8) This section does not prohibit a holder from interpleading
17 the earnest money at any time, including after receiving a written
18 demand as described in subsection (2) of this section and before the
19 expiration of the twenty-day period as described in subsections (3)
20 and (4) of this section.

21 (9) If the holder commences an interpleader action, the court
22 must award the holder its reasonable attorneys' fees and costs.

23 (10) The holder may use the following form of summons for the
24 interpleader action:

25 SUPERIOR COURT OF WASHINGTON

26 FOR COUNTY

27,

28 Interpleader Plaintiff,

29 vs.

30,

31 Defendant Seller,

32 and

33,

34 Defendant Buyer.

} NO.
INTERPLEADER
SUMMONS

35 TO: THE DEFENDANTS

36 This interpleader lawsuit has been started against you in the
37 above court. The plaintiff's claim is stated in the complaint.

1 In order to protect any right you have in the money described in
2 the complaint, you must file a response to the complaint and serve a
3 copy of your response on the other defendant within twenty (20) days
4 after the service of this summons, if served within the state of
5 Washington [or within sixty (60) days after service if served outside
6 the state of Washington], excluding the day of service. The day of
7 service is the day that this summons is personally served or
8 postmarked, if served by mail. If you do not respond to the complaint
9 within this time period, the other defendant may enter a default
10 judgment against you, without notice and you would lose any interest
11 you may have in the money described in the complaint. If you serve a
12 "Notice of Appearance" on the other defendant, you are entitled to
13 notice before such a default judgment is entered.

14 The plaintiff has waived all claims to the money deposited with
15 the court, except for reimbursement of its reasonable attorneys' fees
16 and costs.

17 You may wish to seek the advice of an attorney. In such case, you
18 should do so promptly so that your response, if any, can be served
19 within the applicable time.

20 This summons is issued pursuant to Rule 4 of the superior court
21 civil rules of the state of Washington.

22 Interpleader Plaintiff

23 By:

24 Dated:

25 Address:

26 (11) The holder may use the following form of complaint for the
27 interpleader action:

28 SUPERIOR COURT OF WASHINGTON

29 FOR COUNTY

30,

31 Interpleader Plaintiff,

32 vs.

33,

34 Defendant Seller,

35 and

36,

37 Defendant Buyer.

} NO.
INTERPLEADER
COMPLAINT

1 COMES NOW the interpleader plaintiff, and alleges as follows:

2 1. INTERPLEADER. Plaintiff is holding earnest money related to
3 the attached real estate purchase and sale agreement (the
4 "agreement").

5 2. DEFENDANTS' AGREEMENT. Defendants are the "buyer" and "seller"
6 under the agreement.

7 3. EARNEST MONEY - CONFLICTING CLAIMS. Pursuant to the agreement,
8 buyer deposited the earnest money with plaintiff in the amount of
9 \$. . . . The sale contemplated by the agreement did not close.
10 Both buyer and seller have made conflicting claims for the earnest
11 money.

12 4. DEPOSIT WITH COURT. At the time of filing of this complaint,
13 plaintiff has deposited the earnest money with the clerk of the court
14 pursuant to RCW 4.08.170 and superior court civil rule 22.

15 5. PLAINTIFF'S CLAIM. Plaintiff disclaims any interest in the
16 earnest money, except for reimbursement of its reasonable attorneys'
17 fees and costs. Pursuant to RCW 4.08.170, plaintiff asks that this
18 complaint be accepted without payment of a filing fee or other cost
19 to plaintiff.

20 6. The defendants' names and addresses last known to plaintiff
21 are:

22 Defendant Buyer:

23 Address:

24 Defendant Seller:

25 Address:

26 WHEREFORE, Plaintiff having interplead the earnest money,
27 respectfully requests:

28 1. That the court adjudicate who is entitled to the earnest
29 money.

30 2. That the court award plaintiff its reasonable attorneys' fees
31 and costs.

32 Interpleader Plaintiff

33 By:

34 Dated:

35 Address:

36 (12) This section:

1 (a) Applies to all earnest money held by a holder on the
2 effective date of this section, even if the earnest money was
3 deposited with the holder before the effective date of this section;

4 (b) Applies only to a transaction involving improved residential
5 real property and unimproved residential real property as each are
6 defined in RCW 64.06.005.

7 **Sec. 2.** RCW 4.28.080 and 2012 c 211 s 1 are each amended to read
8 as follows:

9 Service made in the modes provided in this section is personal
10 service. The summons shall be served by delivering a copy thereof, as
11 follows:

12 (1) If the action is against any county in this state, to the
13 county auditor or, during normal office hours, to the deputy auditor,
14 or in the case of a charter county, summons may be served upon the
15 agent, if any, designated by the legislative authority.

16 (2) If against any town or incorporated city in the state, to the
17 mayor, city manager, or, during normal office hours, to the mayor's
18 or city manager's designated agent or the city clerk thereof.

19 (3) If against a school or fire district, to the superintendent
20 or commissioner thereof or by leaving the same in his or her office
21 with an assistant superintendent, deputy commissioner, or business
22 manager during normal business hours.

23 (4) If against a railroad corporation, to any station, freight,
24 ticket or other agent thereof within this state.

25 (5) If against a corporation owning or operating sleeping cars,
26 or hotel cars, to any person having charge of any of its cars or any
27 agent found within the state.

28 (6) If against a domestic insurance company, to any agent
29 authorized by such company to solicit insurance within this state.

30 (7)(a) If against an authorized foreign or alien insurance
31 company, as provided in RCW 48.05.200.

32 (b) If against an unauthorized insurer, as provided in RCW
33 48.05.215 and 48.15.150.

34 (c) If against a reciprocal insurer, as provided in RCW
35 48.10.170.

36 (d) If against a nonresident surplus line broker, as provided in
37 RCW 48.15.073.

38 (e) If against a nonresident insurance producer or title
39 insurance agent, as provided in RCW 48.17.173.

- 1 (f) If against a nonresident adjuster, as provided in RCW
2 48.17.380.
- 3 (g) If against a fraternal benefit society, as provided in RCW
4 48.36A.350.
- 5 (h) If against a nonresident reinsurance intermediary, as
6 provided in RCW 48.94.010.
- 7 (i) If against a nonresident life settlement provider, as
8 provided in RCW 48.102.011.
- 9 (j) If against a nonresident life settlement broker, as provided
10 in RCW 48.102.021.
- 11 (k) If against a service contract provider, as provided in RCW
12 48.110.030.
- 13 (l) If against a protection product guarantee provider, as
14 provided in RCW 48.110.055.
- 15 (m) If against a discount plan organization, as provided in RCW
16 48.155.020.
- 17 (8) If against a company or corporation doing any express
18 business, to any agent authorized by said company or corporation to
19 receive and deliver express matters and collect pay therefor within
20 this state.
- 21 (9) If against a company or corporation other than those
22 designated in subsections (1) through (8) of this section, to the
23 president or other head of the company or corporation, the registered
24 agent, secretary, cashier or managing agent thereof or to the
25 secretary, stenographer or office assistant of the president or other
26 head of the company or corporation, registered agent, secretary,
27 cashier or managing agent.
- 28 (10) If against a foreign corporation or nonresident joint stock
29 company, partnership or association doing business within this state,
30 to any agent, cashier or secretary thereof.
- 31 (11) If against a minor under the age of fourteen years, to such
32 minor personally, and also to his or her father, mother, guardian, or
33 if there be none within this state, then to any person having the
34 care or control of such minor, or with whom he or she resides, or in
35 whose service he or she is employed, if such there be.
- 36 (12) If against any person for whom a guardian has been appointed
37 for any cause, then to such guardian.
- 38 (13) If against a foreign or alien steamship company or steamship
39 charterer, to any agent authorized by such company or charterer to

1 solicit cargo or passengers for transportation to or from ports in
2 the state of Washington.

3 (14) If against a self-insurance program regulated by chapter
4 48.62 RCW, as provided in chapter 48.62 RCW.

5 (15) If against a party to a real estate purchase and sale
6 agreement under section 1 of this act, by mailing a copy by first-
7 class mail, postage prepaid, to the party to be served at his or her
8 usual mailing address or the address identified for that party in the
9 real estate purchase and sale agreement.

10 (16) In all other cases, to the defendant personally, or by
11 leaving a copy of the summons at the house of his or her usual abode
12 with some person of suitable age and discretion then resident
13 therein.

14 ~~((16))~~ (17) In lieu of service under subsection ~~((15))~~ (16)
15 of this section, where the person cannot with reasonable diligence be
16 served as described, the summons may be served as provided in this
17 subsection, and shall be deemed complete on the tenth day after the
18 required mailing: By leaving a copy at his or her usual mailing
19 address with a person of suitable age and discretion who is a
20 resident, proprietor, or agent thereof, and by thereafter mailing a
21 copy by first-class mail, postage prepaid, to the person to be served
22 at his or her usual mailing address. For the purposes of this
23 subsection, "usual mailing address" does not include a United States
24 postal service post office box or the person's place of employment.

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