

WAC 208-680-645 Possession of escrow agent property and business. (1) **When may the department take control of my escrow agent property and business?** The department may take control of a licensed escrow agent if, as a result of an examination, report, investigation, or complaint, it appears to the department that the licensed escrow agent:

- (a) Is conducting business in an unsafe and unsound manner that poses a risk to the public;
- (b) Has suspended payment of its trust obligations;
- (c) Has refused to comply with a lawfully issued order of the department.

(2) **What actions can the department take once it has taken possession of an escrow agent's property and business?** The department may take any action to protect consumers. At a minimum, the department may:

- (a) Work with other licensees to complete pending escrow transactions;
- (b) Discontinue unsafe or unsound practices and violations of laws or regulations;
- (c) Recover and distribute funds to cure any deficiencies;
- (d) Make claims against the licensee's fidelity or surety bonds or errors and omissions insurance to make whole consumers who have been harmed by employee activities;
- (e) Make restitution to injured parties;
- (f) Renew the licensee's license;
- (g) Renew or make premium payments to maintain the licensee's bonds and insurance; and
- (h) Where it is clear that the escrow agent's business cannot be safely operated, take the necessary steps to wind down the business of the escrow agent including seizing the operating and escrow trust accounts; hiring and firing employees; changing locks and passwords; taking control of the escrow agent's internet website; and turning over operations to a court-appointed receiver.

(3) **How long may the department keep control of a business?** The department may maintain control over a business until the licensee is able to resume business or the business is liquidated by a receiver appointed pursuant to RCW 18.44.470.

(4) **I also conduct nonescrow business through my licensed escrow agent business. If the department seizes my escrow business, will it also seize these other areas of business?** When possible, the department will only take control of the portion of a business related to escrow. If the portions of a business are not clearly divisible, the department will determine its actions on a case-by-case basis, based in part on the relationship between and degree of commingling of the business lines.

(5) **I am an attorney whose law practice is licensed as an escrow agent. Will the department seize my law practice under this section?** Where an attorney's law practice is excepted from licensure, the law practice is not subject to seizure under the act. For attorneys with a business entity licensed under the act, the department will generally not exercise its seizure authority against a business entity or portion of a business entity supervised by the Washington state bar association. In any event, the department will only take control of the portion of a business related to escrow as set forth in subsection (4) of the section.

[Statutory Authority: Chapter 43.320 RCW, RCW 18.44.410. WSR 16-08-028, § 208-680-645, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 18.44.410. WSR 13-24-022, § 208-680-645, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040 and chapter 18.44 RCW (as amended by 2010 c 34). WSR 10-20-124, § 208-680-645, filed 10/5/10, effective 11/5/10.]