
SUBSTITUTE SENATE BILL 5797

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by Senator Moore)

Read first time 03/03/93.

1 AN ACT Relating to the fiduciary duty of certain agents or brokers;
2 amending RCW 48.17.480; adding a new section to chapter 48.17 RCW; and
3 creating a new section.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.17 RCW
6 to read as follows:

7 Every person who receives collateral or security for any bail bond
8 issued to insure the appearance of a criminal defendant before the
9 courts of this state or the United States is a fiduciary of the
10 property and shall keep adequate records for three years of the
11 receipt, safekeeping, and disposition of the collateral or security.
12 The records are subject to the requirements of RCW 48.17.470. Each
13 such person shall maintain a trust account in a federally insured
14 financial institution located in this state. All moneys, including
15 cash, checks, money orders, wire transfers, and credit card sales
16 drafts received as collateral or security for a bail bond or otherwise
17 held for a client shall be deposited in the trust account not later
18 than the third banking day following receipt of the funds or money. A
19 person shall not in any way encumber the corpus of the trust account or

1 commingle any other moneys with moneys properly maintained in the trust
2 account. Each person required to maintain a trust account shall report
3 annually under oath to the commissioner the account number and balance
4 of the trust account, and the name and address of the institution that
5 holds the trust account, and shall report to the commissioner within
6 ten business days whenever the trust account is changed or relocated or
7 a new trust account is opened.

8 **Sec. 2.** RCW 48.17.480 and 1988 c 248 s 12 are each amended to read
9 as follows:

10 (1) An agent or any other representative of an insurer involved in
11 the procuring or issuance of an insurance contract shall report to the
12 insurer the exact amount of consideration charged as premium for such
13 contract, and such amount shall likewise be shown in the contract and
14 in the records of the agent. Each willful violation of this provision
15 shall constitute a misdemeanor.

16 (2) All funds representing premiums or return premiums received by
17 an agent, solicitor or broker, shall be so received in his or her
18 fiduciary capacity, and shall be promptly accounted for and paid to the
19 insured, insurer, or agent as entitled thereto.

20 (3) Any person licensed under this chapter who receives funds which
21 belong to or should be paid to another person as a result of or in
22 connection with an insurance transaction is deemed to have received the
23 funds in a fiduciary capacity. The licensee shall promptly account for
24 and pay the funds to the person entitled to the funds.

25 ~~((4) Any agent, solicitor, broker, adjuster or other person
26 licensed under this chapter who, not being lawfully entitled thereto,
27 diverts or appropriates funds received in a fiduciary capacity or any
28 portion thereof to his or her own use, shall be guilty of larceny by
29 embezzlement, and shall be punished as provided in the criminal
30 statutes of this state.))~~

31 NEW SECTION. **Sec. 3.** Failure to fulfill the fiduciary duties and
32 other duties as prescribed in section 1 of this act is not reasonable
33 in relation to the development and preservation of business. A
34 violation of section 1 of this act is an unfair or deceptive act in

1 trade or commerce for the purpose of applying the consumer protection
2 act, chapter 19.86 RCW.

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