
SENATE BILL 5797

State of Washington

53rd Legislature

1993 Regular Session

By Senator Moore

Read first time 02/15/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to the fiduciary duty of certain agents or brokers;
2 amending RCW 48.17.480; and adding a new section to chapter 48.17 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 48.17 RCW
5 to read as follows:

6 Every agent or broker who receives property of any kind as security
7 for bail bond insurance is a fiduciary of the property and shall keep
8 adequate records of the receipt, safekeeping, and disposition of the
9 property. The records are subject to the requirements of RCW
10 48.17.470. Every agent and broker shall maintain a trust account in a
11 federally insured financial institution located in this state. The
12 agent or broker shall deposit into the trust account, prior to the end
13 of the next business day, all moneys, including cash, checks, money
14 orders, wire transfers, and credit card sales drafts received as
15 security for bail bond insurance. Whenever an agent or broker receives
16 property required to be deposited in the trust account, the agent or
17 broker shall give the person delivering the property a receipt showing
18 the amount of the property. The receipt shall state that the property
19 is received in trust as security for a bail bond, shall identify the

1 bail bond, and shall contain the account number of the trust account
2 and the name, address, and telephone number of the institution that
3 holds the trust account. Moneys maintained in the trust account shall
4 be exempt from execution, attachment, or garnishment. An agent or
5 broker shall not in any way encumber the corpus of the trust account or
6 commingle any other moneys with moneys properly maintained in the trust
7 account. Each agent and broker required to maintain a trust account
8 shall report under oath annually to the commissioner the account number
9 and prior December 31 balance of the trust account, and the name and
10 address of the institution that holds the trust account.

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

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

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

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

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

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