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**SUBSTITUTE HOUSE BILL 1348**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Cole, Fuhrman and Wolfe; by request of Department of Licensing)

Read first time 02/03/95.

1 AN ACT Relating to the regulation of escrow agents; amending RCW  
2 18.44.010, 18.44.080, 18.44.145, 18.44.208, 18.44.290, 18.44.380,  
3 43.320.011, 43.320.013, 43.320.050, 43.320.060, 43.320.100, and  
4 43.320.110; providing an effective date; and declaring an emergency.

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

6 **Sec. 1.** RCW 18.44.010 and 1985 c 7 s 47 are each amended to read  
7 as follows:

8 Unless the context otherwise requires terms used in this chapter  
9 shall have the following meanings:

10 (1) "Department" means the department of (~~licensing~~) financial  
11 institutions.

12 (2) "Director" means the director of (~~licensing~~) financial  
13 institutions, or his or her duly authorized representative.

14 (3) "Escrow" means any transaction wherein any person or persons,  
15 for the purpose of effecting and closing the sale, purchase, exchange,  
16 transfer, encumbrance, or lease of real or personal property to another  
17 person or persons, delivers any written instrument, money, evidence of  
18 title to real or personal property, or other thing of value to a third  
19 person to be held by such third person until the happening of a

1 specified event or the performance of a prescribed condition or  
2 conditions, when it is then to be delivered by such third person, in  
3 compliance with instructions under which he is to act, to a grantee,  
4 grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee,  
5 bailor, or any agent or employee thereof.

6 (4) "Escrow agent" means any sole proprietorship, firm,  
7 association, partnership, or corporation engaged in the business of  
8 performing for compensation the duties of the third person referred to  
9 in RCW 18.44.010(3) above.

10 (5) "Certificated escrow agent" means any sole proprietorship,  
11 firm, association, partnership, or corporation holding a certificate of  
12 registration as an escrow agent under the provisions of this chapter.

13 (6) "Person" unless a different meaning appears from the context,  
14 includes an individual, a firm, association, partnership or  
15 corporation, or the plural thereof, whether resident, nonresident,  
16 citizen or not.

17 (7) "Escrow officer" means any natural person handling escrow  
18 transactions and licensed as such by the director.

19 (8) "Escrow commission" means the escrow commission of the state of  
20 Washington created by RCW 18.44.208.

21 (9) "Controlling person" is any person who owns or controls ten  
22 percent or more of the beneficial ownership of any escrow agent,  
23 regardless of the form of business organization employed and regardless  
24 of whether such interest stands in such person's true name or in the  
25 name of a nominee.

26 **Sec. 2.** RCW 18.44.080 and 1985 c 340 s 1 are each amended to read  
27 as follows:

28 The director shall charge and collect the following fees:

29 (1) For filing an original or a renewal application for  
30 registration as an escrow agent, annual fees for the first office or  
31 location and for each additional office or location.

32 (2) For filing an application for a change of address, for each  
33 certificate of registration and for each escrow officer license being  
34 so changed.

35 (3) For filing an application for a duplicate of a certificate of  
36 registration or of an escrow officer license lost, stolen, destroyed,  
37 or for replacement.

38 (4) For providing administrative support to the escrow commission.

1 All fees under this chapter shall be set by rule by the director  
2 (~~in accordance with RCW 43.24.086~~). In fixing these fees, the  
3 director shall set the fees at a sufficient level to defray the costs  
4 of administering this chapter.

5 All fees received by the director under this chapter shall be paid  
6 (~~by him~~) into the state treasury to the credit of the (~~general~~)  
7 banking examination fund.

8 **Sec. 3.** RCW 18.44.145 and 1988 c 178 s 3 are each amended to read  
9 as follows:

10 (1) "Real property lender" as used in this section means a bank,  
11 savings bank, savings and loan association, credit union, mortgage  
12 broker, mortgage company, or other corporation, association, or  
13 partnership that makes loans secured by real property located in this  
14 state.

15 (2) No real property lender, escrow agent, or officer or employee  
16 of any escrow agent or real property lender may give or agree to pay or  
17 give any money, service, or object of value to any real estate agent or  
18 broker, to any real property lender, or to any officer or employee of  
19 any agent, broker, or lender in return for the referral of any real  
20 estate escrow services. Nothing in this subsection prohibits the  
21 payment of fees or other compensation permitted under the federal Real  
22 Estate Settlement Procedures Act as amended (12 U.S.C. sections 2601  
23 through 2617).

24 (3) A violation of this section constitutes a violation of RCW  
25 19.86.020, and any person harmed in his or her business or property is  
26 entitled to the remedies provided under RCW 19.86.090.

27 **Sec. 4.** RCW 18.44.208 and 1985 c 340 s 3 are each amended to read  
28 as follows:

29 There is established an escrow commission of the state of  
30 Washington, to consist of the director of (~~licensing~~) financial  
31 institutions or his or her designee as chairman, and five other members  
32 who shall act as advisors to the director as to the needs of the escrow  
33 profession, including but not limited to the design and conduct of  
34 tests to be administered to applicants for escrow licenses, the  
35 schedule of license fees to be applied to the escrow licensees,  
36 educational programs, audits and investigations of the escrow  
37 profession designed to protect the consumer, and such other matters

1 determined appropriate. (~~Such members shall be appointed by the~~  
2 ~~governor~~) The director is hereby empowered to and shall appoint the  
3 other members, each of whom shall have been a resident of this state  
4 for at least five years and shall have at least five years experience  
5 in the practice of escrow as an escrow agent or as a person in  
6 responsible charge of escrow transactions.

7 The members of the first commission shall serve for the following  
8 terms: One member for one year, one member for two years, one member  
9 for three years, one member for four years, and one member for five  
10 years, from the date of their appointment, or until their successors  
11 are duly appointed and qualified. Every member of the commission shall  
12 receive a certificate of appointment from the (~~governor~~) director and  
13 before beginning the member's term of office shall file with the  
14 secretary of state a written oath or affirmation for the faithful  
15 discharge of the member's official duties. On the expiration of the  
16 term of each member, the (~~governor~~) director shall appoint a  
17 successor to serve for a term of five years or until the member's  
18 successor has been appointed and qualified.

19 The (~~governor~~) director may remove any member of the commission  
20 for cause. Vacancies in the commission for any reason shall be filled  
21 by appointment for the unexpired term.

22 Members shall be compensated in accordance with RCW 43.03.240, and  
23 shall be reimbursed for their travel expenses incurred in carrying out  
24 the provisions of this chapter in accordance with RCW 43.03.050 and  
25 43.03.060.

26 **Sec. 5.** RCW 18.44.290 and 1977 ex.s. c 156 s 22 are each amended  
27 to read as follows:

28 Any person desiring to be an escrow officer shall meet the  
29 requirements of RCW 18.44.220 as provided in this chapter. The  
30 applicant shall make application endorsed by a certificated escrow  
31 agent to the director on a form to be prescribed and furnished by the  
32 director. Such application must be received by the director within one  
33 year of passing the escrow officer examination. With this application  
34 the applicant shall:

- 35 (1) Pay a license fee as set forth (~~in this chapter~~) by rule; and
- 36 (2) Furnish such proof as the director may require concerning his  
37 or her honesty, truthfulness, good reputation, and identity, including  
38 but not limited to fingerprints.

1       **Sec. 6.** RCW 18.44.380 and 1987 c 471 s 10 are each amended to read  
2 as follows:

3       A request for a waiver of the required errors and omissions policy  
4 may be accomplished under the statute by submitting to the director an  
5 affidavit that substantially addresses the following:

6                               REQUEST FOR WAIVER OF  
7                               ERRORS AND OMISSIONS POLICY

8       I, . . . . ., residing at . . . . ., City of . . . . .,  
9 County of . . . . ., State of Washington, declare the following:

10       (1) The state escrow commission has determined that an errors and  
11 omissions policy is not reasonably available to a substantial number of  
12 licensed escrow officers; and

13       (2) Purchasing an errors and omissions policy is cost-prohibitive  
14 at this time; and

15       (3) I have not engaged in any conduct that resulted in the  
16 termination of my escrow certificate; and

17       (4) I have not paid, directly or through an errors and omissions  
18 policy, claims in excess of ten thousand dollars, exclusive of costs  
19 and attorneys' fees, during the calendar year preceding submission of  
20 this affidavit; and

21       (5) I have not paid, directly or through an errors and omissions  
22 policy, claims, exclusive of costs and attorneys' fees, totaling in  
23 excess of twenty thousand dollars in the three calendar years  
24 immediately preceding submission of this affidavit; and

25       (6) I have not been convicted of a crime involving honesty or moral  
26 turpitude during the calendar year preceding submission of this  
27 application.

28       THEREFORE, in consideration of the above, I, . . . . .,  
29 respectfully request that the director of (~~licensing~~) financial  
30 institutions grant this request for a waiver of the requirement that I  
31 purchase and maintain an errors and omissions policy covering my  
32 activities as an escrow agent licensed by the state of Washington for  
33 the period from . . . . ., 19. . . ., to . . . . ., 19. . . .

34       Submitted this day of . . . . . day of . . . . ., 19. . . . .

35                               . . . . .  
36   (signature)

37       State of Washington,

1 ss.

2 County of ((King)) . . . . .

3 I certify that I know or have satisfactory evidence that  
4 . . . . ., signed this instrument and acknowledged it to be  
5 . . . . . free and voluntary act for the uses and purposes  
6 mentioned in the instrument.

7 Dated . . . . .  
8 Signature of  
9 Notary Public . . . . .  
10 (Seal or stamp) Title . . . . .  
11 My appointment expires . . . . .

12 **Sec. 7.** RCW 43.320.011 and 1993 c 472 s 6 are each amended to read  
13 as follows:

14 (1) All powers, duties, and functions of the department of general  
15 administration under Titles 30, 31, 32, 33, and 43 RCW and any other  
16 title pertaining to duties relating to banks, savings banks, foreign  
17 bank branches, savings and loan associations, credit unions, consumer  
18 loan companies, check cashers and sellers, trust companies and  
19 departments, and other similar institutions are transferred to the  
20 department of financial institutions. All references to the director  
21 of general administration, supervisor of banking, or the supervisor of  
22 savings and loan associations in the Revised Code of Washington are  
23 construed to mean the director of the department of financial  
24 institutions when referring to the functions transferred in this  
25 section. All references to the department of general administration in  
26 the Revised Code of Washington are construed to mean the department of  
27 financial institutions when referring to the functions transferred in  
28 this subsection.

29 (2) All powers, duties, and functions of the department of  
30 licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and  
31 48.18A RCW and any other statute pertaining to the regulation under the  
32 chapters listed in this subsection of escrow agents, securities,  
33 franchises, business opportunities, commodities, and any other  
34 speculative investments are transferred to the department of financial  
35 institutions. All references to the director or department of  
36 licensing in the Revised Code of Washington are construed to mean the

1 director or department of financial institutions when referring to the  
2 functions transferred in this subsection.

3 **Sec. 8.** RCW 43.320.013 and 1993 c 472 s 9 are each amended to read  
4 as follows:

5 All employees classified under chapter 41.06 RCW, the state civil  
6 service law, who are employees of the department of general  
7 administration or the department of licensing engaged in performing the  
8 powers, functions, and duties transferred by RCW 43.320.011, except  
9 those under chapter 18.44 RCW, are transferred to the department of  
10 financial institutions. All such employees are assigned to the  
11 department of financial institutions to perform their usual duties upon  
12 the same terms as formerly, without any loss of rights, subject to any  
13 action that may be appropriate thereafter in accordance with the laws  
14 and rules governing state civil service.

15 **Sec. 9.** RCW 43.320.050 and 1993 c 472 s 8 are each amended to read  
16 as follows:

17 The director of financial institutions may appoint assistant  
18 directors for each of the divisions of the department and delegate to  
19 them the power to perform any act or duty conferred upon the director.  
20 The director is responsible for the official acts of these assistant  
21 directors.

22 The department of financial institutions shall consist of at least  
23 the following four divisions: The division of ((~~FDIC-insured~~  
24 ~~institutions~~)) banks, with regulatory authority over all state-  
25 chartered FDIC insured institutions; the division of credit unions,  
26 with regulatory authority over all state-chartered credit unions; the  
27 division of consumer ((~~affairs~~)) services and administration, with  
28 regulatory authority over state-licensed nondepository lending  
29 institutions and other regulated entities; and the division of  
30 securities, with regulatory authority over securities, franchises,  
31 business opportunities, and commodities. The director of financial  
32 institutions is granted broad administrative authority to add  
33 additional responsibilities to these divisions as necessary and  
34 consistent with applicable law.

35 For purposes of this section, "FDIC" means the Federal Deposit  
36 Insurance Corporation.

1       **Sec. 10.** RCW 43.320.060 and 1993 c 472 s 20 are each amended to  
2 read as follows:

3       The director of financial institutions shall appoint, deputize, and  
4 employ examiners and such other assistants and personnel as may be  
5 necessary to carry on the work of the department of financial  
6 institutions.

7       In the event of the director's absence the director shall have the  
8 power to deputize one of the assistants of the director to exercise all  
9 the powers and perform all the duties prescribed by law with respect to  
10 banks, savings banks, foreign bank branches, savings and loan  
11 associations, credit unions, consumer loan companies, check cashers and  
12 sellers, trust companies and departments, securities, franchises,  
13 business opportunities, commodities, escrow agents, and other similar  
14 institutions or areas that are performed by the director so long as the  
15 director is absent: PROVIDED, That such deputized assistant shall not  
16 have the power to approve or disapprove new charters, licenses,  
17 branches, and satellite facilities, unless such action has received the  
18 prior written approval of the director. Any person so deputized shall  
19 possess the same qualifications as those set out in this section for  
20 the director.

21       **Sec. 11.** RCW 43.320.100 and 1993 c 472 s 24 are each amended to  
22 read as follows:

23       The director of financial institutions shall file in his or her  
24 office all reports required to be made to the director, prepare and  
25 furnish to banks, savings banks, foreign bank branches, savings and  
26 loan associations, credit unions, consumer loan companies, check  
27 cashers and sellers, ~~((and))~~ trust companies and departments, escrow  
28 companies and agents, securities brokers and dealers, and registered  
29 investment advisers, blank forms for such reports as are required of  
30 them, and each year make a report to the governor showing(~~(+~~

31       ~~(1))~~) a summary of the conditions of the banks, savings banks,  
32 foreign bank branches, savings and loan associations, credit unions,  
33 consumer loan companies, check cashers and sellers, and trust companies  
34 and departments at the date of their last report(~~(+and~~

35       ~~(2) A list of those organized or closed during the year))~~).

36       The director may publish such other statements, reports, and  
37 pamphlets as he or she deems advisable.



1       **Sec. 12.** RCW 43.320.110 and 1993 c 472 s 25 are each amended to  
2 read as follows:

3       There is created a local fund known as the "banking examination  
4 fund" which shall consist of all moneys received by the department of  
5 financial institutions from banks, savings banks, foreign bank  
6 branches, savings and loan associations, consumer loan companies, check  
7 cashers and sellers, (~~and~~) trust companies and departments, escrow  
8 agents, and mortgage brokers, and which shall be used for the purchase  
9 of supplies and necessary equipment and the payment of salaries, wages,  
10 utilities, and other incidental costs required for the proper  
11 regulation of these companies. The state treasurer shall be the  
12 custodian of the fund. Disbursements from the fund shall be on  
13 authorization of the director of financial institutions or the  
14 director's designee. In order to maintain an effective expenditure and  
15 revenue control, the fund shall be subject in all respects to chapter  
16 43.88 RCW, but no appropriation is required to permit expenditures and  
17 payment of obligations from the fund.

18       NEW SECTION. **Sec. 13.** This act is necessary for the immediate  
19 preservation of the public peace, health, or safety, or support of the  
20 state government and its existing public institutions, and shall take  
21 effect July 1, 1995.

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