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**SUBSTITUTE SENATE BILL 5389**

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**State of Washington**

**54th Legislature**

**1995 Regular Session**

**By** Senate Committee on Financial Institutions & Housing (originally sponsored by Senators Prentice, Long, Fraser and Wood; by request of Department of Licensing)

Read first time 02/20/95.

1 AN ACT Relating to the regulation of escrow agents; amending RCW  
2 18.44.010, 18.44.080, 18.44.208, 18.44.290, 18.44.380, 43.320.011,  
3 43.320.013, 43.320.060, and 43.320.110; providing an effective date;  
4 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 ~~fund~~) banking examination fund.

8 **Sec. 3.** RCW 18.44.208 and 1985 c 340 s 3 are each amended to read  
9 as follows:

10 There is established an escrow commission of the state of  
11 Washington, to consist of the director of (~~licensing~~) financial  
12 institutions or his or her designee as chairman, and five other members  
13 who shall act as advisors to the director as to the needs of the escrow  
14 profession, including but not limited to the design and conduct of  
15 tests to be administered to applicants for escrow licenses, the  
16 schedule of license fees to be applied to the escrow licensees,  
17 educational programs, audits and investigations of the escrow  
18 profession designed to protect the consumer, and such other matters  
19 determined appropriate. (~~Such members shall be appointed by the~~  
20 ~~governor~~) The director is hereby empowered to and shall appoint the  
21 other members, each of whom shall have been a resident of this state  
22 for at least five years and shall have at least five years experience  
23 in the practice of escrow as an escrow agent or as a person in  
24 responsible charge of escrow transactions.

25 The members of the first commission shall serve for the following  
26 terms: One member for one year, one member for two years, one member  
27 for three years, one member for four years, and one member for five  
28 years, from the date of their appointment, or until their successors  
29 are duly appointed and qualified. Every member of the commission shall  
30 receive a certificate of appointment from the (~~governor~~) director and  
31 before beginning the member's term of office shall file with the  
32 secretary of state a written oath or affirmation for the faithful  
33 discharge of the member's official duties. On the expiration of the  
34 term of each member, the (~~governor~~) director shall appoint a  
35 successor to serve for a term of five years or until the member's  
36 successor has been appointed and qualified.

1 The ((governor)) director may remove any member of the commission  
2 for cause. Vacancies in the commission for any reason shall be filled  
3 by appointment for the unexpired term.

4 Members shall be compensated in accordance with RCW 43.03.240, and  
5 shall be reimbursed for their travel expenses incurred in carrying out  
6 the provisions of this chapter in accordance with RCW 43.03.050 and  
7 43.03.060.

8 **Sec. 4.** RCW 18.44.290 and 1977 ex.s. c 156 s 22 are each amended  
9 to read as follows:

10 Any person desiring to be an escrow officer shall meet the  
11 requirements of RCW 18.44.220 as provided in this chapter. The  
12 applicant shall make application endorsed by a certificated escrow  
13 agent to the director on a form to be prescribed and furnished by the  
14 director. Such application must be received by the director within one  
15 year of passing the escrow officer examination. With this application  
16 the applicant shall:

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

21 **Sec. 5.** RCW 18.44.380 and 1987 c 471 s 10 are each amended to read  
22 as follows:

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

26 REQUEST FOR WAIVER OF  
27 ERRORS AND OMISSIONS POLICY

28 I, . . . . ., residing at . . . . ., City of . . . . .,  
29 County of . . . . ., State of Washington, declare the following:

- 30 (1) The state escrow commission has determined that an errors and  
31 omissions policy is not reasonably available to a substantial number of  
32 licensed escrow officers; and  
33 (2) Purchasing an errors and omissions policy is cost-prohibitive  
34 at this time; and  
35 (3) I have not engaged in any conduct that resulted in the  
36 termination of my escrow certificate; and

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

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

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

12 THEREFORE, in consideration of the above, I, . . . . . ,  
13 respectfully request that the director of (~~licensing~~) financial  
14 institutions grant this request for a waiver of the requirement that I  
15 purchase and maintain an errors and omissions policy covering my  
16 activities as an escrow agent licensed by the state of Washington for  
17 the period from . . . . . , 19. . . . . , to . . . . . , 19. . . . .

18 Submitted this day of . . . . . day of . . . . . , 19. . . . .  
19 . . . . .  
20 (signature)

21 State of Washington,  
22 ss.  
23 County of (~~King~~) . . . . .

24 I certify that I know or have satisfactory evidence that  
25 . . . . . , signed this instrument and acknowledged it to be  
26 . . . . . free and voluntary act for the uses and purposes  
27 mentioned in the instrument.

28 Dated . . . . .  
29 Signature of  
30 Notary Public . . . . .  
31 (Seal or stamp) Title . . . . .  
32 My appointment expires . . . . .

33 **Sec. 6.** RCW 43.320.011 and 1993 c 472 s 6 are each amended to read  
34 as follows:

35 (1) All powers, duties, and functions of the department of general  
36 administration under Titles 30, 31, 32, 33, and 43 RCW and any other

1 title pertaining to duties relating to banks, savings banks, foreign  
2 bank branches, savings and loan associations, credit unions, consumer  
3 loan companies, check cashers and sellers, trust companies and  
4 departments, and other similar institutions are transferred to the  
5 department of financial institutions. All references to the director  
6 of general administration, supervisor of banking, or the supervisor of  
7 savings and loan associations in the Revised Code of Washington are  
8 construed to mean the director of the department of financial  
9 institutions when referring to the functions transferred in this  
10 section. All references to the department of general administration in  
11 the Revised Code of Washington are construed to mean the department of  
12 financial institutions when referring to the functions transferred in  
13 this subsection.

14 (2) All powers, duties, and functions of the department of  
15 licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and  
16 48.18A RCW and any other statute pertaining to the regulation under the  
17 chapters listed in this subsection of escrow agents, securities,  
18 franchises, business opportunities, commodities, and any other  
19 speculative investments are transferred to the department of financial  
20 institutions. All references to the director or department of  
21 licensing in the Revised Code of Washington are construed to mean the  
22 director or department of financial institutions when referring to the  
23 functions transferred in this subsection.

24 **Sec. 7.** RCW 43.320.013 and 1993 c 472 s 9 are each amended to read  
25 as follows:

26 All employees classified under chapter 41.06 RCW, the state civil  
27 service law, who are employees of the department of general  
28 administration or the department of licensing engaged in performing the  
29 powers, functions, and duties transferred by RCW 43.320.011, except  
30 those under chapter 18.44 RCW, are transferred to the department of  
31 financial institutions. All such employees are assigned to the  
32 department of financial institutions to perform their usual duties upon  
33 the same terms as formerly, without any loss of rights, subject to any  
34 action that may be appropriate thereafter in accordance with the laws  
35 and rules governing state civil service.

36 **Sec. 8.** RCW 43.320.060 and 1993 c 472 s 20 are each amended to  
37 read as follows:

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

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

19 **Sec. 9.** RCW 43.320.110 and 1993 c 472 s 25 are each amended to  
20 read as follows:

21 There is created a local fund known as the "banking examination  
22 fund" which shall consist of all moneys received by the department of  
23 financial institutions from banks, savings banks, foreign bank  
24 branches, savings and loan associations, consumer loan companies, check  
25 cashers and sellers, ((and)) trust companies and departments, and  
26 escrow agents, and which shall be used for the purchase of supplies and  
27 necessary equipment and the payment of salaries, wages, utilities, and  
28 other incidental costs required for the proper regulation of these  
29 companies. The state treasurer shall be the custodian of the fund.  
30 Disbursements from the fund shall be on authorization of the director  
31 of financial institutions or the director's designee. In order to  
32 maintain an effective expenditure and revenue control, the fund shall  
33 be subject in all respects to chapter 43.88 RCW, but no appropriation  
34 is required to permit expenditures and payment of obligations from the  
35 fund.

36 NEW SECTION. **Sec. 10.** This act is necessary for the immediate  
37 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and shall take  
2 effect July 1, 1995.

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