

# SENATE BILL REPORT

## HB 1092

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As Reported By Senate Committee On:  
Commerce, Trade, Housing & Financial Institutions, April 1, 1999

**Title:** An act relating to the licensing, regulation, and fees of escrow agents and escrow officers.

**Brief Description:** Regulating escrow agents and escrow officers.

**Sponsors:** Representative Hatfield; by request of Department of Financial Institutions.

**Brief History:**

**Committee Activity:** Commerce, Trade, Housing & Financial Institutions: 3/30/99, 4/1/99 [DP, DNP].

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### SENATE COMMITTEE ON COMMERCE, TRADE, HOUSING & FINANCIAL INSTITUTIONS

**Majority Report:** Do pass.

Signed by Senators Shin, Vice Chair; Deccio, Gardner, Rasmussen, T. Sheldon and Winsley.

**Minority Report:** Do not pass.

Signed by Senators Benton and Hale.

**Staff:** Catherine Mele (786-7470)

**Background:** Escrow agents close real property transactions acting as neutral third parties to effectuate the sale of real property between buyers and sellers. In 1995, the Legislature transferred regulation of escrow agents and officers from the Department of Licensing to the Department of Financial Institutions.

The escrow activities of title insurance companies and agents are exempt from state escrow laws and regulations. The Office of the Insurance Commissioner regulates title insurance companies, but it does not have authority over the escrow activities of title insurance companies and agents.

Applicants for certification as an escrow agent must give evidence of financial responsibility by showing that they have a fidelity bond for \$200,000 and an errors and omissions policy or self insurance in the amount of \$50,000.

The Department of Financial Institutions is authorized to charge fees for application and renewal of registration, fees for change of certificate of registration, fees for duplicate certificates, and fees for providing support to the escrow commission.

Under current law, the Department of Financial Institutions must give prior notification that a cease and desist order will be issued to a person violating the escrow act before issuing the cease and desist order. In addition, the escrow act prohibits escrow agents from advertising that they are registered or bonded.

1031 Tax Exchanges are companies that allow for certain types of property trades that shelter capital gains. In a recent administrative decision, the Department of Financial Institutions determined that 1031 Tax Exchanges are subject to this act.

**Summary of Bill:** Technical changes are made. For example, the term "certificate" is replaced with "license." The term "certificated" is replaced with "licensed."

1031 Tax Exchanges are explicitly exempt from the definition of escrow.

The Office of the Insurance Commissioner is authorized to regulate the escrow activities of title insurance companies and title insurance agents.

Applicants for license as an escrow agent must give evidence of financial responsibility by showing that they have a fidelity bond for \$200,000 and that the fidelity bond has a deductible of less than \$10,000. Applicants must also have an errors and omissions policy or self insurance in the amount of \$50,000. Applicants must obtain a surety bond in the amount of the deductible on their fidelity bond.

It is unlawful for an escrow agent, escrow officer, or other person subject to this chapter to engage in fraudulent, misleading, or deceptive practices. It is unlawful for an escrow agent, escrow officer, or other person subject to this chapter to fail to take actions that are required by law, fail to comply with an injunction, or fail to make any report or statement lawfully required by the director of the Department of Financial Institutions or any other public official.

The Department of Financial Institutions may charge fees for filing an original or renewal application for an escrow agent license, for an additional licensed location, for change of address, and an annual fee for the first office or location and for each additional office or location. The annual fee can be up to \$565 in fiscal year 2000. The Department of Financial Institutions can charge a fee for filing an original or renewal application for an escrow officer license, for a change of address, to activate an inactive license, to transfer a license, and the Department of Financial Institutions may set an annual fee up to \$235 in fiscal year 2000. Department of Financial Institutions may also set an hourly audit fee.

The Department of Financial Institutions may assess fines and ban individuals from participating in the escrow industry. There is no longer a provision requiring notification of the imminent issuance of a cease and desist order.

Escrow agents and officers may advertise that they are licensed and bonded.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill results from over two years of work by the industry and various government agencies. This bill makes the law easier to read and to understand. The bill helps escrow agents maintain the integrity of their profession. The fee increases in the bill assure that the industry is well regulated and the industry supports these fee increases. Currently, the escrow activities of title companies are unregulated. Consumers who are harmed by title companies providing escrow services cannot receive assistance from the Department of Financial Institutions or the Insurance Commissioner because neither have authority over escrow activities of title insurance companies. This bill gives the Insurance Commissioner the authority to regulate these activities.

**Testimony Against:** None.

**Testified:** PRO: Linda Duffin Ford, Evergreen Escrow Services LLC ; Dennis Daug; Arlene Kazala, Escrow Assn. of WA; Mark Thompson, Dept. of Financial Institutions; Dave Horn, Attorney General's Office; Gary Kissling, WA Land Title Assn.