
HOUSE BILL 1730

State of Washington

64th Legislature

2015 Regular Session

By Representatives Kirby and Vick

Read first time 01/27/15. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to the handling of earnest money; amending RCW
2 4.28.080; and adding a new section to chapter 64.04 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 64.04
5 RCW to read as follows:

6 (1) As used in this section:

7 (a) "Day" means calendar day.

8 (b) "Earnest money" means money placed with a holder by a
9 prospective buyer of residential real property to show a good-faith
10 intention to perform pursuant to an executed purchase and sale
11 agreement.

12 (c) "Holder" means the party holding the earnest money pursuant
13 to an executed purchase and sale agreement including, but not limited
14 to, any of the following:

15 (i) A real estate firm, as defined in RCW 18.85.011;

16 (ii) An escrow agent, as defined in RCW 18.44.011;

17 (iii) A title insurance company licensed pursuant to chapter
18 48.05 RCW; or

19 (iv) A title insurance agent licensed pursuant to chapter 48.17
20 RCW.

1 (d) "Party" means a person or entity identified as a buyer or
2 seller in an executed purchase and sale agreement for residential
3 real property.

4 (e) "Residential real property" has the same meaning as defined
5 in RCW 64.06.005.

6 (2) If a holder receives a written demand from a party to a
7 transaction for all or any part of the earnest money held by the
8 holder in relation to that transaction, the holder must, within
9 fifteen days of receipt of the written demand: (a) Notify all other
10 parties to the transaction of the demand in writing and comply with
11 the other requirements of this section; (b) release the earnest money
12 to one or more of the parties; or (c) commence an interpleader
13 action.

14 (3) The holder's notice to the other parties must include a copy
15 of the demand and advise the other parties that: (a) They have forty-
16 five days from the date of the holder's notice to notify the holder
17 in writing of their objection to the release of the earnest money;
18 and (b) their failure to deliver a timely written objection will
19 result in the holder releasing the earnest money to the demanding
20 party in accordance with the demand upon expiration of the forty-five
21 day period. The holder's notice must also specify an address where
22 written objections to the release of the earnest money must be sent.

23 (4) The forty-five day period commences upon the date the holder
24 places the holder's notice in the United States postal service mail
25 or sends an email pursuant to subsection (6) of this section. The
26 holder must maintain a log or other method of evidencing the mailing
27 of the holder's notice.

28 (5) If the holder does not receive, at the address specified in
29 the holder's notice, a written objection from one or more of the
30 other parties within the forty-five day period, the holder must,
31 within ten days of the expiration of the forty-five day period,
32 deliver the earnest money to the demanding party in accordance with
33 the party's written demand. If the holder receives, at the specified
34 address, a written objection or inconsistent demand from another
35 party to the transaction within the forty-five day period, the holder
36 must not release the funds to any party, but must commence an
37 interpleader action within sixty days of receipt of the objection or
38 inconsistent demand.

39 (6) The notice from the holder to the other parties must be sent
40 via United States postal service mail and via email using the last

1 known mailing address and email address for such parties to the
2 extent such information is provided by the parties and is
3 contained in the holder's files. The holder has no obligation to
4 search outside its records to determine the current mailing or email
5 address of the other parties, and is not liable for unsuccessfully
6 locating the other parties' current mailing or email addresses if
7 outside records are used.

8 (7) A holder that complies with this section is not liable to any
9 party to the transaction, or to any other person, for releasing the
10 earnest money to the demanding party.

11 (8) This section does not prohibit a holder from interpleading
12 the earnest money at any time, including after receiving a written
13 demand as described in subsection (2) of this section and before the
14 expiration of the forty-five day period as described in subsections
15 (3) and (4) of this section.

16 (9) This section:

17 (a) Applies to all earnest money held by a holder on the
18 effective date of this section, even if the earnest money was
19 deposited with the holder before the effective date of this section;

20 (b) Applies only to a transaction involving residential real
21 property when the holder is holding earnest money for the transaction
22 in an amount no more than twenty-five thousand dollars.

23 **Sec. 2.** RCW 4.28.080 and 2012 c 211 s 1 are each amended to read
24 as follows:

25 Service made in the modes provided in this section is personal
26 service. The summons shall be served by delivering a copy thereof, as
27 follows:

28 (1) If the action is against any county in this state, to the
29 county auditor or, during normal office hours, to the deputy auditor,
30 or in the case of a charter county, summons may be served upon the
31 agent, if any, designated by the legislative authority.

32 (2) If against any town or incorporated city in the state, to the
33 mayor, city manager, or, during normal office hours, to the mayor's
34 or city manager's designated agent or the city clerk thereof.

35 (3) If against a school or fire district, to the superintendent
36 or commissioner thereof or by leaving the same in his or her office
37 with an assistant superintendent, deputy commissioner, or business
38 manager during normal business hours.

1 (4) If against a railroad corporation, to any station, freight,
2 ticket or other agent thereof within this state.

3 (5) If against a corporation owning or operating sleeping cars,
4 or hotel cars, to any person having charge of any of its cars or any
5 agent found within the state.

6 (6) If against a domestic insurance company, to any agent
7 authorized by such company to solicit insurance within this state.

8 (7)(a) If against an authorized foreign or alien insurance
9 company, as provided in RCW 48.05.200.

10 (b) If against an unauthorized insurer, as provided in RCW
11 48.05.215 and 48.15.150.

12 (c) If against a reciprocal insurer, as provided in RCW
13 48.10.170.

14 (d) If against a nonresident surplus line broker, as provided in
15 RCW 48.15.073.

16 (e) If against a nonresident insurance producer or title
17 insurance agent, as provided in RCW 48.17.173.

18 (f) If against a nonresident adjuster, as provided in RCW
19 48.17.380.

20 (g) If against a fraternal benefit society, as provided in RCW
21 48.36A.350.

22 (h) If against a nonresident reinsurance intermediary, as
23 provided in RCW 48.94.010.

24 (i) If against a nonresident life settlement provider, as
25 provided in RCW 48.102.011.

26 (j) If against a nonresident life settlement broker, as provided
27 in RCW 48.102.021.

28 (k) If against a service contract provider, as provided in RCW
29 48.110.030.

30 (l) If against a protection product guarantee provider, as
31 provided in RCW 48.110.055.

32 (m) If against a discount plan organization, as provided in RCW
33 48.155.020.

34 (8) If against a company or corporation doing any express
35 business, to any agent authorized by said company or corporation to
36 receive and deliver express matters and collect pay therefor within
37 this state.

38 (9) If against a company or corporation other than those
39 designated in subsections (1) through (8) of this section, to the
40 president or other head of the company or corporation, the registered

1 agent, secretary, cashier or managing agent thereof or to the
2 secretary, stenographer or office assistant of the president or other
3 head of the company or corporation, registered agent, secretary,
4 cashier or managing agent.

5 (10) If against a foreign corporation or nonresident joint stock
6 company, partnership or association doing business within this state,
7 to any agent, cashier or secretary thereof.

8 (11) If against a minor under the age of fourteen years, to such
9 minor personally, and also to his or her father, mother, guardian, or
10 if there be none within this state, then to any person having the
11 care or control of such minor, or with whom he or she resides, or in
12 whose service he or she is employed, if such there be.

13 (12) If against any person for whom a guardian has been appointed
14 for any cause, then to such guardian.

15 (13) If against a foreign or alien steamship company or steamship
16 charterer, to any agent authorized by such company or charterer to
17 solicit cargo or passengers for transportation to or from ports in
18 the state of Washington.

19 (14) If against a self-insurance program regulated by chapter
20 48.62 RCW, as provided in chapter 48.62 RCW.

21 (15) If against a party to a real estate purchase and sale
22 agreement under section 1 of this act, by mailing a copy by first-
23 class mail, postage prepaid, to the party to be served at his or her
24 usual mailing address or the address identified for that party in the
25 real estate purchase and sale agreement.

26 (16) In all other cases, to the defendant personally, or by
27 leaving a copy of the summons at the house of his or her usual abode
28 with some person of suitable age and discretion then resident
29 therein.

30 ~~((16))~~ (17) In lieu of service under subsection ~~((15))~~ (16)
31 of this section, where the person cannot with reasonable diligence be
32 served as described, the summons may be served as provided in this
33 subsection, and shall be deemed complete on the tenth day after the
34 required mailing: By leaving a copy at his or her usual mailing
35 address with a person of suitable age and discretion who is a
36 resident, proprietor, or agent thereof, and by thereafter mailing a
37 copy by first-class mail, postage prepaid, to the person to be served
38 at his or her usual mailing address. For the purposes of this

1 subsection, "usual mailing address" does not include a United States
2 postal service post office box or the person's place of employment.

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