

SENATE BILL REPORT

SSB 5451

As Passed Senate, March 19, 2003

Title: An act relating to escrow agents and officers.

Brief Description: Regulating escrow agents and officers.

Sponsors: Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Prentice, Winsley, Keiser and Reardon; by request of Department of Financial Institutions).

Brief History:

Committee Activity: Financial Services, Insurance & Housing: 2/13/03, 2/20/03 [DPS].
Passed Senate: 3/19/03, 49-0.

SENATE COMMITTEE ON FINANCIAL SERVICES, INSURANCE & HOUSING

Majority Report: That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass.

Signed by Senators Benton, Chair; Winsley, Vice Chair; Keiser, Prentice and Roach.

Staff: Elizabeth Mitchell (786-7430)

Background: The term "escrow agent" refers to a business licensed to perform escrow services, and the term "escrow officer" refers to employees who perform escrow services. Both escrow agents and escrow officers are licensed and regulated by the Department of Financial Institutions.

Escrow agents must ensure that all escrow transactions are supervised by a designated escrow officer. Designated escrow officers are responsible for an escrow agent's handling of escrow transactions, and supervision of all other licensed escrow officers.

Escrow agents and officers must renew their licenses every year. The annual fee for an escrow agent license is \$366.29. The annual fee for an escrow officer license is \$169.87.

In order to become a licensed escrow agent, an applicant must meet certain financial requirements, including maintaining a fidelity bond with aggregate coverage of \$200,000, and must also submit information on any criminal convictions related to escrow duties within the past ten years, and any unfavorable civil judgments against them within the past five years.

In order to become a licensed escrow officer, a person must pass an examination, and submit an application with employment history information, fingerprints, a personal credit report, and any other information the director requires concerning the applicant's honesty and truthfulness.

Persons wishing to become escrow officers must have their application endorsed by a licensed escrow agent. Upon receiving notice of termination from an escrow agent, the director may place an escrow officer's license on inactive status. Escrow officers can pay a renewal fee annually to maintain an inactive license, and can reactivate the license if they still meet application requirements and pay a fee.

Summary of Bill: A license for senior escrow officers is created. All designated escrow officers must be senior escrow officers.

Persons wishing to become senior escrow officers must meet all the requirements for the escrow officer license, pass the senior escrow officer examination, and demonstrate three years of experience as an escrow officer, or equivalent duties as defined in rule by the director. The senior escrow officer examination encompasses all the topics in the escrow officer examination, and also includes topics on ethics, trust account management, and internal routine and control.

The director issues a senior escrow officer license to all currently licensed escrow officers who serve as a designated escrow officer if they meet certain criteria. Licensed escrow officers not serving as a designated escrow officer may, until their next license renewal date, apply to the director for a senior escrow officer license without taking the required examination if they have ten years of experience and meet certain criteria.

Each escrow officer and senior escrow officer must complete continuing education requirements each year as specified in rule by the director. At least four hours of the continuing education for senior escrow officers must be in the areas of ethics, trust account management, and internal routine and control.

The criteria the director uses to award licenses to escrow agents, branch offices, escrow officers, and senior escrow officers are specified. These criteria include: payment of all required fees; not being convicted of a felony during the last ten years; not having an unfavorable civil or administrative judgment in the last five years; not being the subject of a current investigation by the department; and not engaging in incompetent or untrustworthy behavior.

The annual fee for an escrow agent license increases to \$565 in fiscal year 2004. The annual fee for an escrow officer or senior escrow officer license increases to \$235 in fiscal year 2004. A late payment penalty of one quarter of the annual license renewal fee is specified.

The fidelity bond requirement for escrow agents is increased from \$200,000 to \$1,000,000. Licensed escrow agents must submit periodic reports to the director detailing the current status of their trust accounts.

Inactive status for escrow officers is triggered by an escrow officer or senior escrow officer's request, not by notification of employment termination by a licensed escrow agent. Initial payment of fees and annual renewal fees for inactive status are established in rule. The requirement that an escrow officer's first license shall not be issued inactive is removed.

Compliance with the Real Estate Settlement Procedures Act constitutes compliance with state laws regarding giving objects of value to real property lenders in exchange for a referral.

Limited liability companies and limited liability partnerships are added to the definition of "licensed escrow agent." Limited liability companies, limited liability partnerships, trusts, and any other legal entities are added to the definition of "person." Definitions of the terms "senior escrow officer" and "applicant" are added. Parties subject to sanctions are clarified. Language about annual renewal fees for escrow officers being the same as initial application fees is deleted.

Appropriation: None.

Fiscal Note: Requested on February 3, 2003.

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

Testimony For: Fee increases and increased bonding requirements are necessary. Continuing education requirements will be beneficial. Approximately 75 percent of escrow agents already carry the larger bond amount.

Testimony Against: None.

Testified: PRO: Dennis Daus, SeaTac Escrow EAW; Philip Dryden, Evergreen Escrow EAW; Mark Thomson, DFI; Bob Mitchell, Washington Association of Realtors.