

RCW 64.90.645 Deposits—Escrow. (1) Except as provided in subsection (2) of this section, any earnest money deposit, as defined in RCW 64.04.005, made in connection with the right to purchase a unit from a person required to deliver a public offering statement pursuant to RCW 64.90.605(3) must be placed in escrow and held in this state in an escrow or trust account designated solely for that purpose by a licensed title insurance company or agent, a licensed attorney, a real estate broker or independent bonded escrow company, or an institution whose accounts are insured by a governmental agency or instrumentality until: (a) Delivered to the declarant at closing, (b) delivered to the declarant because of the purchaser's default under a contract to purchase the unit, (c) refunded to the purchaser, or (d) delivered to a court in connection with the filing of an interpleader action.

(2) (a) If a purchase agreement for the sale of a unit provides that deposit funds may be used for construction costs and the declarant obtains and maintains a surety bond as required by this section, the declarant may withdraw escrow funds when construction of improvements has begun. The funds may be used only for actual building and construction costs of the project in which the unit is located.

(b) The bond must be issued by a surety insurer licensed in this state in favor of the purchaser in an amount adequate to cover the amount of the deposit to be withdrawn. The declarant may not withdraw more than the face amount of the bond. The bond must be payable to the purchaser if the purchaser obtains a final judgment against the declarant requiring the declarant to return the deposit pursuant to the purchase agreement. The bond may be either in the form of an individual bond for each deposit accepted by the declarant or in the form of a blanket bond assuring the return of all deposits received by the declarant.

(c) The party holding escrow funds who releases all or any portion of the funds to the declarant has no obligation to monitor the progress of construction or the expenditure of the funds by the declarant and is not liable to any purchaser for the release of funds pursuant to this section.

(3) The amount of deposit funds that may be used pursuant to subsection (2) of this section may not exceed five percent of the purchase price. [2023 c 337 § 8; 2021 c 260 § 2; 2018 c 277 § 410.]