

2 SHB 1348 - S COMM AMD

3 By Committee on Financial Institutions & Housing

4 ADOPTED 4/5/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 18.44.010 and 1985 c 7 s 47 are each amended to read
8 as follows:

9 Unless the context otherwise requires terms used in this chapter
10 shall have the following meanings:

11 (1) "Department" means the department of (~~licensing~~) financial
12 institutions.

13 (2) "Director" means the director of (~~licensing~~) financial
14 institutions, or his or her duly authorized representative.

15 (3) "Escrow" means any transaction wherein any person or persons,
16 for the purpose of effecting and closing the sale, purchase, exchange,
17 transfer, encumbrance, or lease of real or personal property to another
18 person or persons, delivers any written instrument, money, evidence of
19 title to real or personal property, or other thing of value to a third
20 person to be held by such third person until the happening of a
21 specified event or the performance of a prescribed condition or
22 conditions, when it is then to be delivered by such third person, in
23 compliance with instructions under which he is to act, to a grantee,
24 grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee,
25 bailor, or any agent or employee thereof.

26 (4) "Escrow agent" means any sole proprietorship, firm,
27 association, partnership, or corporation engaged in the business of
28 performing for compensation the duties of the third person referred to
29 in RCW 18.44.010(3) above.

30 (5) "Certificated escrow agent" means any sole proprietorship,
31 firm, association, partnership, or corporation holding a certificate of
32 registration as an escrow agent under the provisions of this chapter.

33 (6) "Person" unless a different meaning appears from the context,
34 includes an individual, a firm, association, partnership or
35 corporation, or the plural thereof, whether resident, nonresident,
36 citizen or not.

1 (7) "Escrow officer" means any natural person handling escrow
2 transactions and licensed as such by the director.

3 (8) "Escrow commission" means the escrow commission of the state of
4 Washington created by RCW 18.44.208.

5 (9) "Controlling person" is any person who owns or controls ten
6 percent or more of the beneficial ownership of any escrow agent,
7 regardless of the form of business organization employed and regardless
8 of whether such interest stands in such person's true name or in the
9 name of a nominee.

10 **Sec. 2.** RCW 18.44.080 and 1985 c 340 s 1 are each amended to read
11 as follows:

12 The director shall charge and collect the following fees:

13 (1) For filing an original or a renewal application for
14 registration as an escrow agent, annual fees for the first office or
15 location and for each additional office or location.

16 (2) For filing an application for a change of address, for each
17 certificate of registration and for each escrow officer license being
18 so changed.

19 (3) For filing an application for a duplicate of a certificate of
20 registration or of an escrow officer license lost, stolen, destroyed,
21 or for replacement.

22 (4) For providing administrative support to the escrow commission.

23 All fees under this chapter shall be set by rule by the director
24 ~~((in accordance with RCW 43.24.086))~~. In fixing these fees, the
25 director shall set the fees at a sufficient level to defray the costs
26 of administering this chapter.

27 All fees received by the director under this chapter shall be paid
28 ~~((by him))~~ into the state treasury to the credit of the ~~((general~~
29 ~~fund))~~ banking examination fund.

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

32 There is established an escrow commission of the state of
33 Washington, to consist of the director of ~~((licensing))~~ financial
34 institutions or his or her designee as chairman, and five other members
35 who shall act as advisors to the director as to the needs of the escrow
36 profession, including but not limited to the design and conduct of
37 tests to be administered to applicants for escrow licenses, the

1 schedule of license fees to be applied to the escrow licensees,
2 educational programs, audits and investigations of the escrow
3 profession designed to protect the consumer, and such other matters
4 determined appropriate. (~~Such members shall be appointed by the~~
5 ~~governor~~) The director is hereby empowered to and shall appoint the
6 other members, each of whom shall have been a resident of this state
7 for at least five years and shall have at least five years experience
8 in the practice of escrow as an escrow agent or as a person in
9 responsible charge of escrow transactions.

10 The members of the first commission shall serve for the following
11 terms: One member for one year, one member for two years, one member
12 for three years, one member for four years, and one member for five
13 years, from the date of their appointment, or until their successors
14 are duly appointed and qualified. Every member of the commission shall
15 receive a certificate of appointment from the (~~governor~~) director and
16 before beginning the member's term of office shall file with the
17 secretary of state a written oath or affirmation for the faithful
18 discharge of the member's official duties. On the expiration of the
19 term of each member, the (~~governor~~) director shall appoint a
20 successor to serve for a term of five years or until the member's
21 successor has been appointed and qualified.

22 The (~~governor~~) director may remove any member of the commission
23 for cause. Vacancies in the commission for any reason shall be filled
24 by appointment for the unexpired term.

25 Members shall be compensated in accordance with RCW 43.03.240, and
26 shall be reimbursed for their travel expenses incurred in carrying out
27 the provisions of this chapter in accordance with RCW 43.03.050 and
28 43.03.060.

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

31 Any person desiring to be an escrow officer shall meet the
32 requirements of RCW 18.44.220 as provided in this chapter. The
33 applicant shall make application endorsed by a certificated escrow
34 agent to the director on a form to be prescribed and furnished by the
35 director. Such application must be received by the director within one
36 year of passing the escrow officer examination. With this application
37 the applicant shall:

38 (1) Pay a license fee as set forth (~~in this chapter~~) by rule; and

1 (2) Furnish such proof as the director may require concerning his
2 or her honesty, truthfulness, good reputation, and identity, including
3 but not limited to fingerprints.

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

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

9 REQUEST FOR WAIVER OF
10 ERRORS AND OMISSIONS POLICY

11 I,, residing at, City of,
12 County of, State of Washington, declare the following:

13 (1) The state escrow commission has determined that an errors and
14 omissions policy is not reasonably available to a substantial number of
15 licensed escrow officers; and

16 (2) Purchasing an errors and omissions policy is cost-prohibitive
17 at this time; and

18 (3) I have not engaged in any conduct that resulted in the
19 termination of my escrow certificate; and

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

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

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

31 THEREFORE, in consideration of the above, I,,
32 respectfully request that the director of (~~licensing~~) financial
33 institutions grant this request for a waiver of the requirement that I
34 purchase and maintain an errors and omissions policy covering my
35 activities as an escrow agent licensed by the state of Washington for
36 the period from, 19., to, 19.

37 Submitted this day of day of, 19.

1
2 (signature)

3 State of Washington,
4 ss.
5 County of ((King))

6 I certify that I know or have satisfactory evidence that
7, signed this instrument and acknowledged it to be
8 free and voluntary act for the uses and purposes
9 mentioned in the instrument.

10 Dated
11 Signature of
12 Notary Public
13 (Seal or stamp) Title
14 My appointment expires

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

17 (1) All powers, duties, and functions of the department of general
18 administration under Titles 30, 31, 32, 33, and 43 RCW and any other
19 title pertaining to duties relating to banks, savings banks, foreign
20 bank branches, savings and loan associations, credit unions, consumer
21 loan companies, check cashers and sellers, trust companies and
22 departments, and other similar institutions are transferred to the
23 department of financial institutions. All references to the director
24 of general administration, supervisor of banking, or the supervisor of
25 savings and loan associations in the Revised Code of Washington are
26 construed to mean the director of the department of financial
27 institutions when referring to the functions transferred in this
28 section. All references to the department of general administration in
29 the Revised Code of Washington are construed to mean the department of
30 financial institutions when referring to the functions transferred in
31 this subsection.

32 (2) All powers, duties, and functions of the department of
33 licensing under chapters 18.44, 19.100, 19.110, 21.20, 21.30, and
34 48.18A RCW and any other statute pertaining to the regulation under the
35 chapters listed in this subsection of escrow agents, securities,
36 franchises, business opportunities, commodities, and any other
37 speculative investments are transferred to the department of financial

1 institutions. All references to the director or department of
2 licensing in the Revised Code of Washington are construed to mean the
3 director or department of financial institutions when referring to the
4 functions transferred in this subsection.

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

7 All employees classified under chapter 41.06 RCW, the state civil
8 service law, who are employees of the department of general
9 administration or the department of licensing engaged in performing the
10 powers, functions, and duties transferred by RCW 43.320.011, except
11 those under chapter 18.44 RCW, are transferred to the department of
12 financial institutions. All such employees are assigned to the
13 department of financial institutions to perform their usual duties upon
14 the same terms as formerly, without any loss of rights, subject to any
15 action that may be appropriate thereafter in accordance with the laws
16 and rules governing state civil service.

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

19 The director of financial institutions shall appoint, deputize, and
20 employ examiners and such other assistants and personnel as may be
21 necessary to carry on the work of the department of financial
22 institutions.

23 In the event of the director's absence the director shall have the
24 power to deputize one of the assistants of the director to exercise all
25 the powers and perform all the duties prescribed by law with respect to
26 banks, savings banks, foreign bank branches, savings and loan
27 associations, credit unions, consumer loan companies, check cashers and
28 sellers, trust companies and departments, securities, franchises,
29 business opportunities, commodities, escrow agents, and other similar
30 institutions or areas that are performed by the director so long as the
31 director is absent: PROVIDED, That such deputized assistant shall not
32 have the power to approve or disapprove new charters, licenses,
33 branches, and satellite facilities, unless such action has received the
34 prior written approval of the director. Any person so deputized shall
35 possess the same qualifications as those set out in this section for
36 the director.

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

3 There is created a local fund known as the "banking examination
4 fund" which shall consist of all moneys received by the department of
5 financial institutions from banks, savings banks, foreign bank
6 branches, savings and loan associations, consumer loan companies, check
7 cashers and sellers, (~~and~~) trust companies and departments, and
8 escrow agents, and which shall be used for the purchase of supplies and
9 necessary equipment and the payment of salaries, wages, utilities, and
10 other incidental costs required for the proper regulation of these
11 companies. The state treasurer shall be the custodian of the fund.
12 Disbursements from the fund shall be on authorization of the director
13 of financial institutions or the director's designee. In order to
14 maintain an effective expenditure and revenue control, the fund shall
15 be subject in all respects to chapter 43.88 RCW, but no appropriation
16 is required to permit expenditures and payment of obligations from the
17 fund.

18 NEW SECTION. **Sec. 10.** This act is necessary for the immediate
19 preservation of the public peace, health, or safety, or support of the
20 state government and its existing public institutions, and shall take
21 effect July 1, 1995."

22 **SHB 1348** - S COMM AMD

23 By Committee on Financial Institutions & Housing

24 ADOPTED 4/5/95

25 On page 1, line 1 of the title, after "agents;" strike the
26 remainder of the title and insert "amending RCW 18.44.010, 18.44.080,
27 18.44.208, 18.44.290, 18.44.380, 43.320.011, 43.320.013, 43.320.060,
28 and 43.320.110; providing an effective date; and declaring an
29 emergency."

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