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SENATE BILL 5442

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State of Washington

56th Legislature

1999 Regular Session

By Senators Kline, Roach and Wojahn

Read first time 01/22/1999. Referred to Committee on Commerce, Trade, Housing & Financial Institutions.

1 AN ACT Relating to real estate broker's records; and amending RCW  
2 18.85.310.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 18.85.310 and 1995 c 399 s 7 are each amended to read  
5 as follows:

6 (1) Every licensed real estate broker shall keep adequate records  
7 of all real estate transactions handled by or through the broker. The  
8 records shall include, but are not limited to, a copy of the earnest  
9 money receipt, and an itemization of the broker's receipts and  
10 disbursements with each transaction. These records and all other  
11 records hereinafter specified shall be open to inspection by the  
12 director or the director's authorized representatives.

13 (2) Every real estate broker shall also deliver or cause to be  
14 delivered to all parties signing the same, at the time of signing,  
15 conformed copies of all earnest money receipts, listing agreements and  
16 all other like or similar instruments signed by the parties, including  
17 the closing statement.

18 (3) Every real estate broker shall also keep separate real estate  
19 fund accounts in a recognized Washington state depository authorized to

1 receive funds in which shall be kept separate and apart and physically  
2 segregated from licensee broker's own funds, all funds or moneys of  
3 clients which are being held by such licensee broker pending the  
4 closing of a real estate sale or transaction, or which have been  
5 collected for said client and are being held for disbursement for or to  
6 said client and such funds shall be deposited not later than the first  
7 banking day following receipt thereof.

8 (4) Separate accounts comprised of clients' funds required to be  
9 maintained under this section, with the exception of property  
10 management trust accounts, shall be interest-bearing accounts from  
11 which withdrawals or transfers can be made without delay, subject only  
12 to the notice period which the depository institution is required to  
13 reserve by law or regulation.

14 (5) Every real estate broker shall maintain a pooled interest-  
15 bearing escrow account for deposit of client funds, with the exception  
16 of property management trust accounts, which are nominal. As used in  
17 this section, a "nominal" deposit is a deposit of not more than  
18 ((five)) ten thousand dollars.

19 The interest accruing on this account, net of any reasonable and  
20 appropriate financial institution service charges or fees, shall be  
21 paid to the state treasurer for deposit in the Washington housing trust  
22 fund created in RCW 43.185.030 and the real estate education account  
23 created in RCW 18.85.317. Appropriate service charges or fees are  
24 those charges made by financial institutions on other demand deposit or  
25 "now" accounts. An agent may, but shall not be required to, notify the  
26 client of the intended use of such funds.

27 (6) All client funds not required to be deposited in the account  
28 specified in subsection (5) of this section shall be deposited in:

29 (a) A separate interest-bearing trust account for the particular  
30 client or client's matter on which the interest will be paid to the  
31 client; or

32 (b) The pooled interest-bearing trust account specified in  
33 subsection (5) of this section if the parties to the transaction agree.

34 The department of licensing shall promulgate regulations which will  
35 serve as guidelines in the choice of an account specified in subsection  
36 (5) of this section or an account specified in this subsection.

37 (7) For an account created under subsection (5) of this section, an  
38 agent shall direct the depository institution to:

1 (a) Remit interest or dividends, net of any reasonable and  
2 appropriate service charges or fees, on the average monthly balance in  
3 the account, or as otherwise computed in accordance with an  
4 institution's standard accounting practice, at least quarterly, to the  
5 state treasurer for deposit in the housing trust fund created by RCW  
6 43.185.030 and the real estate education account created in RCW  
7 18.85.317; and

8 (b) Transmit to the director of community, trade, and economic  
9 development a statement showing the name of the person or entity for  
10 whom the remittance is spent, the rate of interest applied, and the  
11 amount of service charges deducted, if any, and the account balance(s)  
12 of the period in which the report is made, with a copy of such  
13 statement to be transmitted to the depositing person or firm.

14 (8) The director shall forward a copy of the reports required by  
15 subsection (7) of this section to the department of licensing to aid in  
16 the enforcement of the requirements of this section consistent with the  
17 normal enforcement and auditing practices of the department of  
18 licensing.

19 (9) This section does not relieve any real estate broker from any  
20 obligation with respect to the safekeeping of clients' funds.

21 (10) Any violation by a real estate broker of any of the provisions  
22 of this section, or RCW 18.85.230, shall be grounds for revocation of  
23 the licenses issued to the broker.

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