

# FINAL BILL REPORT

## SHB 1034

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Synopsis as Enacted

**Brief Description:** Regulating the licensing of escrow agents.

**Sponsors:** House Committee on Business & Financial Services (originally sponsored by Representatives Kirby and Ryu).

**House Committee on Business & Financial Services**  
**Senate Committee on Financial Institutions, Housing & Insurance**

### **Background:**

#### Escrow Agent Registration Act.

##### *Definition of Escrow.*

"Escrow" is defined to mean "any transaction where a person delivers any written instrument, money, evidence of title to real or personal property, or other thing of value to a third person to be held until the occurrence of a specified event or the performance of a prescribed condition for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property to another person or persons."

##### *Licensing Required.*

Unless exempt, a person or entity acting as an escrow agent must be licensed by the Department of Financial Institutions (DFI). Licenses must be renewed annually. A licensee must:

- successfully pass an examination;
- undergo a fingerprint-based background check; and
- provide evidence of financial responsibility, including proof of a fidelity bond providing \$200,000 in coverage.

##### *Licensing Exemptions.*

There are a number of persons and entities that are specifically exempt from regulation under the Escrow Agent Registration Act (EARA).

#### Consumer Loan Act.

The Consumer Loan Act (CLA) authorizes the DFI to regulate consumer loan companies doing business in Washington. Consumer loan companies include mortgage lenders and consumer finance companies. The CLA also applies to residential mortgage loan servicers.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

*License Required for Residential Mortgage Loan Servicers.*

No persons or entity may service residential mortgage loans without being licensed or exempt from licensing under the CLA. Requirements of licensing include: fees, background checks, and proof of financial responsibility. An applicant or a principal of an applicant for a CLA license may not have provided unlicensed residential mortgage loan modification services in the five years prior to the license application. The Director of the DFI (Director) may deny a license if a license related to lending, settlement services, or loan servicing was suspended by this state, another state, or the federal government within five years of the date of the application. Residential mortgage loan servicers are subject to a number of disclosure, reporting, fee, and payment provisions under the CLA.

*Licensing Exemptions.*

The CLA provides exemptions from licensing for:

- any person making loans primarily for business, commercial, or agricultural purposes, or making loans to government or government agencies or instrumentalities, or to an "organization" as defined in the federal Truth in Lending Act;
- an entity licensed as a bank, savings bank, trust company, savings and loan association, building and loan association, or credit union under state or federal law;
- entities licensed as pawnbrokers;
- entities making loans for retail installment sales of goods and services;
- entities licensed as a check casher or seller;
- entities making loans under the Housing Trust Fund;
- entities making loans under programs of the federal government that provide funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;
- nonprofit housing organizations making loans, or loans made under housing programs that are funded by federal or state programs if the primary purpose of the programs is to assist low-income borrowers with purchasing or repairing housing or the development of housing for low-income state residents; and
- entities making loans that are not residential mortgage loans under a credit card plan.

The Director may waive the licensing requirements for persons making mortgage loans when the Director determines it is necessary to facilitate commerce and protect consumers.

Regulation under the Escrow Agent Registration Act and the Consumer Loan Act.

In 2009 a law was enacted that regulates residential mortgage loan servicers under the CLA. In 2010 changes to the EARA were made, including changes to the exemptions from regulation under the EARA. As a result of the 2009 and 2010 legislation, a small group of people who service residential mortgage loans are regulated under the EARA and the CLA. In 2011 a law was enacted that made a number of changes to the scope of the CLA, including allowing the Director to waive the CLA licensing provisions in certain circumstances.

**Summary:**

Escrow Agent Registration Act (EARA).

The definition of "escrow" includes the collection and processing of payments and the performance of related services by a third party on seller-financed loans secured by a lien on real or personal property but excludes vessel transfers.

The fidelity bond amount required for licensure is increased from \$200,000 to \$1 million.

The Director is given greater authority to protect consumers by allowing the Director to take any action on behalf of the licensee to protect consumers.

Consumer Loan Act (CLA).

Entities licensed under the EARA that process payments on seller-financed loans secured by liens on real or personal property are exempt from regulation under the CLA.

**Votes on Final Passage:**

House	92	0
Senate	46	0

**Effective:** July 28, 2013