

Chapter 18.44 RCW
ESCROW AGENT REGISTRATION ACT

Sections

DEFINITIONS

18.44.011 Definitions.

LICENSING

18.44.021 License required—Exceptions.
18.44.023 Multistate licensing system—Director's discretion.
18.44.031 License—Application, requisites.
18.44.041 Branch offices—Application to establish—Requirements.
18.44.051 Branch offices—Issuance of license.
18.44.061 Change in business location, office location, business name—Written notice required.
18.44.071 Escrow officer required for handling transactions—Responsibility of designated escrow officer—Branch escrow officers.
18.44.081 Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc.
18.44.091 License—Fees—Renewal.
18.44.101 License—Retention and display by agent—Termination—Inactive licenses.
18.44.111 Licenses—Form and size—Contents.
18.44.121 Fees.
18.44.127 Certificate of registration suspension—Noncompliance with support order—Reissuance.
18.44.131 License application—Issuance.
18.44.141 License—Duration—Posting.
18.44.151 License—Expiration and renewal—Fee.
18.44.161 License—Reinstatement.
18.44.171 Engaging in business without license—Penalty.
18.44.181 Proof of licensure prerequisite to action for fee.
18.44.191 Director—Educational conferences—Examinations.
18.44.195 Examination.

BONDING

18.44.201 Financial responsibility—Fidelity bond—Errors and omissions policy—Surety bond.
18.44.211 Cancellation of fidelity bond or surety bond, or both—New bond required.
18.44.221 Waiver of bond or policy where not reasonably available—Determination procedure—Waiver period.
18.44.231 Corporation for insuring where bond or policy not reasonably available.
18.44.241 Waiver of errors and omissions policy requirement—Criteria.
18.44.251 Waiver—Affidavit.
18.44.261 Waiver—Determination.
18.44.270 Application of administrative procedure act.
18.44.271 Waiver—Certificate of waiver.
18.44.281 Waiver—Denial.
18.44.291 Waiver—Application by escrow license applicant.

PROHIBITED PRACTICES

- 18.44.301 Prohibited practices.
- 18.44.305 Financial interest in an escrow agent—Prohibited practices.
- 18.44.311 Prohibited employment practices.

ENFORCEMENT

- 18.44.400 Records and accounts—Segregation and disbursements of funds—Violation of section, penalties.
- 18.44.410 Powers of director.
- 18.44.413 Informal settlement of complaints or enforcement actions.
- 18.44.420 Investigation of violations—Procedure—Powers of director.
- 18.44.425 Subpoena authority—Application—Contents—Notice—Fees.
- 18.44.430 Actions against license—Grounds.
- 18.44.440 Violations—Cease and desist orders.
- 18.44.450 Referral fees prohibited—Consumer protection act—Application.
- 18.44.455 Possession of property and business—Grounds for director's authority.
- 18.44.457 Possession of property and business—Scope of director's authority.
- 18.44.460 License suspension—Nonpayment or default on educational loan or scholarship.
- 18.44.465 Termination of license—Effect upon preexisting escrows—Notice to principals.
- 18.44.470 Receivership.
- 18.44.480 Remedies—Affecting corporate franchise.
- 18.44.490 Authority to prosecute—Grants of injunctive relief, temporary restraining orders.

ESCROW ADVISORY COMMITTEE

- 18.44.500 Committee to advise director—Members—Compensation and travel expenses.
- 18.44.510 Compensation and travel expenses of committee members.

MISCELLANEOUS

- 18.44.901 Construction—1965 c 153.
- 18.44.902 Short title.

DEFINITIONS

RCW 18.44.011 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Committee" means the escrow advisory committee of the state of Washington created by RCW 18.44.500.

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

(3) "Department" means the department of financial institutions.

(4) "Designated escrow officer" means any licensed escrow officer designated by a licensed escrow agent and approved by the director as the licensed escrow officer responsible for supervising that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent.

(5) "Director" means the director of financial institutions, or his or her duly authorized representative.

(6) "Director of licensing" means the director of the department of licensing, or his or her duly authorized representative.

(7) "Escrow" means any transaction, except the acts of a qualified intermediary in facilitating an exchange under section 1031 of the internal revenue code, wherein any person or persons, 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, 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 by such third person until the happening of a specified event or the performance of a prescribed condition or conditions, when it is then to be delivered by such third person, in compliance with instructions under which he or she is to act, to a grantee, grantor, promisee, promisor, obligee, obligor, lessee, lessor, bailee, bailor, or any agent or employee thereof. "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.

(8) "Escrow agent" means any person engaged in the business of performing for compensation the duties of the third person referred to in subsection (7) of this section.

(9) "Licensed escrow agent" means any sole proprietorship, firm, association, partnership, or corporation holding a license as an escrow agent under the provisions of this chapter.

(10) "Licensed escrow officer" means any natural person handling escrow transactions and licensed as such by the director.

(11) "Person" means a natural person, firm, association, partnership, corporation, limited liability company, or the plural thereof, whether resident, nonresident, citizen, or not.

(12) "Split escrow" means a transaction in which two or more escrow agents act to effect and close an escrow transaction. [2013 c 64 s 1; 2011 1st sp.s. c 21 s 45. Prior: 2010 c 34 s 1; 1999 c 30 s 1; 1995 c 238 s 1; 1985 c 7 s 47; 1979 c 158 s 42; 1977 ex.s. c 156 s 1; 1971 ex.s. c 245 s 1; 1965 c 153 s 1. Formerly RCW 18.44.010.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Effective date—1995 c 238: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1995." [1995 c 238 s 10.]

LICENSING

RCW 18.44.021 License required—Exceptions. (1) It shall be unlawful for any person to engage in business as an escrow agent by performing escrows or any of the functions of an escrow agent as described in RCW 18.44.011(7) within this state or with respect to transactions that involve personal property or real property located in this state unless such person possesses a valid license issued by the director pursuant to this chapter. The licensing requirements of this chapter shall not apply to:

(a) Any person doing business under the law of this state or the United States relating to banks, trust companies, mutual savings banks, savings and loan associations, credit unions, insurance companies, or any federally approved agency or lending institution under the national housing act (12 U.S.C. Sec. 1703).

(b) Any person licensed to practice law in this state if:

(i) All escrow transactions are performed by the lawyer while engaged in the practice of law, or by employees of the law practice under the direct supervision of the lawyer while engaged in the practice of law;

(ii) All escrow transactions are performed under a legal entity publicly identified and operated as a law practice; and

(iii) All escrow funds are deposited to, maintained in, and disbursed from a trust account in compliance with rules enacted by the Washington supreme court regulating the conduct of lawyers.

(c) Any real estate company, broker, or agent subject to the jurisdiction of the director of licensing while performing acts in the course of or incidental to sales or purchases of real or personal property handled or negotiated by such real estate company, broker, or agent: PROVIDED, That no compensation is received for escrow services.

(d) Any transaction in which money or other property is paid to, deposited with, or transferred to a joint control agent for disbursal or use in payment of the cost of labor, material, services, permits, fees, or other items of expense incurred in the construction of improvements upon real property.

(e) Any receiver, trustee in bankruptcy, executor, administrator, guardian, or other person acting under the supervision or order of any superior court of this state or of any federal court.

(f) Title insurance companies having a valid certificate of authority issued by the insurance commissioner of this state and title insurance agents having a valid license as a title insurance agent issued by the insurance commissioner of this state.

(2) The director may at his or her discretion waive applicability of the licensing provisions of this chapter if the director determines it necessary to facilitate commerce or protect consumers. The director may adopt rules interpreting this section. [2015 c 229 s 1; 2012 c 124 s 1; 2010 c 34 s 2; 1999 c 30 s 2; 1977 ex.s. c 156 s 2; 1971 ex.s. c 245 s 2; 1967 ex.s. c 76 s 1; 1965 c 153 s 2. Formerly RCW 18.44.020.]

RCW 18.44.023 Multistate licensing system—Director's discretion. Applicants may be required to make application through a multistate licensing system as prescribed by the director. Existing licensees may be required to transition onto a multistate licensing system as prescribed by the director. [2012 c 17 s 15.]

RCW 18.44.031 License—Application, requisites. An application for an escrow agent license must be in writing in such form as is prescribed by the director, and must be verified on oath by the applicant. An application for an escrow agent license must include the following:

(1) The applicant's form of business organization and place of organization;

(2) Information concerning the identity of the applicant, and its officers, directors, owners, partners, controlling persons, and employees, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, and any government agency or subdivision authorized to receive information for state and national criminal history background checks; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. The director may also request criminal history record information, including nonconviction data, as defined by RCW 10.97.030. The department may disseminate nonconviction data obtained under this section only to criminal justice agencies. The applicant must pay the cost of fingerprinting and processing the fingerprints by the department;

(3) If the applicant is a corporation or limited liability company, the address of its physical location, a list of officers, controlling persons, and directors of such corporation or company and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. If the applicant is a sole proprietorship or partnership, the address of its business location, a list of owners, partners, or controlling persons and their residential addresses, telephone numbers, and other identifying information as the director may determine by rule. Any information in the application regarding the personal residential address or telephone number of any officer, director, partner, owner, controlling person, or employee is exempt from the public records disclosure requirements of chapter 42.56 RCW;

(4) In the event the applicant is doing business under an assumed name, a copy of the business license issued through the business licensing system established under chapter 19.02 RCW, with the registered trade name shown;

(5) The qualifications and business history of the applicant and all of its officers, directors, owners, partners, and controlling persons;

(6) A personal credit report from a recognized credit reporting bureau satisfactory to the director on all officers, directors, owners, partners, and controlling persons of the applicant;

(7) Whether any of the officers, directors, owners, partners, or controlling persons have been convicted of any crime within the preceding ten years which relates directly to the business or duties of escrow agents, or have suffered a judgment within the preceding five years in any civil action involving fraud, misrepresentation, any unfair or deceptive act or practice, or conversion;

(8) The identity of the licensed escrow officer designated by the escrow agent as the designated escrow officer responsible for supervising the agent's escrow activity;

(9) Evidence of compliance with the bonding and insurance requirements of RCW 18.44.201; and

(10) Any other information the director may require by rule. The director may share any information contained within a license

application, including fingerprints, with the federal bureau of investigation and other regulatory or law enforcement agencies. [2013 c 144 s 12; 2010 c 34 s 3; 2005 c 274 s 224; 1999 c 30 s 3; 1977 ex.s. c 156 s 3; 1965 c 153 s 3. Formerly RCW 18.44.030.]

RCW 18.44.041 Branch offices—Application to establish—

Requirements. (1) A licensed escrow agent shall not operate an escrow business in a location other than the location set forth on the agent's license or branch office license issued by the director. The licensed escrow agent may apply to the director for authority to establish one or more branch offices under the same name as the main office.

(2) Each branch office operated by a licensed escrow agent shall be supervised by a licensed escrow officer designated by the licensed escrow agent as the designated branch escrow officer for that branch.

(3) Any person desiring to operate a branch escrow office shall make application on a form provided by the director and pay a fee as set forth in rule by the director. Such application shall identify the licensed escrow officer designated as the designated branch escrow officer to supervise the agent's escrow activity at the branch office.

(4) No escrow agent branch office license shall be issued until the applicant has satisfied the director that the escrow activity of the branch meets all financial responsibility requirements governing the conduct of escrow activity. [1999 c 30 s 28; 1977 ex.s. c 156 s 26. Formerly RCW 18.44.330.]

RCW 18.44.051 Branch offices—Issuance of license. Upon the filing of the application for an escrow agent branch office and satisfying the requirements of this chapter, the director shall issue and deliver to the applicant a license to engage in the business of an escrow agent at the branch location set forth on the license. [1999 c 30 s 29; 1977 ex.s. c 156 s 27. Formerly RCW 18.44.340.]

RCW 18.44.061 Change in business location, office location, business name—Written notice required. A licensed escrow agent shall provide notice in writing to the director and to the insurer providing coverage under RCW 18.44.201 of any change of business location, branch office location, or business name. Such notice shall be given in a form prescribed by the director and shall be delivered at least ten business days prior to the change in business location or name. Upon the surrender of the original license for the agent or the applicable branch office and a payment of a fee, the director shall issue a new license for the new location. [1999 c 30 s 7; 1977 ex.s. c 156 s 19. Formerly RCW 18.44.067.]

RCW 18.44.071 Escrow officer required for handling transactions—Responsibility of designated escrow officer—Branch escrow officers. Every licensed escrow agent shall ensure that all escrow transactions are supervised by a licensed escrow officer. In the case of a partnership, the designated escrow officer shall be a partner in the partnership and shall act on behalf of the partnership. In the case of a corporation, the designated escrow officer shall be an officer of

the corporation and shall act on behalf of the corporation. The designated escrow officer shall be responsible for that agent's handling of escrow transactions, management of the agent's trust account, and supervision of all other licensed escrow officers employed by the agent. Responsibility for the conduct of any licensed escrow officer covered by this chapter shall rest with the designated escrow officer or designated branch escrow officer having direct supervision of such person's escrow activities. The branch designated escrow officer shall bear responsibility for supervision of all other licensed escrow officers or other persons performing escrow transactions at a branch escrow office. [1999 c 30 s 21; 1977 ex.s. c 156 s 11; 1971 ex.s. c 245 s 7. Formerly RCW 18.44.200.]

RCW 18.44.081 Escrow officer's license—Application—Form—Timely filing—Proof of moral character, etc. Any person desiring to be a licensed escrow officer shall meet the requirements of RCW 18.44.195 as provided in this chapter. The applicant shall make application endorsed by a licensed escrow agent to the director on a form to be prescribed and furnished by the director. Such application must be received by the director within one year of passing the escrow officer examination. With this application the applicant shall:

- (1) Pay a license fee as set forth by rule; and
- (2) Furnish such proof as the director may require concerning his or her honesty, truthfulness, good reputation, and identity, including but not limited to fingerprints, residential address and telephone number, qualifications and employment history, a personal credit report, and any other information required under RCW 18.44.031. [1999 c 30 s 24; 1995 c 238 s 4; 1977 ex.s. c 156 s 22. Formerly RCW 18.44.290.]

Effective date—1995 c 238: See note following RCW 18.44.011.

RCW 18.44.091 License—Fees—Renewal. Every escrow officer license issued under the provisions of this chapter expires on the date one year from the date of issue which date will henceforth be the renewal date. An annual license renewal fee in the same amount must be paid on or before each renewal date: PROVIDED, That licenses issued or renewed prior to September 21, 1977, shall use the existing renewal date as the date of issue. If the application for a license renewal is not received by the director on or before the renewal date such license is expired and any activity conducted is unlicensed activity in violation of this chapter. The license may be reinstated at any time prior to sixty days after renewal upon the payment to the director of the annual renewal fee. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency. Licenses not renewed within sixty days after the renewal date shall be canceled. A new license may be obtained by satisfying the procedures and qualifications for initial licensing, including where applicable successful completion of examinations. [2010 c 34 s 5; 1999 c 30 s 25; 1985 c 340 s 5; 1977 ex.s. c 156 s 23. Formerly RCW 18.44.300.]

RCW 18.44.101 License—Retention and display by agent—

Termination—Inactive licenses. The license of a licensed escrow officer shall be retained and displayed at all times by the licensed escrow agent. When the officer ceases for any reason to represent the agent, the license shall cease to be in force. Within three business days of termination of the licensed escrow officer's employment, the licensed escrow agent shall notify the director that the terminated escrow officer no longer represents the escrow agent. Within ten business days of termination of the licensed escrow officer's employment, the licensed escrow agent shall deliver the surrendered escrow officer license to the director. Failure to notify the director within three business days or deliver the surrendered license to the director within ten business days shall, at the discretion of the director, subject the escrow agent to penalties under RCW 18.44.430.

The director may hold the licensed escrow officer's license inactive upon notification of termination by the escrow agent or designated escrow officer. The licensed escrow officer shall pay the renewal fee annually to maintain an inactive license. An inactive license may be activated upon application of a licensed escrow agent on a form provided by the director and the payment of a fee. If the licensed escrow officer continues to meet the requirements of licensing in RCW 18.44.081, the director shall thereupon issue a new license for the unexpired term of the licensed escrow officer. An escrow officer's first license shall not be issued inactive. [1999 c 30 s 26; 1989 c 51 s 1; 1985 c 340 s 6; 1977 ex.s. c 156 s 24. Formerly RCW 18.44.310.]

RCW 18.44.111 Licenses—Form and size—Contents. Each escrow agent license, each escrow agent branch office license, and each escrow officer license shall be issued in the form and size prescribed by the director and shall state in addition to any other matter required by the director:

- (1) The name of the licensee;
- (2) The name under which the applicant will do business;
- (3) The address at which the applicant will do business;
- (4) The expiration date of the license; and
- (5) In the case of a corporation, partnership, or branch office, the name of the designated escrow officer or designated branch escrow officer. [1999 c 30 s 30; 1977 ex.s. c 156 s 28. Formerly RCW 18.44.350.]

RCW 18.44.121 Fees. (1) The director shall charge and collect the following fees:

(a) A fee for filing an original or a renewal application for an escrow agent license, a fee for each application for an additional licensed location, a fee for an application for a change of address for an escrow agent, annual fees for the first office or location and for each additional office or location, and under RCW 43.135.055 the director shall set the annual fee for an escrow agent license up to five hundred sixty-five dollars in fiscal year 2000.

(b) A fee for filing an original or a renewal application for an escrow officer license, a fee for an application for a change of address for each escrow officer license being so changed, a fee to activate an inactive escrow officer license or transfer an escrow

officer license, and under RCW 43.135.055 the director shall set the annual fee for an escrow officer license up to two hundred thirty-five dollars in fiscal year 2000.

(c) A fee for filing an application for a duplicate of an escrow agent license or of an escrow officer license lost, stolen, destroyed, or for replacement.

(d) A fee for providing license examinations.

(e) An hourly audit fee. In setting this fee, the director shall ensure that every examination and audit, or any part of the examination or audit, of any person licensed or subject to licensing in this state requiring travel and services outside this state by the director or by employees designated by the director, shall be at the expense of the person examined or audited at the hourly rate established by the director, plus the per diem compensation and actual travel expenses incurred by the director or his or her employees conducting the examination or audit. When making any examination or audit under this chapter, the director may retain attorneys, appraisers, independent certified public accountants, or other professionals and specialists as examiners or auditors, the cost of which shall be borne by the person who is the subject of the examination or audit.

(2) In establishing these fees, the director shall set the fees at a sufficient level to defray the costs of administering this chapter.

(3) All fees received by the director under this chapter shall be paid into the state treasury to the credit of the financial services regulation fund. [2010 c 34 s 6; 2001 c 177 s 3; 1999 c 30 s 10; 1995 c 238 s 2; 1985 c 340 s 1; 1977 ex.s. c 156 s 7; 1971 ex.s. c 245 s 5; 1965 c 153 s 8. Formerly RCW 18.44.080.]

Effective date—2001 c 177: See note following RCW 43.320.080.

Effective date—1995 c 238: See note following RCW 18.44.011.

RCW 18.44.127 Certificate of registration suspension—

Noncompliance with support order—Reissuance. The department shall immediately suspend the certificate of registration of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for certification during the suspension, reissuance of the certificate shall be automatic upon the department's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 s 822.]

***Reviser's note:** 1997 c 58 s 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

**Short title—Part headings, captions, table of contents not law—
Exemptions and waivers from federal law—Conflict with federal**

requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

RCW 18.44.131 License application—Issuance. Upon the filing of the application for an escrow agent license on a form provided by the director and satisfying the requirements as set forth in this chapter, the director shall issue and deliver to the applicant a license to engage in the business of an escrow agent at the location set forth in the license. [1999 c 30 s 11; 1977 ex.s. c 156 s 8; 1965 c 153 s 9. Formerly RCW 18.44.090.]

RCW 18.44.141 License—Duration—Posting. An escrow agent's license shall remain in effect until surrendered, revoked, suspended, or until it expires, and shall at all times be kept conspicuously posted in all places of business of the agent. [1999 c 30 s 12; 1965 c 153 s 10. Formerly RCW 18.44.100.]

RCW 18.44.151 License—Expiration and renewal—Fee. Each escrow agent's license shall expire at noon on the thirty-first day of December of any calendar year. The license may be renewed by filing an application and paying the annual license fee for the next succeeding calendar year. [1999 c 30 s 13; 1985 c 340 s 2; 1965 c 153 s 11. Formerly RCW 18.44.110.]

RCW 18.44.161 License—Reinstatement. An escrow agent's license which has not been renewed may be reinstated at any time prior to the thirtieth day of January following its expiration, upon the payment to the director of the annual license fees then in default and a penalty equal to one-half of the annual license fees then in default. [1999 c 30 s 14; 1965 c 153 s 12. Formerly RCW 18.44.120.]

RCW 18.44.171 Engaging in business without license—Penalty. Any person required by this chapter to obtain a license who engages in business as an escrow agent without applying for and receiving the license required by this chapter, or willfully continues to act as an escrow agent or licensed escrow officer after surrender, expiration, suspension, or revocation of his or her license, is guilty of a misdemeanor punishable by imprisonment for not more than ninety days, or by a fine of not more than one hundred dollars per day for each day's violation, or by both such fine and imprisonment. [1999 c 30 s 17; 1965 c 153 s 14. Formerly RCW 18.44.140.]

Date for initial compliance: "All persons doing business within this state as an escrow agent as defined in this act, who may be required by this act to register with the department, shall comply with the provisions hereof not later than December 31, 1965." [1965 c 153 s 15.]

RCW 18.44.181 Proof of licensure prerequisite to action for fee.

No person engaged in the business or acting in the capacity of an escrow agent may bring or maintain any action in any court of this state for the collection or compensation for the performances of any services entered upon after December 31, 1965, for which licensing is required under this chapter without alleging and proving that he or she was a duly licensed escrow agent at the time of commencement of such services. [1999 c 30 s 20; 1965 c 153 s 19. Formerly RCW 18.44.180.]

RCW 18.44.191 Director—Educational conferences—Examinations.

The director shall have the authority to hold educational conferences for the benefit of the industry and shall conduct examinations for licenses as an escrow officer. [1977 ex.s. c 156 s 15; 1971 ex.s. c 245 s 12. Formerly RCW 18.44.250.]

RCW 18.44.195 Examination. (1) Any person desiring to become a licensed escrow officer must successfully pass an examination as required by the director.

(2) The examination shall be in such form as prescribed by the director with the advice of the committee. [2011 1st sp.s. c 21 s 48; 2010 c 34 s 9; 1999 c 30 s 4.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

BONDING

RCW 18.44.201 Financial responsibility—Fidelity bond—Errors and omissions policy—Surety bond. (1) At the time of filing an application for an escrow agent license, or any renewal or reinstatement of an escrow agent license, the applicant shall provide satisfactory evidence to the director of having obtained the following as evidence of financial responsibility:

(a) A fidelity bond providing coverage in the aggregate amount of one million dollars with a deductible no greater than ten thousand dollars covering each corporate officer, partner, escrow officer, and employee of the applicant engaged in escrow transactions;

(b) An errors and omissions policy issued to the escrow agent providing coverage in the minimum aggregate amount of fifty thousand dollars or, alternatively, cash or securities in the principal amount of fifty thousand dollars deposited in an approved depository on condition that they be available for payment of any claim payable under an equivalent errors and omissions policy in that amount and pursuant to rules and regulations adopted by the department for that purpose; and

(c) A surety bond in the amount of ten thousand dollars executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, unless the fidelity bond obtained by the licensee to satisfy the requirement in (a) of this subsection does not have a deductible. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state

and any person or persons who suffer loss by reason of the applicant's or its employee's violation of this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090.

(2) For the purposes of this section, a "fidelity bond" shall mean a primary commercial blanket bond or its equivalent satisfactory to the director and written by an insurer authorized to transact this line of business in the state of Washington. Such bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the corporate officers, partners, sole practitioners, escrow officers, and employees of the applicant engaged in escrow transactions acting alone or in collusion with others. This bond shall be for the sole benefit of the escrow agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party unless the corporate officer, partner, or sole practitioner commits a fraudulent or dishonest act, in which case, the bond shall be for the benefit of the harmed consumer. The bond shall name the escrow agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. An escrow agent's bond must be maintained until all accounts have been reconciled and the escrow trust account balance is zero. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent. In the event that the fidelity bond required under this subsection is not reasonably available, the director may adopt rules to implement a surety bond requirement.

(3) For the purposes of this section, an "errors and omissions policy" shall mean a group or individual insurance policy satisfactory to the director and issued by an insurer authorized to transact insurance business in the state of Washington. Such policy shall provide coverage for unintentional errors and omissions of the escrow agent and its employees, and may be canceled by the insurer upon delivery of thirty days' written notice to the director and to the escrow agent.

(4) Except as provided in RCW 18.44.221, the fidelity bond, surety bond, and the errors and omissions policy required by this section shall be kept in full force and effect as a condition precedent to the escrow agent's authority to transact escrow business

in this state, and the escrow agent shall supply the director with satisfactory evidence thereof upon request. [2013 c 64 s 4; 2010 c 34 s 7; 1999 c 30 s 5; 1979 c 70 s 1; 1977 ex.s. c 156 s 5; 1971 ex.s. c 245 s 4; 1965 c 153 s 5. Formerly RCW 18.44.050.]

RCW 18.44.211 Cancellation of fidelity bond or surety bond, or both—New bond required. In the event of cancellation of either the fidelity bond, the surety bond, or both, the director shall require the filing of a new bond or bonds. Failure to provide the director with satisfactory evidence of a new bond after receipt by the director of notification that one is required or by the effective date of the cancellation notice, whichever is later, shall be sufficient grounds for the suspension or revocation of the escrow agent's license. [1999 c 30 s 6; 1965 c 153 s 6. Formerly RCW 18.44.060.]

RCW 18.44.221 Waiver of bond or policy where not reasonably available—Determination procedure—Waiver period. The director shall, within thirty days after a written request, hold a public hearing to determine whether the fidelity bond, surety bond, and/or the errors and omissions policy specified in RCW 18.44.201 is reasonably available to a substantial number of licensed escrow agents. If the director determines and the insurance commissioner concurs that such bond or bonds and/or policy is not reasonably available, the director shall waive the requirements for such bond or bonds and/or policy for a fixed period of time. [2011 1st sp.s. c 21 s 46; 1999 c 30 s 31; 1988 c 178 s 2; 1977 ex.s. c 156 s 30. Formerly RCW 18.44.360.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Severability—1988 c 178: See note following RCW 18.44.400.

RCW 18.44.231 Corporation for insuring where bond or policy not reasonably available. After a written determination by the director, with the consent of the insurance commissioner, that the fidelity bond, the surety bond, and/or the errors and omissions policy required under RCW 18.44.201 is cost-prohibitive, or after a determination as provided in RCW 18.44.221 that such bond or policy is not reasonably available, an association comprised of licensed escrow agents, with the consent of the insurance commissioner, may organize a corporation pursuant to chapter 24.06 RCW, exempt from the provisions of Title 48 RCW, for the purpose of insuring or self-insuring against claims arising out of escrow transactions. The insurance commissioner may limit the authority of the corporation to the insuring or self-insuring of claims which would be within the coverage specified in RCW 18.44.201. The insurance commissioner may revoke the authority of the corporation to transact insurance or self-insurance if he or she determines, pursuant to chapter 34.05 RCW, that the corporation is not acting in a financially responsible manner or for the benefit of the public. [1999 c 30 s 32; 1987 c 471 s 4; 1977 ex.s. c 156 s 31. Formerly RCW 18.44.370.]

Severability—1987 c 471: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1987 c 471 s 11.]

Effective date—1987 c 471: "This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect July 1, 1987." [1987 c 471 s 13.]

RCW 18.44.241 Waiver of errors and omissions policy requirement

—Criteria. The following criteria will be considered by the director when deciding whether to grant a licensed escrow agent a waiver from the errors and omissions policy requirement under RCW 18.44.201:

(1) Whether the director has determined pursuant to RCW 18.44.221 that an errors and omissions policy is not reasonably available to a substantial number of licensed escrow agents;

(2) Whether purchasing an errors and omissions policy would be cost-prohibitive for the licensed escrow agent requesting the exemption;

(3) Whether a licensed escrow agent has wilfully violated the provisions of chapter 18.44 RCW, which violation thereby resulted in the termination of the agent's certificate, or engaged in any other conduct resulting in the termination of the escrow certificate;

(4) Whether a licensed escrow agent has paid claims directly or through an errors and omissions carrier, exclusive of costs and attorney fees, in excess of ten thousand dollars in the calendar year preceding the year for which the waiver is requested;

(5) Whether a licensed escrow agent has paid claims directly or through an errors or omissions insurance carrier, exclusive of costs and attorney fees, totaling in excess of twenty thousand dollars in the three calendar years preceding the calendar year for which the exemption is requested; and

(6) Whether the licensed escrow agent has been convicted of a crime involving honesty or moral turpitude.

These criteria are not intended to be a wholly inclusive list of factors to be applied by the director when considering the merits of a licensed escrow agent's request for a waiver of the required errors and omissions policy. [2000 c 171 s 12; 1987 c 471 s 5. Formerly RCW 18.44.375.]

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

RCW 18.44.251 Waiver—Affidavit. A request for a waiver of the required errors and omissions policy may be accomplished under the statute by submitting to the director an affidavit that substantially addresses the following:

REQUEST FOR WAIVER OF
ERRORS AND OMISSIONS POLICY

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

(1) An errors and omissions policy is not reasonably available to a substantial number of licensed escrow officers; and

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

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

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

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

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

THEREFORE, in consideration of the above, I,, respectfully request that the director of financial institutions grant this request for a waiver of the requirement that I purchase and maintain an errors and omissions policy covering my activities as an escrow agent licensed by the state of Washington for the period from, (year), to, (year)

Submitted this day of day of, (year)

(signature)

State of Washington,

County of

ss.

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

Dated

Signature of Notary Public

Title

My appointment expires

(Seal or stamp)

[2016 c 202 s 21; 2011 1st sp.s. c 21 s 47; 1995 c 238 s 5; 1987 c 471 s 10. Formerly RCW 18.44.380.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Effective date—1995 c 238: See note following RCW 18.44.011.

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

RCW 18.44.261 Waiver—Determination. The director shall, within thirty days following submission of a written petition for waiver of the insurance requirements found in RCW 18.44.201, issue a written determination granting or rejecting an applicant's request for waiver. [2000 c 171 s 13; 1987 c 471 s 6. Formerly RCW 18.44.385.]

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

RCW 18.44.270 Application of administrative procedure act. The proceedings for revocation, suspension, or refusal to renew or accept an application for renewal of an escrow agent's registration or escrow officer license, and any appeal therefrom or review thereof shall be governed by the provisions of chapter 34.05 RCW. [1977 ex.s. c 156 s 17; 1971 ex.s. c 245 s 14.]

RCW 18.44.271 Waiver—Certificate of waiver. Upon granting a waiver of insurance requirements found in RCW 18.44.201, the director shall issue a certificate of waiver, which certificate shall be mailed to the escrow agent who requested the waiver. [2000 c 171 s 14; 1987 c 471 s 7. Formerly RCW 18.44.390.]

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

RCW 18.44.281 Waiver—Denial. Upon determining that a licensed escrow agent is to be denied a waiver of the errors and omissions policy requirements of RCW 18.44.201, the director shall within thirty days of the denial of an escrow agent's request for same, provide to the escrow agent a written explanation of the reasons for the director's decision to deny the requested waiver. [2000 c 171 s 15; 1987 c 471 s 8. Formerly RCW 18.44.395.]

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

RCW 18.44.291 Waiver—Application by escrow license applicant. Nothing in RCW 18.44.201, 18.44.241 through 18.44.261, 18.44.271, and 18.44.281 shall be construed as prohibiting a person applying for an escrow license from applying for a certificate of waiver of the errors and omissions policy requirement when seeking an escrow license. [2000 c 171 s 16; 1987 c 471 s 9. Formerly RCW 18.44.398.]

Effective date—Severability—1987 c 471: See notes following RCW 18.44.231.

PROHIBITED PRACTICES

RCW 18.44.301 Prohibited practices. It is a violation of this chapter for any escrow agent, controlling person, officer, designated escrow officer, independent contractor, employee of an escrow business, or other person subject to this chapter to:

- (1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;
- (2) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein;

(5) Knowingly receive or take possession for personal use of any property of any escrow business, other than in payment authorized by this chapter, and with intent to defraud, omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of the business;

(6) Make or concur in making any false entry, or omit or concur in omitting to make any material entry, in its books or accounts;

(7) Knowingly make or publish, or concur in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein;

(8) Willfully fail to make any proper entry in the books of the escrow business as required by law;

(9) Fail to disclose in a timely manner to the other officers, directors, controlling persons, designated escrow officer, or other licensed escrow officers the receipt of service of a notice of an application for an injunction or other legal process affecting the property or business of an escrow agent, including in the case of a licensed escrow agent an order to cease and desist or other order of the director;

(10) Fail to make any report or statement lawfully required by the director or other public official;

(11) Fail to comply with any requirement of any applicable federal or state act including the truth in lending act, 15 U.S.C. Sec. 1601 et seq. and Regulation Z, 12 C.F.R. Sec. 226; the real estate settlement procedures act, 12 U.S.C. Sec. 2601 et seq. and Regulation X, 24 C.F.R. Sec. 3500; the equal credit opportunity act, 15 U.S.C. Sec. 1691 et seq. and Regulation B, Sec. 202.9, 202.11, and 202.12; Title V, Subtitle A of the financial modernization act of 1999 (known as the Gramm-Leach-Bliley act), 12 U.S.C. Secs. 6801-6809; the federal trade commission's privacy rules, 16 C.F.R. Secs. 313-314, mandated by the Gramm-Leach-Bliley act; as these acts existed on January 1, 2007, or such subsequent date as may be provided by the department by rule, or any other applicable escrow activities covered by the acts; or

(12) Collecting [Collect] a fee for tracking unclaimed funds unless it is a bona fide out-of-pocket expense or converting [convert] unclaimed funds for personal use. [2010 c 34 s 8; 1999 c 30 s 9.]

RCW 18.44.305 Financial interest in an escrow agent—Prohibited practices. (1) An escrow agent, officer or employee of any escrow agent, or person who has a financial interest in an escrow agent shall not, directly or indirectly, give any fee, kickback, payment, or other thing of value to any person as an inducement, reward for placing business, referring business, or causing title insurance business to be given to a title insurance agent in which the escrow agent or person having a financial interest in the escrow agent also has a financial interest.

(2) An escrow agent or person who has a financial interest in an escrow agent shall not either solicit or accept, or both, anything of value from: A title insurance company, a title insurance agent, or the employees or representatives of a title insurance company or title insurance agent, that a title insurance company or title insurance agent is not permitted by law or rule to give to the escrow agent or person who has a financial interest in the escrow agent.

(3) An escrow agent or person who has a financial interest in an escrow agent shall not prevent or deter a title insurance company, title insurance agent, or their employees or representatives from delivering to an escrow agent or its employees, independent contractors, and clients printed promotional material concerning only title insurance services as long as:

(a) The material is business appropriate and is not misleading or false;

(b) The material does not malign the escrow agent, its employees, independent contractors, or affiliates;

(c) The delivery of the materials is limited to those areas of the escrow agent's physical office reserved for unrestricted public access; and

(d) The conduct of the employees or representatives are appropriate for a business setting and do not threaten the safety or health of anyone in the escrow agent's office.

(4) An escrow agent shall not require a consumer, as a condition of providing real estate settlement services, to obtain title insurance from a title insurance agent in which the escrow agent has a financial interest. [2008 c 110 s 11.]

RCW 18.44.311 Prohibited employment practices. (1) A licensed escrow agent may not directly or indirectly employ a person who will be handling escrow transactions who has been convicted of, or pled guilty or nolo contendere to, a felony or a gross misdemeanor involving dishonesty within the last seven years.

(2) A licensed escrow agent may not directly or indirectly employ a person who receives money for trust accounts, disburses funds, or acts as a signatory on trust accounts if the person has shown a disregard in the management of his or her financial condition in the last three years.

(3) The director may adopt rules to implement this section. [2010 c 34 s 4.]

ENFORCEMENT

RCW 18.44.400 Records and accounts—Segregation and disbursements of funds—Violation of section, penalties. (1) Every licensed escrow agent shall keep adequate records, as determined by rule by the director, of all transactions handled by or through the agent including itemization of all receipts and disbursements of each transaction. These records shall be maintained in this state, unless otherwise approved by the director, for a period of six years from completion of the transaction. These records shall be open to inspection by the director or the director's authorized representatives.

(2) Every licensed escrow agent shall keep separate escrow fund accounts as determined by rule by the director in recognized Washington state depositories authorized to receive funds, in which shall be kept separate and apart and segregated from the agent's own funds, all funds or moneys of clients which are being held by the agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof.

(3) An escrow agent, unless exempted by *RCW 18.44.021(2), shall not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. An escrow agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

(a) Cash;

(b) Interbank electronic transfers such that the funds are unconditionally received by the escrow agent or the agent's depository;

(c) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;

(d) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or

(e) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

(4) For purposes of this section, the word "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

(5) Violation of this section shall subject an escrow agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the license of any licensed escrow agent or licensed escrow officer. In addition, an escrow agent who is required to be licensed under this chapter and who violates this section or an individual who is required to be licensed as an escrow officer under this chapter and who violates this section, may be subject to penalties as prescribed in RCW 18.44.430. [1999 c 30 s 8; 1990 c 203 s 1; 1988 c 178 s 1; 1977 ex.s. c 156 s 6; 1965 c 153 s 7. Formerly RCW 18.44.070.]

***Reviser's note:** RCW 18.44.021 was amended by 2015 c 229 s 1, changing subsection (2) to subsection (1)(b).

Severability—1988 c 178: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1988 c 178 s 4.]

RCW 18.44.410 Powers of director. (1) The director has the power and broad administrative discretion to administer and interpret

this chapter to facilitate the delivery of services to citizens of this state by escrow agents and others subject to this chapter.

(2) The director may issue rules and regulations to govern the activities of licensed escrow agents and escrow officers. The director shall enforce all laws and rules relating to the licensing of escrow agents and escrow officers and fix the time and places for holding examinations of applicants for licenses and prescribe the method of conducting the examinations. The director may hold hearings and suspend or revoke the licenses of violators and may deny, suspend, or revoke the authority of an escrow officer to act as the designated escrow officer of a person who commits violations of this chapter or of the rules under this chapter.

Except as specifically provided in this chapter, the rules adopted and the hearings conducted shall be in accordance with the provisions of chapter 34.05 RCW, the administrative procedure act. [1999 c 30 s 27; 1977 ex.s. c 156 s 25. Formerly RCW 18.44.320.]

RCW 18.44.413 Informal settlement of complaints or enforcement actions. Except to the extent prohibited by another statute, the director may engage in informal settlement of complaints or enforcement actions including, but not limited to, payment to the department for purposes of financial literacy and education programs authorized under RCW 43.320.150. [2012 c 17 s 14.]

RCW 18.44.420 Investigation of violations—Procedure—Powers of director. The director may:

(1) Make necessary public or private investigations within or outside of this state to determine whether any person has violated or is about to violate this chapter or any rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter; or

(2) Require or permit any person to file a statement in writing, under oath or otherwise as the director determines, as to all facts and circumstances concerning the matter to be investigated.

For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by the director may administer oaths or affirmations, and upon his or her own motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter which is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge or relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

Upon failure to obey a subpoena or to answer questions propounded by the investigating officer and upon reasonable notice to all persons affected thereby, the director may apply to the superior court for an order compelling compliance.

Except as otherwise provided in this chapter, all proceedings under this chapter shall be in accordance with the administrative procedure act, chapter 34.05 RCW. [1999 c 30 s 23; 1977 ex.s. c 156 s 21. Formerly RCW 18.44.280.]

RCW 18.44.425 Subpoena authority—Application—Contents—Notice—Fees. (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 c 93 s 2.]

Finding—Intent—2011 c 93: "The legislature finds that in the case of *State v. Miles*, the state supreme court held that Article I, section 7 of the state Constitution requires judicial review of a subpoena under some circumstances. The legislature intends to provide a process for the department to apply for court approval of an agency investigative subpoena that is authorized under law in cases when the agency seeks approval, or when court approval is required by Article I, section 7 of the state Constitution. The legislature does not intend to require court approval except when otherwise required by law or Article I, section 7 of the state Constitution." [2011 c 93 s 1.]

RCW 18.44.430 Actions against license—Grounds. (1) The director may, upon notice to the escrow agent and to the insurer providing coverage under RCW 18.44.201, deny, suspend, decline to renew, or revoke the license of any escrow agent or escrow officer if the director finds that the applicant or any partner, officer, director, controlling person, or employee has committed any of the following acts or engaged in any of the following conduct:

(a) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director.

(b) Violating any of the provisions of this chapter or any lawful rules made by the director pursuant thereto.

(c) The commission of a crime against the laws of this or any other state or government, involving moral turpitude or dishonest dealings.

(d) Knowingly committing or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relying upon the word,

representation, or conduct of the licensee or agent or any partner, officer, director, controlling person, or employee acts to his or her injury or damage.

(e) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract, or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion.

(f) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book, or record in his or her possession for inspection of, the director or his or her authorized representatives.

(g) Committing any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter.

(h) Accepting, taking, or charging any undisclosed commission, rebate, or direct profit on expenditures made for the principal.

(i) Committing acts or engaging in conduct that demonstrates the applicant or licensee to be incompetent or untrustworthy, or a source of injury and loss to the public.

(2) Any conduct of an applicant or licensee that constitutes grounds for enforcement action under this chapter is sufficient regardless of whether the conduct took place within or outside of the state of Washington.

(3) In addition to or in lieu of a license suspension, revocation, or denial, the director may assess a fine of up to one hundred dollars per day for each violation of this chapter or rules adopted under this chapter and may remove and/or prohibit from participation in the conduct of the affairs of any licensed escrow agent, any officer, controlling person, director, employee, or licensed escrow officer. The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this chapter by the director is five years.

(4) In addition to or in lieu of (a) a license suspension, revocation, or denial, or (b) fines payable to the department, the director may order an escrow agent, officer, controlling person, director, employee, or licensed escrow officer violating this chapter to make restitution to an injured consumer. [2014 c 36 s 1; 2010 c 34 s 10; 1999 c 30 s 22; 1977 ex.s. c 156 s 16; 1971 ex.s. c 245 s 13. Formerly RCW 18.44.260.]

RCW 18.44.440 Violations—Cease and desist orders. If the director determines after notice and hearing that a person has:

(1) Violated any provision of this chapter; or
(2) Directly, or through an agent or employee, engaged in any false, unfair and deceptive, or misleading:

(a) Advertising or promotional activity; or
(b) Business practices; or

(3) Violated any lawful order or rule of the director; the director may issue an order requiring the person to cease and desist

from the unlawful practice and to take such affirmative action as in the judgment of the director will carry out the purposes of this chapter.

If the director makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, the director may issue a temporary cease and desist order. Every temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held to determine whether or not the order becomes permanent. [1999 c 30 s 19; 1977 ex.s. c 156 s 20. Formerly RCW 18.44.175.]

RCW 18.44.450 Referral fees prohibited—Consumer protection act—Application. (1) "Real property lender" as used in this section means a bank, savings bank, savings and loan association, credit union, mortgage company, or other corporation, association, or partnership that makes loans secured by real property located in this state.

(2) No real property lender, escrow agent, or officer or employee of any escrow agent or real property lender may give or agree to pay or give any money, service, or object of value to any real estate agent or broker, to any real property lender, or to any officer or employee of any agent, broker, or lender in return for the referral of any real estate escrow services. Nothing in this subsection prohibits the payment of fees or other compensation permitted under the federal Real Estate Settlement Procedures Act as amended (12 U.S.C. sections 2601 through 2617).

(3) The legislature finds that the practices governed by this subsection are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Any violation of this section is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive. [2000 c 171 s 17; 1999 c 30 s 33; 1988 c 178 s 3. Formerly RCW 18.44.145.]

Severability—1988 c 178: See note following RCW 18.44.400.

RCW 18.44.455 Possession of property and business—Grounds for director's authority. (1) The director may immediately take possession of the property and business of a licensee whenever it appears to the director that, as a result of an examination, report, investigation, or complaint:

(a) The licensee is conducting its business in such an unsafe or unsound manner as to render its further operations hazardous to the public;

(b) The licensee has suspended payment of its trust obligations;

or

(c) The licensee neglects or refuses to comply with any order of the director made pursuant to this chapter unless the enforcement of such an order is restrained in a proceeding brought by the licensee.

(2) The director may retain possession of the licensee's property and business until the licensee resumes business or its affairs are finally liquidated as provided in RCW 18.44.470. The licensee may only

resume business upon those terms as the director may prescribe. [2010 c 34 s 11.]

RCW 18.44.457 Possession of property and business—Scope of director's authority. (1) During the time that the director retains possession of the property and business of a licensee, the director has the power and authority to conduct the licensee's business and take any action on behalf of the licensee to protect consumers, including but not limited to discontinuing any violations and unsafe or injurious practices, making good any deficiencies, and making claims against the licensee's fidelity bond, errors and omissions bond, or surety bond on behalf of the company.

(2) The director, the department, and its employees are not subject to liability for actions under this section and RCW 18.44.455 and no moneys from the department's fund may be required to be expended on behalf of the licensee or the licensee's clients, creditors, employees, shareholders, members, investors, or any other party or entity. [2013 c 64 s 3; 2010 c 34 s 12.]

RCW 18.44.460 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensing during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1999 c 30 s 15; 1996 c 293 s 11. Formerly RCW 18.44.125.]

RCW 18.44.465 Termination of license—Effect upon preexisting escrows—Notice to principals. The revocation, suspension, surrender, or expiration of an escrow agent's license shall not impair or affect preexisting escrows accepted by the agent prior to such revocation, suspension, surrender, or expiration: PROVIDED, That the escrow agent shall within five workdays provide written notice to all principals of such preexisting escrows of the agent's loss of license. The notice shall include as a minimum the reason for the loss of license, the estimated date for completing the escrow, and the condition of the agent's bond and whether it is in effect or whether notice of cancellation has been given. The notice shall afford the principals the right to withdraw the escrow without monetary loss. [1999 c 30 s 16; 1977 ex.s. c 156 s 9; 1965 c 153 s 13. Formerly RCW 18.44.130.]

RCW 18.44.470 Receivership. Upon application by the director or any other interested party and upon a showing that the interest of the creditors so requires, the superior court may appoint a receiver to take over, operate, or liquidate any escrow office in this state. [1971 ex.s. c 245 s 6. Formerly RCW 18.44.190.]

RCW 18.44.480 Remedies—Affecting corporate franchise. Upon petition by the attorney general, the court may, in its discretion, order the dissolution, or suspension or forfeiture of franchise, of any corporation for repeated or flagrant violation of this chapter or the terms of any order of injunction hereunder. [1965 c 153 s 18. Formerly RCW 18.44.170.]

RCW 18.44.490 Authority to prosecute—Grants of injunctive relief, temporary restraining orders. (1) The director, through the attorney general, may prosecute an action in any court of competent jurisdiction to enforce any order made by him or her pursuant to this chapter and shall not be required to post a bond in any such court proceedings.

(2) If the director has cause to believe that any person has violated any penal provision of this chapter he or she may refer the violation to the attorney general or the prosecuting attorney of the county in which the offense was committed.

(3) Whenever the director has cause to believe that any person, required to be licensed by this chapter, is conducting business as an escrow agent without a valid license, or that any licensed escrow agent, directly or through an agent or employee, is engaged in any false, unfair and deceptive, or misleading advertising or promotional, activity or business practices, or is conducting business in a manner deemed unsafe or injurious to the public, or has violated, is violating, or is about to violate any of the provisions of this chapter, or a rule or order under this chapter, the director, through the attorney general, may bring an action in any court of competent jurisdiction to enjoin the person from continuing the violation or doing any action in furtherance thereof. Upon proper showing, injunctive relief or temporary restraining orders shall be granted by the court and a receiver or conservator may be appointed.

(4) The attorney general and the several prosecuting attorneys throughout the state may prosecute proceedings brought pursuant to this chapter upon notification of the director. [1999 c 30 s 18; 1977 ex.s. c 156 s 10; 1965 c 153 s 17. Formerly RCW 18.44.160.]

ESCROW ADVISORY COMMITTEE

RCW 18.44.500 Committee to advise director—Members—Compensation and travel expenses. There is established a committee of the state of Washington, to consist of the director of financial institutions or his or her designee as chair, and five other members who shall act as advisors to the director as to the needs of the escrow profession, including but not limited to the design and conduct of tests to be administered to applicants for escrow licenses, the schedule of license fees to be applied to the escrow licensees, educational

programs, audits and investigations of the escrow profession designed to protect the consumer, and such other matters determined appropriate. The director is hereby empowered to and shall appoint the other members, each of whom shall have been a resident of this state for at least five years and shall have at least five years experience in the practice of escrow as an escrow agent or as a person in responsible charge of escrow transactions.

Every member of the committee shall receive a certificate of appointment from the director and before beginning the member's term of office shall file with the secretary of state a written oath or affirmation for the faithful discharge of the member's official duties. On the expiration of the term of each member, the director shall appoint a successor to serve for a term of five years or until the member's successor has been appointed and qualified.

The director may remove any member of the committee for cause. Vacancies in the committee for any reason shall be filled by appointment for the unexpired term.

Members shall be compensated in accordance with RCW 43.03.240, and shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. [2011 1st sp.s. c 21 s 50; 2011 c 336 s 484; 1995 c 238 s 3; 1985 c 340 s 3; 1984 c 287 s 36. Formerly RCW 18.44.208.]

Reviser's note: This section was amended by 2011 c 336 s 484 and by 2011 1st sp.s. c 21 s 50, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Effective date—1995 c 238: See note following RCW 18.44.011.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

RCW 18.44.510 Compensation and travel expenses of committee members. The committee members shall each be compensated in accordance with RCW 43.03.240 and shall be reimbursed for travel expenses as provided for state officials and employees in RCW 43.03.050 and 43.03.060, when called into session by the director or when otherwise engaged in the business of the committee. [2011 1st sp.s. c 21 s 49; 1984 c 287 s 37; 1977 ex.s. c 156 s 29. Formerly RCW 18.44.215.]

Effective date—2011 1st sp.s. c 21: See note following RCW 72.23.025.

Legislative findings—Severability—Effective date—1984 c 287: See notes following RCW 43.03.220.

MISCELLANEOUS

RCW 18.44.901 Construction—1965 c 153. Nothing in this chapter shall be so construed as to authorize any escrow agent, or his or her employees or agents, to engage in the practice of law, and nothing in this chapter shall be so construed as to impose any additional liability on any depository authorized by this chapter and the receipt or acquittance of the persons so paid by such depository shall be a valid and sufficient release and discharge of such depository. [2011 c 336 s 485; 1965 c 153 s 20. Formerly RCW 18.44.900.]

RCW 18.44.902 Short title. This chapter shall be known and cited as the "Escrow Agent Registration Act". [1965 c 153 s 21. Formerly RCW 18.44.910.]