

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass as Amended and Be Printed Engrossed
Vote:	6 - 0 - 1
Yeas:	Berger, Edwards C., Esquivel, Holvey, Rosenbaum, Schaufler
Nays:	0
Exc.:	Smith P.
Prepared By:	Theresa Van Winkle, Administrator
Meeting Dates:	2/28, 3/28

WHAT THE MEASURE DOES: Allows escrow agents to disburse deposited earnest money based on an agreement of the principals of a real estate transaction that is executed after the initial sales agreement. Prohibits escrow agents from imposing additional requirements on the transaction's principals, including a requirement that the principals sign a liability release in favor of the agent.

ISSUES DISCUSSED:

- History behind developing the measure
- Examples of situations that arise when a real estate sales transaction is terminated and earnest money is involved
- Examples of forms used by title companies for closing an escrow

EFFECT OF COMMITTEE AMENDMENT: Clarifies the intent of the measure.

BACKGROUND: HB 2490 A focuses on escrow agents and how they handle earnest money related to a real estate sales transaction. A prospective buyer often places "earnest money," which is money or other consideration as evidence of good faith in conjunction with the offer, in escrow. Earnest money includes items such as closing costs, lender's fees, and recording fees, and is managed by an escrow agent, a neutral third party responsible for holding earnest money in trust for the principals of the transaction (buyer and seller) until all of the conditions of the sales contract have been met. Under current statute, an escrow agent cannot close an escrow or disburse any earnest money held in escrow without the buyer and seller signing separate forms, which adequately administer and close the transaction; or in the case of disbursement, to disburse the funds and property. There are no clear guidelines in statute on how to handle earnest money when the escrow is canceled. Furthermore, there is no consistency with the forms that title companies use to cancel an escrow, and many forms include additional language that releases the title company from any liability.

HB 2490 A clarifies current statute related to the required instructions and agreement language that an escrow agent can use when accepting earnest money or documents in any escrow transaction, or close an escrow or disburse any funds or property. The measure prohibits escrow agents from imposing additional requirements upon the transaction's principals that cause unnecessary or undue delays in the disbursement of funds and property that are held in escrow, including requiring the transaction's principals to sign a liability release form in favor of the escrow agent.