



1 other than to fulfill the terms of the escrow account agreement and may not be  
2 disbursed or otherwise used until the happening of the event or performance of the  
3 condition on which the delivery of the money is conditioned.

4 Sec. 34.75.020. SEGREGATION AND DEPOSIT OF ESCROW MONEY.

5 (a) A settlement agent shall segregate the escrow money from one escrow account  
6 from all other money, including the escrow money of other escrow accounts. The  
7 records of a settlement agent must reflect this segregation.

8 (b) A settlement agent shall deposit escrow money in a depository account of  
9 a financial institution located in this state.

10 Sec. 34.75.030. DISBURSEMENT OF ESCROW MONEY. (a) Unless the  
11 parties to the escrow agree otherwise, a settlement agent may not disburse escrow  
12 money unless items that are at least equal in value to the proposed disbursements have  
13 been received by the settlement agent for the escrow account, have been deposited as  
14 required by AS 34.75.020(b), and are available for withdrawal as a matter of right  
15 from the depository account.

16 (b) A settlement agent may not disburse escrow money on the same business  
17 day as the items are deposited under AS 34.75.020(b), unless the deposit is made in  
18 cash, by interbank electronic transfer, or in a form that permits conversion of the  
19 deposit to cash on the same day the deposit is made.

20 (c) A settlement agent may not disburse escrow money on the business day  
21 after the business day on which the items are deposited under (a) of this section unless  
22 the deposit is made by

23 (1) a cashier's check or a certified check, if the cashier's check or  
24 certified check is payable in the state and drawn on a financial institution located in  
25 the state;

26 (2) a cashier's check, a negotiable order of withdrawal, a money order,  
27 or another item, if the check, order of withdrawal, money order, or other item has been  
28 finally paid before the disbursement; or

29 (3) a depository check, including a cashier's, certified, or teller's  
30 check, that is governed by 12 U.S.C. 4001 - 4010 (Expedited Funds Availability Act).

31 (d) In (a) of this section, "available for withdrawal as a matter of right" means

1 (1) when the item has been submitted for collection and payment for  
2 the item has been received;

3 (2) when the financial institution where an item has been deposited  
4 considers the money represented by the item available for withdrawal; or

5 (3) unless written notification has been received from the financial  
6 institution where the item was deposited establishing a longer period for an item drawn  
7 on an out-of-state financial institution, after a reasonable time has passed for permitting  
8 customers to draw on the item.

9 Sec. 34.75.040. RECORDING, FILING, OR DELIVERY OF ESCROW  
10 DOCUMENTS. A settlement agent may not record in the office of the recorder in this  
11 state or record in an office in another state that is equivalent to the office of the  
12 recorder, file under AS 45.09 in this state or file under an equivalent statute in another  
13 state, or deliver a conveyance of property, loan documents, documents establishing a  
14 security interest in property, or other documents from an escrow account until the  
15 money required by the escrow agreement to be disbursed at the same time is available  
16 for disbursement under AS 34.75.030.

17 Sec. 34.75.050. CIVIL PENALTY. A settlement agent who wilfully violates  
18 this chapter is liable to the state for five times the amount of the consideration paid  
19 to the agent for the services rendered for the escrow account that is the subject of the  
20 violation. In this section, "settlement agent" does not include an employee of a person  
21 who engages in the business of handling escrow accounts.

22 Sec. 34.75.060. DEPARTMENT SUPERVISION. The department shall  
23 supervise the compliance of settlement agents with the provisions of this chapter. The  
24 department may audit settlement agent records and accounts to determine whether the  
25 agent is complying with this chapter.

26 Sec. 34.75.070. REGULATIONS. The department may adopt regulations  
27 under AS 44.62 (Administrative Procedure Act) to implement this chapter.

28 Sec. 34.75.090. DEFINITIONS. In this chapter,

29 (1) "department" means the Department of Commerce and Economic  
30 Development;

31 (2) "depository account" means an account with a financial institution

1 to which items are deposited under AS 34.75.020(b) for the purposes of an escrow  
2 account;

3 (3) "escrow" means a transaction where, for the purpose of effecting  
4 the sale, transfer, encumbrance, leasing, or other disposition of real or personal  
5 property to another person,

6 (A) money, written documents, evidence of title to real or  
7 personal property, or other things of value are delivered to a person for  
8 retention until the happening of a specific event or the performance of a  
9 prescribed condition; and

10 (B) upon the happening of the event or performance of the  
11 condition, the person holding the things of value delivers them to the persons  
12 entitled to them under the escrow account agreement;

13 (4) "escrow money" means the money that is received by a settlement  
14 agent for an escrow account;

15 (5) "financial institution" means a financial institution

16 (A) whose accounts are insured by the Federal Deposit  
17 Insurance Corporation, the Federal Savings and Loan Insurance Corporation,  
18 or the National Credit Union Administration Board;

19 (B) that is subject to the jurisdiction of either the Comptroller  
20 of the Currency, the Federal Home Loan Bank Board, or the National Credit  
21 Union Administration Board; or

22 (C) that is located in this state and does not meet the  
23 requirements of (A) or (B) of this section, but is subject to regulation by the  
24 division of banking, securities and corporations in the Department of  
25 Commerce and Economic Development; or

26 (D) that is located in another state and does not meet the  
27 requirements of (A) or (B) of this section, but is subject to regulation in the  
28 other state by an agency comparable to the division of banking, securities and  
29 corporations in the Department of Commerce and Economic Development;

30 (6) "item" means cash, a check, a negotiable order of withdrawal, a  
31 share draft, a traveler's check, a money order, an interbank electronic transfer; in this

1 paragraph, "check" includes a cashier's check;

2 (7) "settlement agent" means a person who engages in the business of  
3 handling escrow accounts, but does not include a person who collects money for the  
4 sole purpose of applying the money to the payment of a loan during the term of the  
5 loan; "settlement agent" includes an employee of a person who engages in the business  
6 of handling escrow accounts when the employee is carrying out the employee's duties  
7 in the business.

8 \* **Sec. 4.** AS 45.55.110(g) is amended to read:

9 (g) The administrator may by regulation or order require as a condition of  
10 registration by qualification or coordination that a security issued within the past three  
11 years or to be issued to a promoter for a consideration substantially different from the  
12 public offering price, or to a person for a consideration other than cash, be deposited  
13 in escrow, and that the proceeds from the sale of the registered security in this state  
14 be impounded until the issuer receives a specified amount from the sale of the security  
15 either in this state or elsewhere. **Subject to AS 34.75, the** [THE] administrator may  
16 by regulation or order determine the conditions of an escrow or impounding required  
17 in this subsection but the administrator may not reject a depository solely because of  
18 location in another state.

19 \* **Sec. 5.** This Act applies to escrow accounts that are established on or after the effective  
20 date of this Act. In this section, "escrow" has the meaning given in AS 34.75.090, enacted  
21 by sec. 3 of this Act.

22 \* **Sec. 6.** This Act takes effect January 1, 1996.