

ENROLLED
CS/HB 1037

2008 Legislature

1 A bill to be entitled
2 An act relating to escrow agents; creating s. 877.101,
3 F.S.; prohibiting unauthorized persons from transacting
4 business using the term "escrow" in a name or a title
5 under certain circumstances; providing for nonapplication
6 to certain persons or entities; authorizing certain
7 persons to bring an action for declaratory relief for
8 certain purposes; providing for recovery by injured
9 persons of actual damages plus attorney fees and court
10 costs in certain actions; providing criminal penalties;
11 providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Section 877.101, Florida Statutes, is created
16 to read:

17 877.101 Escrow business by unauthorized persons; use of
18 name.--

19 (1) Except as provided in subsection (2), in connection
20 with the purchase and sale of real property, a person may not:

21 (a) Transact business under any name or title that
22 contains the word "escrow" or words of similar import; or

23 (b)1. Use any name, word, sign, symbol, or device in any
24 context or in any manner; or

25 2. Circulate or use any letterhead, billhead, circular,
26 paper, or writing of any kind or otherwise advertise or
27 represent in any manner
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29 that indicates or reasonably implies that the business being
30 conducted or advertised is the kind or character of business
31 transacted that is regulated by this state as an escrow agent.

32 (2) This section does not apply to:

33 (a) A financial institution as defined in s. 655.005;

34 (b) An attorney who is a member of The Florida Bar or his
35 or her law firm;

36 (c) A person who is licensed pursuant to chapter 475 or
37 his or her brokerage firm; or

38 (d) A title insurance agent who is licensed pursuant to s.
39 626.8417, a title insurance agency that is licensed pursuant to
40 s. 626.8418, or a title insurer who is authorized to transact
41 business in this state pursuant to s. 624.401.

42 (3) Any person aggrieved by a violation of this section
43 may bring an action in a court of competent jurisdiction to
44 obtain a declaratory judgment that an act or practice violates
45 this section.

46 (4) In any action brought by a person who has suffered a
47 loss as a result of a violation of this section, such person may
48 recover actual damages, plus attorney's fees and court costs.

49 (5) Any person who willfully violates this section commits
50 a misdemeanor of the first degree, punishable as provided in s.
51 775.082, s. 775.083, or s. 775.084.

52 Section 2. This act shall take effect July 1, 2008.