

By Senator Posey

24-03736-08

20082272__

1 A bill to be entitled

2 An act relating to escrow agents; creating s. 501.165,
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 a definition;
6 authorizing certain persons to bring an action for
7 declaratory relief or an injunction for certain purposes;
8 providing for recovery by injured persons of actual
9 damages plus attorney's fees and court costs in certain
10 actions; providing criminal penalties; providing an
11 effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 501.165, Florida Statutes, is created to
16 read:

17 501.165 Escrow business by unauthorized persons; use of
18 name.--

19 (1) A person, other than a person who is specifically
20 authorized under the laws of this state to act as an escrow agent
21 in this state and is acting within the scope of that authority,
22 may not:

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

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

27 2. Circulate or use any letterhead, billhead, circular,
28 paper, or writing of any kind or otherwise advertise or represent
29 in any manner,

24-03736-08

20082272__

30
31 that indicates or reasonably implies that the business being
32 conducted or advertised is the kind or character of business
33 transacted that is regulated by this state as an escrow agent.

34 (2) For purposes of this section, the term "escrow agent"
35 means only:

36 (a) A savings and loan association, bank, trust company, or
37 other financial institution, any of which must be located in this
38 state and any of which must have a net worth in excess of \$5
39 million;

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

42 (c) A real estate broker who is licensed pursuant to
43 chapter 475 or his or her brokerage firm; or

44 (d) A title insurance agent who is licensed pursuant to s.
45 626.8417, a title insurance agency that is licensed pursuant to
46 s. 626.8418, or a title insurer who is authorized to transact
47 business in this state pursuant to s. 624.401.

48 (3) Any person aggrieved by a violation of this section may
49 bring an action in a court of competent jurisdiction to:

50 (a) Obtain a declaratory judgment that an act or practice
51 violates this section; or

52 (b) Enjoin any person who has violated, is violating, or is
53 otherwise likely to violate this section.

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

24-03736-08

20082272__

57 (5) Any person who willfully violates this section commits
58 a misdemeanor of the first degree, punishable as provided in s.
59 775.082, s. 775.083, or s. 775.084.

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