

By the Committee on Banking and Insurance; and Senator Posey

597-07659-08

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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 certain exceptions
6 to such prohibition; authorizing a person aggrieved by a
7 violation of the act to bring an action for declaratory
8 relief; providing for recovery by an injured person of
9 actual damages, plus attorney's fees and court costs;
10 providing criminal penalties; providing an effective date.

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

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

16 877.101 Escrow business by unauthorized persons; use of
17 name.--

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

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

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

24 2. Circulate or use any letterhead, billhead, circular,
25 paper, or writing of any kind, or otherwise advertise or
26 represent in any manner,

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28 which indicates or reasonably implies that the business being
29 conducted or advertised is the kind or character of business

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30 transacted that is regulated by this state as an escrow agent.

31 (2) This section, does not apply to:

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

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

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

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

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

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

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

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