

Council Substitute for House Bill No. 1037

An act relating to escrow agents; creating s. 877.101, F.S.; prohibiting unauthorized persons from transacting business using the term “escrow” in a name or a title under certain circumstances; providing for nonapplication to certain persons or entities; authorizing certain persons to bring an action for declaratory relief for certain purposes; providing for recovery by injured persons of actual damages plus attorney fees and court costs in certain actions; providing criminal penalties; providing an effective date.

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

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

877.101 Escrow business by unauthorized persons; use of name.—

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

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

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

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

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

(2) This section does not apply to:

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

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

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

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

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

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

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

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

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.