

AMENDED IN SENATE JUNE 16, 2003

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 479**

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**Introduced by Assembly Member Maldonado**

February 14, 2003

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An act to amend Sections 17209.3, 17312, 17314, 17321, 17331, and 17331.2 of the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 479, as amended, Maldonado. Escrow agents.

Existing law, the Escrow Law, provides for licensing and regulation by the Commissioner of Corporations of persons engaged in business as escrow agents, unless specifically exempted. Existing law requires persons licensed as escrow agents to be members of the Escrow Agents' Fidelity Corporation, which is established as a nonprofit corporation to indemnify its members against loss, subject in certain cases to a deductible, and which is funded by fees and assessments on its members. Existing law requires employees of escrow agents and various other persons to obtain a certificate from the corporation as a condition of employment or compensation.

This bill, prior to licensure by the commissioner, would require an applicant for an escrow agent license to apply for a certificate from the corporation for each proposed shareholder, officer, director, trustee, manager, or employee who is to be compensated by the licensee, and would authorize the commissioner to refuse to issue a license to an applicant that has failed to comply with the corporation's membership

requirements. The bill would revise the application requirements for membership in, and certification by, the corporation. The bill would revise the schedule establishing the coverage the corporation is required to provide its members. The bill would revise the annual assessment the corporation bills and collects from its members. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17209.3 of the Financial Code is
- 2 amended to read:
- 3 17209.3. The commissioner may refuse to issue any license
- 4 being applied for, and shall refuse to issue any license being
- 5 applied for if upon his or her examination and investigation, and
- 6 after appropriate hearing, he or she finds any of the following:
- 7 (a) That the corporation is to be formed for any business other
- 8 than legitimate escrow agent services, or proposes to use a name
- 9 that is misleading or in conflict with the name of an existing
- 10 licensee.
- 11 (b) That any incorporator, officer, or director of the applicant
- 12 has, within the last 10 years, been (1) convicted of or pleaded nolo
- 13 contendere to a crime, or (2) committed any act involving
- 14 dishonesty, fraud, or deceit, which crime or act is substantially
- 15 related to the qualifications, functions, or duties of a person
- 16 engaged in business in accordance with the provisions of this
- 17 division.
- 18 (c) That there is no officer or manager possessing a minimum
- 19 of five years of responsible escrow or joint control experience
- 20 stationed or to be stationed at the main office of the corporation and
- 21 that there is no officer, manager or employee possessing a
- 22 minimum of four years of responsible escrow or joint control
- 23 experience stationed or to be stationed at each branch.
- 24 (d) That the proposed licensee’s financial program is unsound.
- 25 (e) A false statement of a material fact has been made in the
- 26 application for license.
- 27 (f) The applicant or any officer, director, or incorporator of the
- 28 applicant has violated any provision of this division or the rules



1 thereunder or any similar regulatory scheme of a foreign  
2 jurisdiction.

3 (g) The applicant has failed to comply with the Fidelity  
4 Corporation's membership requirements set forth in subdivision  
5 (b) of Section 17312, in subdivision (a) of Section 17320, and in  
6 Sections 17331 and 17331.1.

7 SEC. 2. Section 17312 of the Financial Code is amended to  
8 read:

9 17312. (a) Each person licensed pursuant to this division  
10 who is engaged in the business of receiving escrows specified in  
11 subdivision (c) and whose escrow business location is located  
12 within the State of California shall participate as a member in  
13 Fidelity Corporation in accordance with this chapter and rules  
14 established by the board of directors of Fidelity Corporation.  
15 Fidelity Corporation shall not deny membership to any escrow  
16 agent holding a valid unrevoked license under the Escrow Law  
17 who is required to be a member under this subdivision.

18 (b) Upon filing a new application for licensure as required by  
19 Section 17201, persons required to be a member of Fidelity  
20 Corporation shall file a copy thereof concurrently with Fidelity  
21 Corporation. *If an application for licensure submitted to Fidelity*  
22 *Corporation contains personal or confidential information,*  
23 *Fidelity Corporation and its board shall maintain this information*  
24 *in confidence to protect the privacy of the information.* The copy  
25 of the application shall include the three thousand dollar (\$3,000)  
26 fee specified in subdivision (a) of Section 17320 and all required  
27 Fidelity Corporation Certificates set forth in Sections 17331 and  
28 17331.1. Fidelity Corporation shall promptly furnish to the  
29 commissioner a compliance letter confirming that the applicant  
30 has satisfied the requirements to be a member of Fidelity  
31 Corporation.

32 (c) The required membership in Fidelity Corporation shall be  
33 limited to those licensees whose escrow business location is  
34 located within the State of California and who engage, in whole or  
35 in part, in the business of receiving escrows for deposit or delivery  
36 in the following types of transactions:

37 (1) Real property escrows, including, but not limited to, the  
38 sale, encumbrance, lease, exchange, or transfer of title, and loans  
39 or other obligations to be secured by a lien upon real property.



1 (2) Bulk sale escrows, including, but not limited to, the sale or  
2 transfer of title to a business entity and the transfer of liquor  
3 licenses or other types of business licenses or permits.

4 (3) Fund or joint control escrows, including, but not limited to,  
5 transactions specified in Section 17005.1, and contracts specified  
6 in Section 10263 of the Public Contract Code.

7 (4) The sale, transfer of title, or refinance escrows for  
8 manufactured homes or mobilehomes.

9 (5) Reservation deposits required under Article 2  
10 (commencing with Section 11010) of Chapter 1 of Part 2 of  
11 Division 4 of the Business and Professions Code or by regulation  
12 of the Department of Real Estate to be held in an escrow account.

13 (6) Escrows for sale, transfer, modification, assignment, or  
14 hypothecation of promissory notes secured by deeds of trust.

15 (d) Coverage required to be provided by Fidelity Corporation  
16 under this chapter shall be provided to members only for loss of  
17 trust obligations with respect to those types of transactions  
18 specified in subdivision (c). Indemnity coverage for those types of  
19 transactions not specified in subdivision (c) shall be provided by  
20 escrow agents in accordance with Section 17203.1.

21 SEC. 3. Section 17314 of the Financial Code is amended to  
22 read:

23 17314. (a) Fidelity Corporation shall pay a member for loss  
24 of trust obligations subject to the limitations set forth in this  
25 chapter. Fidelity Corporation shall pay or deny the claim within 90  
26 days of receipt of the proof of loss filed by a member, or a  
27 member's successor in interest. Notwithstanding any other  
28 provision of this article, the protection to members provided by  
29 Fidelity Corporation and by the fidelity bond or insurance policy,  
30 if any, shall not extend to any transaction involving any member  
31 at any branch or business location outside the State of California,  
32 but shall extend only to escrow trust obligations and trust funds  
33 located within the State of California.

34 (b) Coverage shall be provided to members in accordance with  
35 the following schedule:  
36



1	MONTHLY AVERAGE ESCROW	
2	LIABILITY PER LOCATION	COVERAGE
3	\$0 – \$ 1,000,000	\$1,000,000
4	over \$1,000,000 – \$ 3,000,000	\$2,000,000
5	over \$3,000,000 – \$ 5,000,000	\$3,000,000
6	over \$5,000,000 – \$ 7,500,000	\$4,000,000
7	over \$7,500,000 – \$10,000,000	\$5,000,000

8

9 Pursuant to the schedule, the minimum coverage by Fidelity  
10 Corporation for each licensed location shall be one million dollars  
11 (\$1,000,000) and the maximum coverage for each licensed  
12 location shall be five million dollars (\$5,000,000).

13 (c) A member shall maintain minimum coverage in accordance  
14 with the schedule in subdivision (b) and shall monitor its escrow  
15 liability monthly. An increase in escrow liability above the  
16 monthly average escrow liability coverage as provided for in  
17 subdivision (b) shall be reported immediately to Fidelity  
18 Corporation. Upon receipt of this report, Fidelity Corporation  
19 shall immediately provide for the increase in coverage, and shall  
20 immediately bill and collect pursuant to Section 17321, an amount  
21 necessary to provide for the increased coverage.

22 (d) Any member with a licensed location or locations with a  
23 monthly average escrow liability greater than ten million dollars  
24 (\$10,000,000) shall obtain a bond from a corporate surety which  
25 is an admitted insurer in the State of California insuring the  
26 balance of trust funds not covered by Fidelity Corporation, in a  
27 ratio of one dollar of coverage for every three dollars of trust  
28 obligations not covered by Fidelity Corporation. The Fidelity  
29 Corporation shall have the authority to obtain the excess coverage  
30 bond. The cost of the bond shall be shared pro rata by those  
31 members included in the coverage.

32 (e) If a member establishes, to the satisfaction of the  
33 commissioner, that a bond is not available or is impracticable  
34 under subdivision (d), then, at the member’s election, either:

35 (1) The member shall place average trust obligations in excess  
36 of ten million dollars (\$10,000,000) in a restricted escrow trust  
37 account. Each transfer or release of the funds to be made by  
38 specific resolution of the member’s board of directors and the  
39 signature of a neutral third party and written approval of Fidelity  
40 Corporation; or



1 (2) The licensed location of the member with average trust  
2 balances in excess of ten million dollars (\$10,000,000) shall be  
3 subject to examinations to be conducted at a frequency as deemed  
4 appropriate and necessary by the commissioner or Fidelity  
5 Corporation, but not less frequently than once a year.

6 (f) Any member subject to subdivision (e) shall within 10  
7 business days after the effective date of this section notify Fidelity  
8 Corporation of its election. A member who subsequently becomes  
9 subject to subdivision (e) shall within a like period of time notify  
10 Fidelity Corporation of its election. Fidelity Corporation shall also  
11 be notified of any change of election in a like period of time.  
12 Fidelity Corporation shall notify the commissioner within 10  
13 business days of receipt of any notice under this subdivision of the  
14 elections made. All notices under this subdivision shall be in  
15 writing.

16 SEC. 4. Section 17321 of the Financial Code is amended to  
17 read:

18 17321. Fidelity Corporation shall bill and collect from each  
19 member an annual premium that in the aggregate shall consist of  
20 assessments for the operations fund and the fidelity fund.

21 (a) The annual assessment for the operations fund shall be  
22 assessed no later than October 15 of each year for the current fiscal  
23 year in accordance with subdivision (b) of Section 17320. The  
24 payment of any invoice for assessments under this subdivision is  
25 payable by the member escrow agent in three equal and  
26 consecutive monthly installments with the first installment  
27 payable at or within 30 days after receipt of the Fidelity  
28 Corporation invoice. The assessment shall include:

29 (1) All costs and expenses of administration as budgeted by the  
30 board of directors for the current fiscal year.

31 (2) Any expenses actually incurred in the preceding fiscal year  
32 which exceeded the budgeted costs of expenses and administration  
33 except for expenses recovered pursuant to subdivision (a) of  
34 Section 17321.1.

35 Each member's assessment shall be determined pro rata based  
36 upon the ratio of each member's licensed locations to the total  
37 licensed locations of all members as of the preceding June 30.

38 Members licensed on or after July 1 of each year shall be  
39 assessed only for costs and expenses pursuant to paragraph (1) of



1 this subdivision. This assessment shall be prorated on a monthly  
2 basis.

3 (b) The annual assessment for the fidelity fund shall be  
4 assessed no later than May 1. The assessment shall include any  
5 amount necessary to replenish the membership fund pursuant to  
6 Section 17234, and shall be based upon the balances of the  
7 membership fund and the fidelity fund as of December 31 of the  
8 previous year and the escrow liability schedule of each licensed  
9 location as provided in Section 17348, and shall be calculated as  
10 follows:

11 (1) If the membership fund and fidelity fund in the aggregate  
12 equal an amount less than five million dollars (\$5,000,000), or if  
13 the balance in the fidelity fund is less than two million five hundred  
14 thousand dollars (\$2,500,000), then the assessment shall be the  
15 greater of: (A) the amount necessary to bring the membership fund  
16 and fidelity fund in the aggregate up to five million dollars  
17 (\$5,000,000), but not to exceed one million dollars (\$1,000,000)  
18 per assessment, or (B) the amount necessary to maintain a  
19 minimum fidelity fund balance of two million five hundred  
20 thousand dollars (\$2,500,000), including the amount of the  
21 assessment, or (C) four hundred thousand dollars (\$400,000).

22 (2) If the membership fund and fidelity fund in the aggregate  
23 equal an amount that is at least five million dollars (\$5,000,000),  
24 and the balance in the fidelity fund is at least two million five  
25 hundred thousand dollars (\$2,500,000), then the assessment shall  
26 be four hundred thousand dollars (\$400,000).

27 Each member's fidelity fund assessment for paragraphs (1) and  
28 (2) shall be the amount derived by multiplying the amount to be  
29 assessed by the ratio that each member's risk factors bear to the  
30 total of all members' risk factors.

31 A member's risk factors shall be computed in accordance with  
32 the following formula, except that the total factors of a member  
33 shall be reduced by one for each licensed branch location:

34



1	Coverage per	
2	Licensed Location	Factors
3	\$1,000,000	3
4	\$2,000,000	5
5	\$3,000,000	7
6	\$4,000,000	8
7	\$5,000,000	9
8		

9 (c) Notwithstanding subdivision (b), the assessment for the  
10 fidelity fund for the fiscal year beginning July 1, 1989, shall be  
11 made immediately upon 90-day notice of cancellation of the  
12 fidelity bond or insurance policy permitted by paragraph (2) of  
13 subdivision (c) of Section 17310, but in no event later than 60 days  
14 prior to the date of cancellation.

15 (d) Every licensed member as of March 31 shall pay the fidelity  
16 fund assessment, without any pro rata adjustment,  
17 notwithstanding that the member may have surrendered a license  
18 or have a license revoked prior to the date that the assessment is  
19 mailed.

20 SEC. 5. Section 17331 of the Financial Code is amended to  
21 read:

22 17331. (a) An applicant applying for licensure as an escrow  
23 agent under this division is required to apply for a Fidelity  
24 Corporation Certificate, prepared and issued by Fidelity  
25 Corporation, for each proposed shareholder, officer, director,  
26 trustee, manager, or employee who is to be directly or indirectly  
27 compensated by the escrow agent, prior to licensure of the escrow  
28 agent by the commissioner.

29 (b) Within 30 days following written notice by Fidelity  
30 Corporation to an escrow agent a shareholder, officer, director,  
31 trustee, manager, or employee of an escrow agent, directly or  
32 indirectly compensated by an escrow agent within this state, is  
33 required to apply for a Fidelity Corporation Certificate, prepared  
34 and issued by Fidelity Corporation, as a condition of his or her  
35 employment or entitlement to compensation, before the person  
36 may continue the regular discharge of his or her duties, or have  
37 access to moneys or negotiable securities belonging to or in the  
38 possession of the escrow agent, or draw checks upon the escrow  
39 agent or the trust funds of the escrow agent.



1 (c) Fidelity Corporation Certificates may also be known as  
2 Escrow Agent’s Fidelity Corporation Certificates or EAFC  
3 Certificates. The certificate at all times remains the property of  
4 Fidelity Corporation, and is not transferable by either a member  
5 or employee. The certificate is not a warranty or guarantee by  
6 Fidelity Corporation of the integrity, veracity, or competence of  
7 the person.

8 (d) An application for a Fidelity Corporation Certificate shall  
9 be in writing and in the form prescribed by Fidelity Corporation.  
10 The application may include (1) a fee not to exceed fifty dollars  
11 (\$50), (2) two passport-size photographs, and (3) a set of  
12 fingerprints on the form established by the Department of Justice  
13 for requesting state summary criminal history information, plus  
14 the fee charged by the Department of Justice for processing  
15 noncriminal applicant fingerprints. The Department of Justice  
16 shall honor the Fidelity Corporation report request form and issue  
17 a report to Fidelity Corporation, notwithstanding any other  
18 provision of law or regulation to the contrary. Fidelity Corporation  
19 is also entitled to submit a set of fingerprints on the specified  
20 noncriminal applicant fingerprint form for the purpose of  
21 requesting and obtaining a report from the Department of Justice,  
22 for the officers and employees of Fidelity Corporation. A member  
23 shall cause the filing of applications for all existing employees as  
24 required by this section within 30 days of written notice by Fidelity  
25 Corporation to the member.

26 (e) The application form shall include a provision for binding  
27 arbitration to allow for arbitration of any appeal or dispute as to a  
28 decision by Fidelity Corporation concerning the certificate, as  
29 follows:

30  
31 A DISPUTE AS TO WHETHER THE DENIAL OF THIS  
32 CERTIFICATE APPLICATION OR ANY SUBSEQUENT  
33 SUSPENSION OR REVOCATION OF THE CERTIFICATE IS  
34 UNNECESSARY OR UNAUTHORIZED OR WAS  
35 IMPROPERLY, NEGLIGENTLY, OR UNLAWFULLY  
36 RENDERED, MAY BE DETERMINED BY SUBMISSION TO  
37 ARBITRATION AS PROVIDED BY CALIFORNIA LAW, AND  
38 NOT BY A LAWSUIT OR RESORT TO COURT PROCESS  
39 EXCEPT AS CALIFORNIA LAW PROVIDES FOR JUDICIAL  
40 REVIEW OF ARBITRATION PROCEEDINGS OR EXCEPT



1 AS PROVIDED BY SECTION 17331.3 OF THE FINANCIAL  
2 CODE. THE APPLICANT MAY, SUBJECT TO AGREEMENT,  
3 SUBMIT ANY ISSUE ARISING FROM A DECISION BY  
4 FIDELITY CORPORATION TO DENY THIS CERTIFICATE  
5 APPLICATION OR TO SUSPEND OR REVOKE THE  
6 CERTIFICATE TO BE DECIDED BY BINDING NEUTRAL  
7 ARBITRATION. UPON AN AGREEMENT TO SUBMIT TO  
8 BINDING NEUTRAL ARBITRATION, THE APPLICANT  
9 HAS NO RIGHT TO HAVE ANY DISPUTE CONCERNING  
10 THIS CERTIFICATE APPLICATION LITIGATED IN A  
11 COURT OR JURY TRIAL NOR ANY JUDICIAL RIGHTS TO  
12 DISCOVERY AND APPEAL, EXCEPT AS SPECIFICALLY  
13 PROVIDED IN THE ESCROW LAW. ARBITRATION MAY BE  
14 COMPELLED AS PROVIDED BY LAW.

15

16 (f) There is no liability on the part of and no cause of action of  
17 any nature may arise against Fidelity Corporation or its members,  
18 directors, officers, employees, or agents, the State of California,  
19 the Department of Corporations, or any officer, agent, or employee  
20 of the state or the Department of Corporations for statements made  
21 by Fidelity Corporation in reports or recommendations made  
22 pursuant to this division, or for reports or recommendations made  
23 pursuant to this division to Fidelity Corporation by its members,  
24 directors, officers, employees or agents, the State of California, the  
25 Department of Corporations, or any officer, agent, or employee of  
26 the state or the Department of Corporations, unless the information  
27 provided is false and the party making the statement or providing  
28 the false information does so with knowledge and malice. Reports  
29 or recommendations made pursuant to this section, or Section  
30 17331.1, 17331.2, or 17331.3 are not public documents.

31 (g) There is no liability on the part of and no cause of action of  
32 any nature may arise against Fidelity Corporation or its members,  
33 directors, officers, employees, or agents, the State of California,  
34 the Department of Corporations, or an officer, agent, or employee  
35 of the state or the Department of Corporations for the release of  
36 any information furnished to Fidelity Corporation pursuant to this  
37 section unless the information released is false and the party,  
38 including Fidelity Corporation, its members, directors, officers,  
39 employees, or agents, the state, the Department of Corporations,  
40 or any officer, agent, or employee of the state or the Department



1 of Corporations, who releases the false information does so with  
2 knowledge and malice.

3 (h) There is no liability on the part of and no cause of action of  
4 any nature may arise against Fidelity Corporation or its directors,  
5 officers, employees, or agents, for any decision to deny an  
6 application for a certificate or to suspend or revoke the certificate  
7 of any person or for the timing of any decision or the timing of any  
8 notice to persons or members thereof, or for any failure to deny an  
9 application under subdivision (a) of Section 17331.2. This  
10 subdivision does not apply to acts performed in bad faith or with  
11 malice.

12 (i) Fidelity Corporation, any member of Fidelity Corporation,  
13 an agent of Fidelity Corporation or of its members, or any person  
14 who uses any information obtained under this section for any  
15 purpose not authorized by this chapter is guilty of a misdemeanor.

16 (j) Section 17331, 17331.1, or 17331.2 does not constitute a  
17 restriction or limitation upon the obligation of Fidelity  
18 Corporation to indemnify members against loss, as provided in  
19 Sections 17310 and 17314. The failure to obtain a certificate, the  
20 denial of an application for a certificate, or the suspension,  
21 cancellation, or revocation of a certificate does not limit the  
22 obligation of Fidelity Corporation to indemnify a member against  
23 loss.

24 (k) As of January 1, 1992, notwithstanding Section 11105 of  
25 the Penal Code, Fidelity Corporation is entitled to receive state  
26 summary criminal history information and subsequent arrest  
27 notification from the Department of Justice as a result of  
28 fingerprint cards submitted to the Department of Justice by the  
29 Department of Corporations, pursuant to subdivision (g) of  
30 Section 17209, Section 17212.1, and subdivision (d) of Section  
31 17414.1, by or on behalf of escrow agents, shareholders, officers,  
32 directors, trustees, managers, or employees of an escrow agent,  
33 directly or indirectly compensated by an escrow agent. The  
34 Department of Justice and Fidelity Corporation shall enter into an  
35 agreement to implement this subdivision. The Department of  
36 Corporations shall forward to Fidelity Corporation, weekly, a list  
37 of names of individual fingerprints submitted to the Department  
38 of Justice.

39 SEC. 6. Section 17331.2 of the Financial Code is amended to  
40 read:



1 17331.2. (a) Fidelity Corporation shall deny the application  
2 for a certificate or revoke the certificate of any person, upon any  
3 of the following grounds:

4 (1) The application contains a material misrepresentation of  
5 fact or fails to disclose a material fact so as to render the application  
6 false or misleading, or if any fact or condition exists which, if it had  
7 existed at the time of the original application for a certificate,  
8 reasonably would have warranted Fidelity Corporation to refuse  
9 originally to issue that certificate.

10 (2) That the person has been convicted of, or pleaded nolo  
11 contendere to, a crime or offense, whether a felony, an offense  
12 punishable as a felony, or a misdemeanor, which involved  
13 dishonesty, fraud, deceit, embezzlement, fraudulent conversion,  
14 misappropriation of property, or any other crime reasonably  
15 related to the qualifications, functions, or duties of a person  
16 engaged in business in accordance with this division. If, however,  
17 the conviction is more than 10 years old, or the conviction has been  
18 expunged, or the person has obtained a certificate of rehabilitation,  
19 as allowed by the Penal Code, or if the conviction was an  
20 infraction, then the person may have a Fidelity Corporation  
21 certificate upon showing by clear and convincing proof to a  
22 reasonable certainty that the conviction is no longer reasonably  
23 related to the qualifications, functions, or duties of a person  
24 engaged in business in accordance with this division or that  
25 person's employment with a member.

26 (3) That the person has been held liable in a civil action by final  
27 judgment of any court if the judgment involved dishonesty, fraud,  
28 deceit, embezzlement, fraudulent conversion, or misappropriation  
29 of property or the person has been ordered to make restitution to  
30 a victim in any criminal case involving a crime or offense set forth  
31 in paragraph (2). The person may have a Fidelity Corporation  
32 certificate upon showing by clear and convincing proof to a  
33 reasonable certainty that the judgment or restitution order is no  
34 longer reasonably related to the qualifications, functions, or duties  
35 of a person engaged in business in accordance with this division  
36 or that person's employment with a member.

37 (4) That the person has (A) committed or caused to be  
38 committed an act which caused any member to suffer a loss; (B)  
39 committed or caused to be committed or colluded with any other  
40 person committing any act which caused a loss, for which Fidelity



1 Corporation or the insurer on any insurance policy or fidelity bond  
2 purchased by Fidelity Corporation, or both, to become liable to  
3 indemnify any member; or (C) committed or caused to be  
4 committed an act of dishonesty, fraud, deceit, embezzlement,  
5 fraudulent conversion, or misappropriation of property, to the  
6 material damage of a member or for which the member has been  
7 held liable to any third party, by final judgment.

8 (5) That the person has been barred from employment by final  
9 order of the commissioner pursuant to Section 17423.

10 (6) That the person has been deemed not qualified to serve in  
11 any capacity as a director or officer or in any other position  
12 involving management duties with a financial institution, pursuant  
13 to Division 1.8 (commencing with Section 4990).

14 (7) That the person has been denied coverage or reinstatement  
15 by any insurer under any fidelity bond or crime policy, unless a  
16 decision of reinstatement of coverage has been made after that  
17 denial. A person who obtained a decision of reinstatement of  
18 coverage prior to the effective date of this section may have a  
19 Fidelity Corporation certificate notwithstanding paragraphs (2)  
20 and (3) of this subdivision, unless any other ground for denial or  
21 revocation applies to that person.

22 (b) Fidelity Corporation may suspend the certificate of any  
23 person upon any of the following grounds:

24 (1) That the person has been censured or suspended from any  
25 position of employment or management or control of any escrow  
26 agent, by final order of the commissioner. The certificate  
27 suspension shall be for a term concurrent with the final order of the  
28 commissioner.

29 (2) That there is an action commenced by the commissioner to  
30 either suspend or bar that person, under Section 17423.

31 (3) That the person has been barred from any position of  
32 employment or management or control of any escrow agent, for  
33 a term less than permanent, by final order of the commissioner.  
34 The certificate suspension shall be for a term concurrent with the  
35 final order of the commissioner.

36 (4) That any member with whom the person was employed has  
37 given a proof of loss or a notice of an occurrence which may give  
38 rise to a claim for a loss of trust obligations either of which  
39 identifies the person as the person responsible for the loss or as a  
40 person acting in collusion with the person causing the loss.



1 (c) Upon denial of an application for, or upon suspension or  
2 revocation of the certificate of any person, Fidelity Corporation  
3 shall provide written notice to the member with whom that person  
4 is employed of the decision, pending any appeal therefrom which  
5 might be made. Thereafter, the member shall not allow that person  
6 to have access to money or negotiable instruments or securities  
7 belonging to or in the possession of the escrow agent, or to draw  
8 checks upon the escrow agent or the trust accounts of the escrow  
9 agent. Fidelity Corporation shall notify the person in writing of the  
10 decision to deny, suspend, or revoke the certificate and of the  
11 person's right of appeal, together with the notice of appeal. The  
12 grounds and basis for the decision shall be stated in the notice  
13 thereof. All notices may be served either personally or by mail,  
14 properly addressed to the address of record for the member and the  
15 person.

16 (d) Any person whose application for a certificate has been  
17 denied, or whose certificate has been suspended or revoked, may  
18 appeal the decision, as provided in Section 17331.3. While that  
19 appeal is pending, the person may not have access to money or  
20 negotiable instruments or securities belonging to or in the  
21 possession of the escrow agent, or to draw checks upon the escrow  
22 agent or the trust accounts of the escrow agent. Failure to remove  
23 the person whose application has been denied, or whose certificate  
24 has been suspended or revoked, as a signer on the trust accounts  
25 may be subject to action by the commissioner as provided for in  
26 this division and shall be subject to penalties as set forth in Section  
27 17331.1.

28 (e) Upon expiration of the time for an appeal, or upon  
29 conclusion of the appeal, the decision to deny an application for  
30 or to suspend or revoke the certificate of any person shall become  
31 final. Fidelity Corporation shall give written notice to the member  
32 and to the person of the final decision within 10 days. Thereafter,  
33 Fidelity Corporation shall disclose in writing to all members the  
34 identity of persons whose application has been denied or whose  
35 certificate has been revoked.

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