

AMENDED IN ASSEMBLY APRIL 3, 1995

CALIFORNIA LEGISLATURE—1995-96 REGULAR SESSION

ASSEMBLY BILL

No. 1725

Introduced by Assembly Member Knight

February 24, 1995

An act to ~~repeal Section 17005~~ *amend Sections 17207 and 17321* of the Financial Code, relating to escrow agents.

LEGISLATIVE COUNSEL'S DIGEST

AB 1725, as amended, Knight. Escrow agents.

~~Existing law provides that for purposes of the Escrow Law, the term "licensee" means any person holding a valid, unrevoked license as an escrow agent.~~

~~This bill would delete that provision.~~

Existing law authorizes the Commissioner of Corporations and Fidelity Corporation to charge and collect certain amounts from escrow licensees, as specified.

This bill would provide for those payments to be made in 3 equal monthly installments, as specified.

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

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

- 1 ~~SECTION 1. Section 17005 of the Financial Code is~~
2 ~~repealed.~~
3 *SECTION 1. Section 17207 of the Financial Code is*
4 *amended to read:*

1 17207. The commissioner shall charge and collect the
2 following fees and assessments:

3 (a) For filing an application for an escrow agent's
4 license, six hundred twenty-five dollars (\$625) for the first
5 office or location and four hundred twenty-five dollars
6 (\$425) for each additional office or location.

7 (b) For filing an application for a duplicate of an
8 escrow agent's license lost, stolen, or destroyed, or for
9 replacement, upon a satisfactory showing of such loss,
10 theft, destruction, or surrender of certificate for
11 replacement, two dollars (\$2).

12 (c) For investigation services in connection with each
13 application, one hundred dollars (\$100), and for
14 investigation services in connection with each additional
15 office application, one hundred dollars (\$100).

16 (d) For holding a hearing in connection with the
17 application, as set forth under Section 17209.2, the actual
18 costs experienced in each particular instance.

19 (e) (1) Each escrow agent shall pay to the
20 commissioner its pro rata share of all costs and expenses
21 reasonably incurred in the administration of this division,
22 as estimated by the commissioner for the ensuing year,
23 and of any deficit actually incurred or anticipated in the
24 administration of this division in the year in which the
25 assessment is made. If the special assessment on escrow
26 licensees to provide sufficient funds to cover the
27 regulatory and enforcement costs associated with the
28 Escrow Law during the 1990–91 fiscal year proposed by
29 the 1990–91 Budget Bill is enacted into law, then the
30 assessment for fiscal year 1991–92 shall not exceed 125
31 percent of the total amount assessed for fiscal year
32 1990–91. If the special assessment is not enacted into law,
33 then the assessment for fiscal year 1991–92 shall not
34 exceed 150 percent of the total amount assessed for fiscal
35 year 1990–91. Commencing with the assessment for fiscal
36 year 1992–93, the assessment shall not increase by more
37 than 25 percent over the amount assessed in the prior
38 year. The pro rata share shall be the proportion which a
39 licensee's gross income from escrow operations bears to
40 the aggregate gross income from escrow operations of all



1 licensees as compiled by the commissioner. The pro rata
2 share shall not include the costs of any examinations
3 provided for in Section 17405.1, unless they cannot be
4 collected from the company examined. If the pro rata
5 assessment collected pursuant to this paragraph exceeds
6 the actual costs and expenses incurred in the
7 administration of this division and any deficit incurred,
8 the excess shall be credited to each escrow agent on a pro
9 rata basis.

10 (2) On or before May 30 in each year, the
11 commissioner shall notify each escrow agent by mail of
12 the amount assessed and levied against it, and that
13 ~~amount shall be paid within 20 days thereafter~~ *the*
14 *payment of any invoice for assessments of the*
15 *commissioner is payable by the escrow agent in three*
16 *equal monthly installments with the first installment*
17 *payable within 20 days after receipt of notification by the*
18 *commissioner.* If the initial payment is not made within
19 20 days, the commissioner shall assess and collect a
20 penalty, in addition to the assessment, of 10 percent of the
21 assessment for each month or part of a month that the
22 payment is delayed or withheld.

23 (3) In the levying and collection of the assessment, an
24 escrow agent shall not be assessed for, nor be permitted
25 to pay less than, three hundred fifty dollars (\$350) per
26 year, per location.

27 (4) If an escrow agent fails to pay the assessment on or
28 before the June 30 following the day upon which payment
29 is due, the commissioner may by order summarily
30 suspend or revoke the certificate issued to the company.
31 If, after such an order is made, a request for a hearing is
32 filed in writing and a hearing is not held within 60 days
33 thereafter, the order is deemed rescinded as of its
34 effective date. During any period when its certificate is
35 revoked or suspended, a company shall not conduct
36 business pursuant to this division, except as may be
37 permitted by order of the commissioner. However, the
38 revocation, suspension, or surrender of a certificate shall
39 not affect the powers of the commissioner as provided in
40 this division.

1 (5) On and after January 1, 1989, the commissioner
2 may impose a one-time only supplemental assessment of
3 up to one hundred fifty dollars (\$150) per licensed
4 location to defray any deficit in the administration of this
5 division incurred or anticipated to be incurred prior to
6 July 1, 1989. The commissioner or the commissioner's
7 designee shall meet and confer with licensees or their
8 representatives regarding the administration and
9 enforcement of this division, including all resulting costs
10 and expenses.

11 (f) Fifty dollars (\$50) for investigation services in
12 connection with each application for qualification of any
13 person under Section 17200.8, other than investigation
14 services under subdivision (c) of this section.

15 (g) A fee not to exceed twenty-five dollars (\$25) for
16 the filing of a notice or report required by rules adopted
17 pursuant to subdivision (a) or Section 17203.1.

18 *SEC. 2. Section 17321 of the Financial Code is*
19 *amended to read:*

20 17321. Fidelity Corporation shall bill and collect from
21 each member an annual premium which in the aggregate
22 shall consist of assessments for the operations fund and
23 the fidelity fund.

24 (a) The annual assessment for the operations fund
25 shall be assessed no later than October 15 of each year for
26 the current fiscal year in accordance with subdivision (b)
27 of Section 17320. *The payment of any invoice for*
28 *assessments under this subdivision is payable by the*
29 *member escrow agent in three equal monthly*
30 *installments with the first installment payable at or within*
31 *30 days after receipt of the Fidelity Corporation invoice.*

32 The assessment shall include:

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

36 (2) Any expenses actually incurred in the preceding
37 fiscal year which exceeded the budgeted costs of expenses
38 and administration except for expenses recovered
39 pursuant to subdivision (a) of Section 17321.1.



1 Each member's assessment shall be determined pro
2 rata based upon the ratio of each member's licensed
3 locations to the total licensed locations of all members as
4 of the preceding June 30.

5 Members licensed on or after July 1 of each year shall
6 be assessed only for costs and expenses pursuant to
7 paragraph (1) of this subdivision. This assessment shall be
8 prorated on a monthly basis.

9 (b) The annual assessment for the fidelity fund shall be
10 assessed no later than May 1. The assessment shall be
11 calculated as follows:

12 (1) If the membership fund and fidelity fund in the
13 aggregate equal an amount less than five million dollars
14 (\$5,000,000), then the assessment shall be the greater of:
15 (A) one million dollars (\$1,000,000); or (B) the sum of (i)
16 the greater of an amount necessary to bring the
17 membership fund and fidelity fund in the aggregate up
18 to five million dollars (\$5,000,000) or the total of all claims
19 paid during the preceding fiscal year (except to the
20 extent of any special assessment made pursuant to
21 subdivision (b) of Section 17321.1) plus (ii) the greater of
22 four hundred thousand dollars (\$400,000) or 0.045
23 percent of the total average trust obligations of all
24 members as reflected in the most recent report required
25 by Section 17348.

26 (2) If the membership fund and fidelity fund in the
27 aggregate equal an amount that is at least five million
28 dollars (\$5,000,000) but less than 1 percent of the total
29 average trust obligations for all members as reflected in
30 the most recent report required by Section 17348 or the
31 fidelity fund equals an amount less than five million
32 dollars (\$5,000,000), then the assessment shall be: (A) an
33 amount equal to the total of all claims paid during the
34 preceding fiscal year (except to the extent of any special
35 assessment made pursuant to subdivision (b) of Section
36 17321.1); and (B) an amount which is the greater of four
37 hundred thousand dollars (\$400,000) or 0.045 percent of
38 the total average trust obligations of all members as
39 reflected in the most recent report required by Section
40 17348.



1 (3) If the membership fund and fidelity fund in the
 2 aggregate equal 1 percent of the total average trust
 3 obligations of all members as reflected in the most recent
 4 report required by Section 17348 and the fidelity fund
 5 equals at least five million dollars (\$5,000,000), then the
 6 assessment shall be an amount equal to the actuarial
 7 projection of losses for the forthcoming fiscal year.

8 Each member's fidelity fund assessment for paragraphs
 9 (1), (2), and (3) shall be the amount derived by
 10 multiplying the amount to be assessed by the ratio that
 11 each member's risk factors bear to the total of all
 12 members' risk factors.

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

17	Coverage per Licensed Location	Factors
18		
19	\$1,000,000	3
20	\$2,000,000	5
21	\$3,000,000	7
22	\$4,000,000	8
23	\$5,000,000	9
24		
25		

26 (c) Notwithstanding subdivision (b), the assessment
 27 for the fidelity fund for the fiscal year beginning July 1,
 28 1989, shall be made immediately upon 90-day notice of
 29 cancellation of the fidelity bond or insurance policy
 30 permitted by paragraph (2) of subdivision (c) of Section
 31 17310, but in no event later than 60 days prior to the date
 32 of cancellation.

