



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

P.O. Box 41200 ● Olympia, Washington 98504-1200
Telephone (360) 902-8700 ● TDD (360) 664-8126 ● <http://www.dfi.wa.gov>

June 18, 2010

Mr. J. Craig Barrile, P.S.
Attorney at Law
PO Box 1189
Deer Park, WA 99006

RE: Revised No Action Letter for J. Craig Barrile, P.S. under the Escrow Agent Registration Act

Dear Mr. Barrile,

This letter is revised in accordance with the June 10, 2010 draft of the Department of Financial Institution's interim guidance for attorneys who conduct escrow transactions, available at <http://dfi.wa.gov/cs/pdf/rulemaking/2010/eara-laws-2010-interim-guidance.pdf>.

The Department of Financial Institutions, Consumer Services Division ("the Division") has received and reviewed your letter of May 20, 2010, requesting a no-action letter regarding your legal practice and the recent changes to the Escrow Agent Registration Act, RCW 18.44 (the Act). As you know, Substitute House Bill 2564 (chapter 34, Laws of 2010) made significant changes to the attorney exception in the Act.

Escrow is defined in the Act as a transaction where a person (the escrow agent) receives any written instrument, money, evidence of title to real or personal property, or other thing of value from one person and transfers it to another, based on instructions from the two principal parties to the transaction. This transaction must be for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of real or personal property. Escrow does not include activities that require the exercise of legal discretion by an attorney. The Division considers an escrow transaction that involves exercise of legal discretion by an attorney as incidental to the practice of law and not subject to licensing under the Act.

Per your letter and our e-mail exchanges, you appear to provide closing services rather than escrow services. Closing services are generally not subject to regulation under the act, and you state that they only represent around 20% of your business. Based on these representations, you do not appear to be principally engaged in providing escrow services. You have also stated that you only advertise as a law practice, that all transactions are through your law practice, and that any employees potentially involved in escrow transactions are directly supervised by an attorney.

Based on the facts as you present them, the Division will not require you to apply for an escrow license and will take no action against you for unlicensed escrow activity. Because this determination is based upon the representations set forth in your letter and discussed via e-mail,

it should be noted that any different facts or conditions might result in a different conclusion. The Division reserves the right to make a different determination in the future, should either your circumstances or the law change.

This is an individual determination based on your specific circumstances, and has no effect or precedential value for persons in similar situations. Your exception is an individual exception based on your admission to practice law in Washington, and does not apply to any non-attorney employee that might conduct escrow transactions independent of your oversight.

Thank you for contacting DFI. If you have any questions, please let me know. I may be contacted at (360) 902 – 8755 or pbrady@dfi.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to be 'P. Brady', with a long horizontal line extending to the right.

Phil Brady
Staff Attorney