

ESSB 5024 - H COMM AMD

By Committee on Civil Rights & Judiciary

ADOPTED 04/08/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 **"Sec. 1.** RCW 64.55.040 and 2005 c 456 s 5 are each amended to
4 read as follows:

5 (1) A qualified building enclosure inspector:

6 (a) Must be ((a)) the architect or engineer of record or another
7 person with substantial and verifiable training and experience in
8 building enclosure design and construction;

9 (b) Shall be free from improper interference or influence
10 relating to the inspections; and

11 (c) May not be an employee, officer, or director of, nor have any
12 pecuniary interest in, the declarant, developer, association, or any
13 party providing services or materials for the project, or any of
14 their respective affiliates, except that the qualified inspector may
15 be the architect or engineer who approved the building enclosure
16 design documents or the architect or engineer of record. The
17 qualified inspector may, but is not required to, assist with the
18 preparation of such design documents.

19 (2) Nothing in this section alters requirements for licensure of
20 any architect, engineer, or other professional, or alters the
21 jurisdiction, authority, or scope of practice of architects,
22 engineers, other professionals, or general contractors.

23 **Sec. 2.** RCW 64.90.645 and 2018 c 277 s 410 are each amended to
24 read as follows:

25 (~~Any earnest money deposit, as defined in RCW 64.04.005, or any~~
26 ~~reservation)) (1) Except as provided in subsection (2) of this
27 section, any deposit made in connection with the right to purchase a
28 unit from a person required to deliver a public offering statement
29 pursuant to RCW 64.90.605(3) must be placed in escrow and held in
30 this state in an escrow or trust account designated solely for that
31 purpose by a licensed title insurance company or agent, a licensed~~

1 attorney, a real estate broker or independent bonded escrow company,
2 or an institution whose accounts are insured by a governmental agency
3 or instrumentality until: ~~((1))~~ (a) Delivered to the declarant at
4 closing, ~~((2))~~ (b) delivered to the declarant because of the
5 purchaser's default under a contract to purchase the unit, ~~((3))~~
6 (c) refunded to the purchaser, or ~~((4))~~ (d) delivered to a court in
7 connection with the filing of an interpleader action.

8 (2) (a) If a purchase agreement for the sale of a unit provides
9 that deposit funds may be used for construction costs and the
10 declarant obtains and maintains a surety bond as required by this
11 section, the declarant may withdraw escrow funds when construction of
12 improvements has begun. The funds may be used only for actual
13 building and construction costs of the project in which the unit is
14 located.

15 (b) The bond must be issued by a surety insurer licensed in this
16 state in favor of the purchaser in an amount adequate to cover the
17 amount of the deposit to be withdrawn. The declarant may not withdraw
18 more than the face amount of the bond. The bond must be payable to
19 the purchaser if the purchaser obtains a final judgment against the
20 declarant requiring the declarant to return the deposit pursuant to
21 the purchase agreement. The bond may be either in the form of an
22 individual bond for each deposit accepted by the declarant or in the
23 form of a blanket bond assuring the return of all deposits received
24 by the declarant.

25 (c) The party holding escrow funds who releases all or any
26 portion of the funds to the declarant has no obligation to monitor
27 the progress of construction or the expenditure of the funds by the
28 declarant and is not liable to any purchaser for the release of funds
29 pursuant to this section.

30 (3) A deposit under this section may not exceed five percent of
31 the purchase price."

32 Correct the title.

EFFECT: (1) Strikes the provisions that exempt certain smaller buildings from building enclosure design and inspection requirements and thereby restores current law applicable to these smaller buildings. Removes the expiration date applicable to the stricken section.

(2) Provides that a qualified building enclosure inspector must be the architect or engineer of record or another person with substantial and verifiable training and experience in building enclosure design and construction, instead of the current requirement

that a qualified building enclosure inspector be a person with substantial and verifiable training and experience in building enclosure design and construction.

(3) Provides that the party holding escrow funds who releases all or any portion of the funds to the declarant has no obligation to monitor the progress of construction or the expenditure of the funds by the declarant. Relieves the party holding escrow funds of liability to any purchaser for the release of funds to be used for construction costs as authorized in the bill.

(4) Modifies, from 10 percent to 5 percent of the purchase price, the cap on deposits made in connection with purchasing a unit from a declarant or dealer under the Washington Uniform Common Interest Ownership Act. Strikes the provisions excepting these deposits from state law that guarantees the enforcement of earnest money forfeiture provisions.

--- END ---