



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

Mark D. Kimball  
MDK Law Associates  
Skyline Tower  
10900 Northeast Fourth Street, Suite 2030  
Bellevue, WA 98004

RE: Revised No Action Letter for Mark D. Kimball under the Escrow Agent Registration Act

Dear Mr. Kimball,

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 June 3, 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.

An escrow is 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 a person or persons and transfers it to another person or persons, based on instructions from the 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.

In your request for a no action letter, you stated that escrow services are not your principal business and represent approximately 2% of your practice. You also stated that you only advertise and identify yourself as a law firm, you conduct all business through your law firm, and that you supervise any unlicensed associate or employee that conducts escrow transactions.

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, 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 reached at (360) 902 – 8755 or [pbrady@dfi.wa.gov](mailto:pbrady@dfi.wa.gov).

Sincerely,

A handwritten signature in black ink, appearing to be "Phil Brady", written over a horizontal line.

Phil Brady  
Staff Attorney