

REFERENCE TITLE: reciprocal deposits; escrow agents; definitions

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1270

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTION 6-834, ARIZONA REVISED STATUTES; RELATING TO ESCROW AGENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-834, Arizona Revised Statutes, is amended to
3 read:

4 6-834. Deposit of monies; definitions

5 A. Unless all of the parties to the escrow otherwise instruct the
6 escrow agent in writing, the escrow agent shall deposit and maintain all
7 monies deposited in escrow to be delivered on the close of the escrow or
8 on any other contingency in a bank, savings bank or savings and loan
9 association doing business in this state and the escrow agent shall keep
10 all of the escrow monies separate, distinct and apart from monies
11 belonging to the escrow agent. Notwithstanding the parties' instructions
12 to the escrow agent, the escrow agent shall not deposit the escrow monies
13 in an institution outside the United States. When deposited, the monies
14 shall be designated as "escrow accounts" or given some other appropriate
15 designation indicating that the monies are not the monies of the escrow
16 agent. These monies shall be deposited immediately on receipt or as soon
17 thereafter as is reasonably practicable.

18 B. A person shall not knowingly keep or cause to be kept any monies
19 in any bank or savings and loan association under the heading of "escrow
20 accounts" or any other name designating the monies as belonging to the
21 clients of any escrow agent, except actual escrow monies deposited with
22 such escrow agent.

23 C. Escrow property is not subject to execution or attachment on any
24 claim against the escrow agent.

25 D. Not later than three business days after receipt of any escrow
26 monies, the escrow agent shall provide to each depositing buyer or
27 seller, ~~an~~ adequate notice of ~~his~~ THE BUYER'S OR SELLER'S right to earn
28 interest on all deposited monies. The ADEQUATE notice shall accurately
29 set forth the following information with respect to this right:

30 1. A brief description of the depositor's right to earn interest on
31 escrowed monies through an interest-bearing deposit account.

32 2. The dollar charge that may be imposed by the escrow agent solely
33 to set up the interest-bearing account.

34 3. A good faith estimate of the amount of interest that may be
35 earned during the life of the escrow account, or an example of a typical
36 transaction calculated on a ~~one thousand dollar~~ \$1,000 deposit, using the
37 prevailing savings account interest rate for a ~~thirty day~~ THIRTY-DAY
38 period.

39 4. A brief description of how the interest-bearing account can be
40 established, including the name, address and telephone number of the
41 escrow agent to be contacted.

42 E. An escrow agent shall not receive from any depository
43 institution any interest earned or other benefit from monies deposited
44 with an escrow agent in connection with any escrow. ~~Nothing in~~ This
45 subsection ~~prohibits~~ DOES NOT PROHIBIT the escrow agent from receiving

1 accounting, data processing or other services directly related to the
2 administration of escrow accounts.

3 F. AN ESCROW AGENT MAY USE A SYSTEM OF RECIPROCAL DEPOSITS TO
4 PROVIDE ACCESS TO ADDITIONAL INSURANCE WITH THE FEDERAL DEPOSIT INSURANCE
5 CORPORATION FOR MONIES DEPOSITED WITH THAT ESCROW AGENT IF BOTH OF THE
6 FOLLOWING OCCUR:

7 1. THE ELIGIBLE DEPOSITORY ARRANGES FOR THE DEPOSIT OF THE MONIES
8 IN ONE OR MORE FEDERALLY INSURED BANKS, SAVINGS BANKS OR SAVINGS AND LOAN
9 ASSOCIATIONS, REGARDLESS OF LOCATION, FOR THE ESCROW AGENT'S ACCOUNT.

10 2. THE ELIGIBLE DEPOSITORY RECEIVES AN AMOUNT OF FEDERALLY INSURED
11 DEPOSITS FROM CUSTOMERS OF OTHER FINANCIAL INSTITUTIONS EQUAL TO OR
12 GREATER THAN THE AMOUNT OF THE MONIES INITIALLY DEPOSITED BY THE ESCROW
13 AGENT.

14 ~~F.~~ G. For the purposes of this ~~article~~, SECTION:

15 1. "Adequate notice" means a printed notice to the depositing buyer
16 or seller that sets forth the pertinent facts clearly and conspicuously.
17 The notice shall be printed on the escrow instructions or on an
18 independent document and given to the depositing customer in a manner
19 reasonably assuring the customer's receipt of the notice.

20 2. "ELIGIBLE DEPOSITORY" MEANS A BANK, A SAVINGS BANK OR A SAVINGS
21 AND LOAN ASSOCIATION THAT HAS A BRANCH OR ITS PRINCIPAL PLACE OF BUSINESS
22 LOCATED IN THIS STATE AND THAT IS INSURED BY THE FEDERAL DEPOSIT INSURANCE
23 CORPORATION OR ITS SUCCESSOR.

24 3. "RECIPROCAL DEPOSIT" MEANS A DEPOSIT THAT AN ELIGIBLE DEPOSITORY
25 INSTITUTION RECEIVES THROUGH A DEPOSIT PLACEMENT NETWORK ON A RECIPROCAL
26 BASIS SUCH THAT:

27 (a) FOR ANY DEPOSIT RECEIVED, THE INSURED DEPOSITORY INSTITUTION
28 PLACES THE SAME AMOUNT WITH OTHER INSURED DEPOSITORY INSTITUTIONS THROUGH
29 THE DEPOSIT PLACEMENT NETWORK.

30 (b) EACH MEMBER OF THE DEPOSIT PLACEMENT NETWORK SETS THE INTEREST
31 RATE TO BE PAID ON THE ENTIRE AMOUNT OF MONIES THE MEMBER PLACES WITH
32 OTHER DEPOSIT PLACEMENT NETWORK MEMBERS.