

Date of Hearing: April 1, 2019

ASSEMBLY COMMITTEE ON BANKING AND FINANCE

Monique Limón, Chair

AB 412 (Quirk-Silva) – As Introduced February 7, 2019

SUBJECT: Escrow agents: asset requirements

SUMMARY: Makes changes to the definition of “current liabilities” used in determining the liquid asset requirements for escrow agents. Specifically, **this bill:**

- 1) Provides for the inclusion of liabilities that are due within one year after the date that the balance sheet making reference to the liability is prepared.
- 2) Includes liabilities due to an officer, director, stockholder, or affiliated company, regardless of the due date, as specified.
- 3) Deletes outdated tangible net worth schedule for escrow agents licensed before January 1, 1986, as specified.

EXISTING LAW: Requires an escrow agent licensed on or after January 1, 1986 to maintain a tangible net worth of fifty thousand dollars (\$50,000), including liquid assets of at least twenty-five thousand dollars (\$25,000) in excess of current liabilities. For escrow agents licensed prior to January 1, 1986, statute provides for a gradual ramp up of the required current tangible net worth from ten thousand dollars (\$10,000) in 1986 to fifty thousand dollars (\$50,000) in 1993.

FISCAL EFFECT: Unknown

COMMENTS:

BACKGROUND:

The Department of Business Oversight (DBO) licenses and regulates a variety of financial services and professionals, including independent escrow agents. The purpose of California’s Escrow Law is to protect members of the public who entrust their money or other assets to independent escrow agents. The minimum statutory requirements for tangible net worth and liquid assets is meant to ensure that licensed escrow agents always have enough available resources to meet their financial obligations.

In order to ensure accounting practices are consistent across the nation (and internationally) the Financial Accounting Standards Board (FASB) maintains generally accepted accounting practices. In 2006 the FASB and the International Accounting Standard Board (IASB) adopted guidelines to revise lease accounting standards. This revision requires escrow agents to include leases for operations that have not typically been included in the current calculation of liquid assets under current accounting guidelines.

NEED FOR THE BILL:

Requiring escrow agents to set aside the full payment to cover a long-term lease will have the practical effect of significantly inflating the liquid asset requirement. Liquidity requirements, however, represent a realistic indicator of a licensee’s short-term financial stability. This bill

provides for the inclusion of liabilities that are due within one year after the date that the balance sheet making reference to the liability is prepared.

UNINTENDED CONSEQUENCES FROM FASB ACCOUNTING CHANGE:

The Escrow Institute of California (Sponsor) lists the following concerns if the FASB change takes place without adjusting the length of lease obligations used in calculating liquid assets:

- 1) Independent escrow companies will be forced to seek short-term leases (12 or fewer months), which will unquestionably drive up operating costs.
- 2) Newly licensed companies will suffer because new businesses will not have the capital to meet the new proposed requirement.
- 3) Some escrow related businesses will obtain licenses with other state regulators that don't recognize the need for new asset requirements.
- 4) Other escrow service related entities including financial institutions, title and escrow companies, and real estate offices will not be subject to the FASB guideline.
- 5) Escrow companies that continue to be regulated by DOB will suffer greater volatility because of a need to enter into short-term leases, which will increase operating costs on a month-to-month basis.

Additionally, the bill retains the current definition of liquid assets pertaining to lease accounting principles for independent escrow companies. It does not propose to change DOB oversight, audit requirements, standards protecting consumers, or supervision.

REGISTERED SUPPORT / OPPOSITION:

Support

Escrow Institute of California, Sponsor

Opposition

None on file

Analysis Prepared by: William Herms / B. & F. / (916) 319-3081