

# News Release



*Controller of the State of California - Kathleen Connell*

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*For Immediate Release*

## ***CONTROLLER CONNELL SUES TITLE AND ESCROW INDUSTRIES; ALLEGES ILLEGAL MANAGEMENT OF ESCROW ACCOUNTS***

***Consumer Lawsuit Targets Over 500 Companies For Inflating Fees; Failing To Return Unused Funds;  
Pocketing Interest As Corporate Income; Charging For Services Not Provided; And More --  
Lawsuit May Seek As Much As \$500 Million***

SACRAMENTO, May 24, 1999 -- State Controller Kathleen Connell has filed a class action lawsuit on behalf of consumers, against California's title insurance and escrow industries for numerous illegal actions in the administering of escrow accounts from 1970 to present. The lawsuit alleges that as much as \$500 million is owed to Californians for the mishandling and diverting of escrow funds to industry profit. The historic lawsuit is the first to target an entire industry filed by a California controller.

"This lawsuit contends that California's escrow and title insurance companies intentionally stole and pocketed hundreds of millions of dollars from unsuspecting home buyers over a 30-year period," said Connell. "I'm filing this consumer lawsuit on behalf of all home owners in the state who were cheated out of their own money -- money that escrow and title companies used to pad their own bottom line."

Citing widespread and systematic illegal business practices, the suit alleges that escrow and title companies illegally held dormant and unclaimed escrow funds, retained fees charged to home buyers for services not rendered and retained interest on deposited escrow funds that should have been returned to their customers. As defined by state law, escrow and title companies are supposed to only "hold" funds in accounts as a neutral third party and a fiduciary. At no point do they ever own the funds, as the money in escrow accounts always belongs to others. Therefore, escrow and title companies have absolutely no claim to any of the money or interest proceeds that accumulate while the funds are being held in escrow.

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"I hope this lawsuit serves as a wake-up call to title companies nationwide," said Connell. "An escrow account should be at zero when the account is closed, with all charges and costs accounted for. Any remaining funds should be immediately returned to the buyers and sellers, and not commandeered as corporate income."

Under California's Unclaimed Property Act, the majority of the escrow funds must be immediately escheated to the state to be reunited with rightful owners. This act requires financial institutions to send to the state all assets that have been dormant for three years. The act also applies to the funds left unclaimed in escrow accounts. The State alleges that escrow companies devised schemes with banks to receive interest "earnings" on deposited escrow funds. These earnings were based on negotiated rate fees ranging from 60% to 100% of the bank's net earnings on the deposit. It's estimated that within the last four years alone, escrow companies received tens of millions of dollars in illegal interest from these banks.

"What is particularly troublesome about this practice is that these companies knew exactly what they were doing. For decades, escrow companies knew these activities were illegal. Yet they deliberately continued, turning illegal actions into standard practice in the industry," Connell added.

The Controller's Office is currently auditing various escrow and title companies. Connell indicated that: "Audits of these industries will be substantially expanded to encompass all escrow and title companies operating in California. We will mount a massive audit effort to ensure that home and business owners recover every cent owed to them."

In addition to asking that the funds be remanded to the state, the lawsuit is seeking maximum damages allowable under law, all costs of the action including attorney fees and court costs, interest on illegally held funds, and civil penalties.

The class action was filed last week in Sacramento County Superior Court on May 19.

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