



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Department of Financial Institutions

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

- 31 days after filing.
- Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

- Yes
  - No
- If Yes, explain:

**Purpose:**

The rules are being amended to implement the laws of 2010, to generally increase clarity and consistency, and to reorganize the chapter to consolidate existing subchapters A-G into a single chapter to allow ease of use and online searching.

**Citation of existing rules affected by this order:**

Repealed: WAC 208-680A through 208-680G (all)  
 Amended: WAC 208-680 (all)  
 Suspended: None

**Statutory authority for adoption:** RCW 43.320.040

**Other authority :** RCW 18.44 (as amended by Chapter 34, Laws of 2010)

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 10-16-135 on 08/04/2010 (date).

Describe any changes other than editing from proposed to adopted version:

See Attachment 1 entitled Attachment 1 to Concise Explanatory Statement.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
 Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
 e-mail \_\_\_\_\_

**Date adopted:**

October 5, 2010

**NAME (TYPE OR PRINT)**

Deborah Bortner

**SIGNATURE**

**TITLE**

Director, Division of Consumer Services

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: October 05, 2010**

**TIME: 9:23 AM**

**WSR 10-20-124**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>13</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>54</u>	Amended	<u>0</u>	Repealed	<u>44</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>54</u>	Amended	<u>0</u>	Repealed	<u>44</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>54</u>	Amended	<u>0</u>	Repealed	<u>44</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

Attachment 1. to Concise Explanatory Statement (Pursuant to RCW 34.05.325(6))

**Describe differences between the text of the proposed rules as published in a Washington State register and the text of the rules as adopted, other than editing changes, stating the reasons for differences.** (RCW 34.05.325(6)(a)(ii))

1. 208-680-030. A definition was added for “principal officers.” The term was used in several places in the rules, as were “responsible persons” and “controlling persons.” All three were similar, so this definition was added.
2. 208-680-030. “Responsible persons” was removed. It was used in few places, and “principal officers” covered the relevant persons.
3. 208-680-110. Requirements for proof of good character and credit were updated to more closely reflect the statute and to incorporate the newly defined “principal officers.”
4. 208-680-135. Clarified that fingerprint identification for EO and DEO applicants must be submitted on standard FBI cardstock rather than a DFI-provided form. This mirrors DFI’s other fingerprint identification rules and brings the rules into line with existing practice.
5. 208-680-145. Changed to reflect DFI’s willingness to accept passage of the Washington Bar Exam in lieu of the escrow officer exam for attorneys that either must or choose to license as escrow officers, as stated in DFI’s interim guidance document.
6. 208-680-176. When an escrow agent loses its DEO or a BDEO, an agent may continue and finish existing clients and files but cannot accept new clients or files until a replacement is found and approved, or DFI otherwise consents. Escrow agents must identify a replacement within five days, or seek approval of the department. This change is intended to provide clarity in the event that an EA loses its DEO or BDEO suddenly.
7. 208-680-245(2). Because the definition of responsible person was removed, DEOs or other controlling persons must inform DFI if an escrow office closes.
8. 208-680-245(4). If a DEO or BDEO has left an agent before or during the closing of an office, another principal officer is responsible for filing monthly reconciliation reports. This was added because the prior draft did not clarify who was responsible for monthly reconciliation reports if the DEO or BDEO is no longer with the escrow agent.
9. 208-680-265 (4)(e). Requires a 10-day post notification for any change in a principal officer.

10. 208-680-270. Prior versions of the rules did not include the seven year limitation on employment bars for convictions/no contest pleas. This change aligns the rules with the statute.
11. 208-680-410 (6). Clarifies that only employees that are included on a bank's signature card can have signatory authority over escrow trust accounts. This was the result of discussions with industry and with DFI examination staff.
12. 208-680-410(8). The CR-102 version of the rules didn't address remotely deposited funds (other than wire deposits), and several comments asked for clarification as it is already a common industry practice.
13. 208-680-530(7). Adds a new section to address questions of what obligations an escrow agent has regarding its records when it closes. This was added to provide clarity.
14. 208-680-540(8)(c). Allows escrow agents to put their full itemization on an addendum if they don't fit on the closing statement, as long as the addendum is provided to the principal parties. This was added at the request of commenters.
15. 208-680-540(10). Allows escrow agents to not obtain original signatures for the escrow file where not required by the escrow instructions.
16. 208-680-648. Removed the specific rules for challenging DFI taking possession and clarified that it is subject to the Administrative Procedures Act. This was done to make the appeals process more uniform with the rest the Division's procedures.
17. 208-680-660. Removed some pieces of the abandoned escrow records provisions in order to clarify that former licensees are financial responsible for maintaining, storing, and converting their records.