



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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October 17, 2007

**Concise Explanatory Statement**

Pursuant to RCW 34.05.325(6)

Rule Amendments to the Escrow Agent Registration Act (EARA), chapter 18.44 RCW and chapter 208-680A-G, WAC

**Agency reasons for adopting the rules.** (RCW 34.05.325(6)(a)(i))

The licensing fees under the EARA have not increased since July 1, 2001. The proposed fees increase is necessary to bring the licensing program up to statutorily allowed levels. The reporting requirements under the EARA are scattered throughout the statute and do not include reporting requirements for some impacts to an escrow business that may jeopardize consumers' funds if not reported to DFI. The proposed rule on reporting clarifies the reporting requirements, and includes requirements for the reporting of significant events that if not reported could jeopardize consumers' funds. The quarterly reports requirements did not include a valuable reporting tool that enables DFI to timely and efficiently assess the financial soundness of an escrow company.

**Describe differences between the text of the proposed rules as published in the 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))

None.

**Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments.** (RCW 34.05.325(6)(a) (iii))

The comment period on the amended rules ran from the publication of the proposed rules in the Washington Register on September 5, 2007, until the close of the comment period, October 15, 2007.

Written comments received prior to the public hearing held October 2, 2007, at Highline Community College and DFI's responses to the comments: Two comments were received by DFI prior to the public hearing. The authors of the comments were not present at the public hearing. The comments were read into the hearing record.

1. The first comment, from Mr. Stan Johnston of Brinnon, Washington expressed opposition to the proposed rules. Mr. Johnston asked that rights not be given away. Mr. Johnston also asked to not let attorneys take this over. Mr. Johnston stated that escrow agents are not on hourly employment rates that allow them to keep going to meetings, only government people are. Finally, Mr. Johnston indicated he would not be paying his renewal licensing fees over a computer.

Because DFI was unable to connect Mr. Johnston's comments to the specific rules proposed for amendment the proposed rules were not revised based on Mr. Johnston's comments.

2. The second comment read into the record was received on October 1, 2007, from Ms. Chariese Adams, a member of the Escrow Commission. Ms. Adams indicated she would not be able to attend the public hearing. Ms. Adams further indicated she had no objection to the rules as they were provided to her.

Because the proposed rules had not changed at any time from the published proposed rules, DFI did not make any revisions to the proposed rules based on Ms. Adams comments.

Written comments by received by Jonelle Wheeler prior to the public hearing held October 2, 2007, at Highline Community College and DFI's responses to the comments: One comment was received by Jonelle Wheeler of ACS Northwest prior to the public hearing. The author of the comment was anonymous. The comment was read into the hearing record.

"The reason there is no response is because no matter that the response is they do what they want. People have taken precious time to attend meetings, give their input and it is given no consideration."

Because DFI was unable to connect this comment to the specific rules proposed for amendment the proposed rules were not revised based on this comment.

Oral comments received during the public hearing held October 2, 2007, at Highline Community College and DFI's responses to the comments:

1. Dennis Daugs said he had no major objections to the proposed rules.

Division Director Bortner thanked Mr. Daugs for his previous comments and contributions during commission meetings. DFI did not make any revisions to the proposed rules based on this comment.

2. Dee McComb asked a clarification question about the proposed changes to the rule on quarterly reports. Specifically, the question had to do with the form of report and whether DFI would circulate the form for comment.

Division Director Bortner and Exam Supervisor St.Onge responded to her question agreeing to provide the opportunity for comment on the form. No changes were made to the proposed amended rule based on this comment.

## **CONCLUSION**

The final proposed rules are appropriate and necessary given the length of time that has passed since the last fee increase applied to licensees under the Act; are appropriate and necessary to clarify and provide guidance to licensees when reporting significant events that occur to the escrow business; and are appropriate and necessary to ensure DFI receives timely and meaningful reports on the escrow business to ensure the safe and efficient handling of consumers' escrow transactions. The final proposed rules are the product of an open, deliberative process.