



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKS

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CONCISE EXPLANATORY STATEMENT

Modernization of Hourly Examination Fees, Assessments, and Other Fees and Charges
November 13, 2013

The Department of Financial Institutions – Division of Banks (“Division”) as authorized under RCW 30.04.070 began this rulemaking activity in July, 2013, to effectively modernize and update all fees charged to the Division’s regulated institutions. As a result of this rulemaking, all fees are located in Chapter 208-544 of the Washington Administrative Code. The modernization of fees includes updates to the semi-annual assessments for non-depository institutions, updates to the hourly examination fees, and clarification of other fees and charges. This rule also makes plain language amendments to this WAC section and repeals WAC 208-512-045 for redundancy purposes.

1.0 Summary of Rulemaking.

The Preproposal Statement of Inquiry (CR-101) was filed with the Code Reviser on July 29, 2013, and published in the Washington State Register, at WSR 13-16-027. The Proposed Rule (CR-102) was filed with the Code Reviser October 1, 2013, and published in the Washington State Register at WSR 13-20-125 on October 16, 2013. A Public Hearing was held on October 6, 2013. No written or oral testimony was submitted to the Division for consideration.

The final rule was adopted and a Rule-Making Order will be entered (CR-103) on November 13, 2013, and will be published in the Washington State Register at WSR 13-23 on December 4, 2013. The final rule will take effect 31 days after adoption, or December 14th, 2013.

All rulemaking information can be found at the Division’s rulemaking website: <http://www.dfi.wa.gov/banks/rulemaking.htm>.

1.1 Rulemaking Changes.

The chart below summarizes the changes made as a result of this rulemaking activity.

Affected Area	WAC 208-544	2013 Rulemaking
1. Definitions	None	Defined terms
2. Information Technology Examinations	\$111.64 / hour	\$83.00 / hour
3. Trust Examinations	\$111.64 / hour	\$83.00 / hour
4. Safety & Soundness Examinations	\$80.60 / hour	\$83.00 / hour
5. Trust Company Assessment	None	Based on assets under management – not to exceed \$100,000 annually
6. Banks Assessment	Factors based on asset size – Not to exceed \$165,560 semiannually	No Change
7. Certificates and filing activities	\$100 / certificate	No Change
8. Time spent on specific activities (applications, etc.)	None	\$83.00 / hour
9. Pass-through costs (Washington Attorney General, etc.)	None	Costs incurred

2.0 Department Reasons for Adoption of Rulemaking.

The Department is authorized—and has been re-authorized by the Legislature pursuant to ESHB 1325 (2013 c 76)—to charge regulated institutions semi-annual assessments, hourly examination fees, and other charges for work and services. This rulemaking is an effort to: consolidate all fees the division charges into one Chapter; update fees and charges so as to be equal among all regulated institutions; and, make technical changes for purposes of clarity including plain-language amendments and additions.

3.0 Differences between Proposed Rule Text and Adopted Rule Text.

One small change was made to the proposed rule text and the subsequently adopted text. WAC 208-544-010(5) contained an internal section reference error. That error was corrected by changing the internal reference from “208-544-050” to “208-544-055.”

4.0 Summary of Public Comment and Department Response.

The Department did not receive any public comment—written or oral—on the proposed rules. A public hearing was held on November 6, 2013 at 10 A.M. The hearing was called to order at 10:06 A.M. and adjourned at 10:16 A.M. Descriptions of the outlined changes were detailed, and the opportunity for oral testimony was given. No oral testimony was taken at the hearing. Participants were notified that written testimony would be taken until 5:00 P.M. on Monday, November 11th. After the hearing, that date and time was revised to 5:00 P.M. Tuesday, November 12th due to the Veterans Day Holiday falling on November 11th. No additional written testimony was received in

response to the rule. The audio recording of this public hearing can be found at the Division's rulemaking website: <http://www.dfi.wa.gov/banks/rulemaking.htm>.

4.1 Other Public Outreach

There was an informal information session on September 6, 2013. This information session was open to all stakeholders but was not technically considered a public hearing. During that meeting Cindy Funaro of Pacific Crest Bank and Jim Pishue of the Washington Bankers Association expressed two concerns with the rule: (1) Pass-through attorney's fees charged to institutions, and (2) The use of the term "must" instead of the term "shall."

Based on the comments and concerns received in that informal information session, the Division separated out the attorney's fees into its own section, which is now WAC 208-544-055. Furthermore, the Division made changes to clearly state that an affected institution will be notified before any pass-through legal fees are charged to the affected institution. The Division also revised the rule to make it clear that any legal costs arising from a judicial proceeding between the Division and a regulated institution would not be charged to an institution, as these fees are governed by the Administrative Procedures Act, Chapter 34.05 RCW. The second concern relating to the use of the term "must" was taken into consideration. Based on the concerns voiced at the September informal information session, the Division omitted all references to the word "must" and replaced that word with the term "shall."

The final rule reflects suggested changes made during the informal meeting on September 6, 2013.

5.0 Conclusion.

The modernization of fees including semi-annual assessments for non-depository institutions, updated hourly examination fees, and clarification of other fees and charges, conformed to the Division's open and deliberative rulemaking process. Information has been made available to all stakeholders and interested parties during the rulemaking process, and will continue to be made available by visiting the Department's website: <http://www.dfi.wa.gov/banks/rulemaking.htm>.

Please direct any questions regarding this rule or the rulemaking process to: Ali Higgs, Assistant General Counsel - Division of Banks, at ali.higgs@dfi.wa.gov or (206) 639-6054.