



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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November 18, 2013

Concise Explanatory Statement

Pursuant to RCW 34.05.325(6)

RE: Rule Amendments to the Escrow Agent Registration Act (chapter 18.44 RCW), chapter 208-680 WAC

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

The rules must be amended to implement changes to the law, to protect consumers from financial harm, to aid the regulated industries by having consistent rules, and to make technical changes for clarity and consistency.

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))

See Attachment 1.

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

DFI began soliciting comments on the rule amendments with the filing of the CR-101 on July 23, 2013. The comment period was open until October 25, 2013.

I. Written comments received. See Attachment 2.

II. Oral comments received during the public hearing held August 29, 2013, and at the public hearing held October 23, 2013, at the Department's location in Tumwater, Washington: None.

CONCLUSION

The proposed amendments implement changes to the law and provide guidance to the industry. DFI made the proposed rule amendments available to all interested parties and published the proposed amendments to the department website along with all rulemaking notices, documents, and the audio of the public meeting. The final proposed rule is the product of an open, deliberative process.

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

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))

1. WAC 208-680-030. Proposed language amended to remove the definition of completed escrow. The definition was not used in the rules.
2. WAC 208-680-045. Proposed language amended to put back language stricken in the CR-102. The language was stricken and the reader referred to the statute. Upon further consideration the language was deemed to be helpful and so was put back in the rules.
3. WAC 208-680-125(3)(c)(ii). Proposed language amended to clarify the roles of licensees in an asset transfer between escrow agents.
4. WAC 208-680-145(6). Proposed language amended to add another type of business activity for which the escrow officer test is not required.
5. WAC 208-680-174. Proposed language amended to add language that if an outgoing DEO is not available to sign a statement of trust account status another principal officer of the escrow agent may sign the statement.
6. WAC 208-680-176(1)(b). Proposed language amended to clarify that when a DEO departs the escrow agent may not accept new clients or files until a new DEO has been approved by the department. The escrow agent may continue to provide escrow services on existing files.
7. WAC 208-680-176(2). Proposed language amended to clarify that when a branch DEO departs the escrow agent may accept new clients or files under the supervision of the main office DEO. The main office DEO may also supervise the escrow services provided on existing files.
8. WAC 208-680-195. Proposed language amended to require that an escrow agent remove a DEO instead of prohibiting the DEO from using the trust account. The escrow agent must remove and replace the existing DEO in the usual manner of seeking approval from the department for a new DEO.
9. WAC 208-680-243(4). Proposed language amended to allow for circumstances in which an escrow officer license may expire and the escrow officer may renew the license without having to retake the escrow officer test.
10. WAC 208-680-265(2)(c). Proposed language amended to require licensees to provide notice to department when the escrow agent is the target of a lawsuit, criminal complaint or administrative action against the escrow agent, the escrow officers or employees providing escrow services or who have access to the trust account.

11. WAC 208-680-265(4)(e). Proposed language amended to require the licensee to provide additional information to the department in the event the escrow agent terminates a licensed escrow officer or limited practice officer.
12. WAC 208-680-275(3). Proposed language amended to inform licensees of a policy provision they should include in the policies and procedures required under WAC 208-680-275(4) regarding employee self-reporting on matters of a criminal or financial nature that may impact their ability to provide escrow services for the licensee.
13. WAC 208-680-310(1). Proposed language amended to inform licensees that a combination of bonds may be used to comply with the Act's bond requirements.
14. WAC 208-680-310(2). Proposed language amended to require the licensee to provide a declaration of employment status if the licensee uses a bond with certain liability limiting language.
15. WAC 208-680-310(6)(e). Proposed language amended to remove language requiring the licensee to provide a certificate of insurance that included a specific statement of compliance with RCW 18.44.201. Upon consideration the department determined the statement of compliance was duplicative.
16. WAC 208-680-320(2)(b). Proposed language amended to include language describing a cash option for licensees in lieu of errors and omission insurance requirements.
17. WAC 208-680-410(10)(d). Proposed language amended to include language describing the option of disbursing trust funds via ACH.
18. WAC 208-680-410(17)(f). Proposed language amended to remove a requirement that licensees purge unclaimed funds quarterly.
19. WAC 208-680-425 (3). Proposed language amended to include language describing the process whereby the DEO or other principal officer may certify information on reports for nontrust account matters.
20. WAC 208-680-570. Proposed language amended to shorten the time frame within which the licensee must provide notice to the department of the licensee's discovery of a civil lawsuit, criminal complaint or administrative action. The proposed language includes the details of the required notice.

Attachment 2 to Concise Explanatory Statement
Pursuant to RCW 34.05.325(6)

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

Date of Comment	Commenter	General Topic of Comment/Applicable WAC/Comment Summary	DFI Response After Consideration of the Comment
8/28/13	Phil Dryden, Owner, Evergreen Group of Companies	Escrow License Test/WAC 208-680-145/ No objection to rule amendment that excepts contract collection licensee from the requirement to take and pass the escrow officer test	The comment was considered; the proposed rule amendment excepts both contract collection and personal property escrow from test requirement
10/15/13	Mark Schedler, Attorney at Law	Loss of DEO/WAC 208-680-176/ The rule should be more specific as to when a DEO's absence triggers a notification requirement to the department	The comment was considered; the proposed rules were not amended based on this comment. DFI believes this DEO issue should be resolved on a case by case basis and that specificity in the rule may hamper the parties' ability to craft a resolution specific to the circumstances
		Required Reports/WAC 208-680-265/When DFI requires copies of material or reports from a licensee the material should be provided promptly or the licensee should be subject to an enforcement action	The comment was considered; the proposed rule amendments shorten some time frames for providing information to DFI. where shortened. Otherwise DFI believes it has the authority to respond promptly if a licensee does not timely provide information requested by DFI.

