



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

P.O. Box 41200 • Olympia, Washington 98504-1200
Telephone (360) 902-8700 • TDD (360) 664-8126 • FAX (360) 586-5068 •
<http://www.dfi.wa.gov>

ESCROW AGENT REGISTRATION ACT

POLICY STATEMENT-02-07

DATE: September 15, 2008

FROM: Deborah Bortner, Director, Division of Consumer Services

RE: Necessary Documentation under WAC 208-680D-040 When the Escrow Agent Provides Tracking or Reconveyance Services or Uses a Third Party Service Provider for Tracking or Reconveyance Services

QUESTION PRESENTED: What documentation must an escrow agent or officer retain when the escrow agent or officer provides or engages a third party to provide tracking or reconveyance services?

DISCUSSION: Because tracking and reconveyance services are unique from other third party services, licensed escrow agents and officers must follow these documentation guidelines when providing or using third parties to provide tracking or reconveyance services.

Tracking. For purposes of this policy statement, “tracking” means a post-settlement service that monitors the clearing of the property title in the escrow transaction.

Reconveyance. For purposes of this policy statement, “reconveyance” means the transfer of the property title subject of the escrow transaction from the lender or other party back to the borrower when the loan has been paid in full.

Documentation. The escrow agent or officer must be able to produce adequate documentation of all tracking or reconveyance services provided, whether the escrow agent or officer provided the service, or contracted with a third party for the services. Documentation may be in paper or electronic form. Adequate documentation that demonstrates performance must include, at a minimum, an itemized log or invoice of the services provided, showing the dates of services provided, a description of the services provided, or documents evidencing the services provided. Written contracts for the performance of tracking or reconveyance services between the licensed escrow agent and a third party service provider must include a description of the services to be

performed and an itemized fee list for the services provided, in addition to the adequate documentation of services provided as described above. If tracking or reconveyance services will be accomplished by an affiliated reconveyance service provider, as described under the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Sec. 2601 et seq., Regulation X, 24 C.F.R. Part 3500 et seq., a separate disclosure of the affiliation may be required.

Fees. The amount of fees charged for tracking or reconveyance services must be reasonably related in value to the service provided. If the lender completes the reconveyance, and no services were provided by the licensed escrow agent or officer or third party service provider responsible for completing the reconveyance, a complete refund of the reconveyance fee obtained from the borrower must be made to the borrower by the escrow agent within sixty days of the reconveyance occurring. If the escrow agent or officer or third party service provider performed tracking services before the reconveyance, those tracking fees may be retained by the escrow agent or third party service provider.

Title Company Sub-escrow cases. In cases where the lender has required a licensee to use a title company under the jurisdiction of the Office of the Insurance Commissioner as a sub-escrow, DFI will not hold the licensee responsible for complying with title company requests that may be in violation of the tracking or reconveyance documentation obligations under chapter 18.44 RCW.

If the settlement statement reflects reconveyance or tracking fees at the request of the title escrow agent, the licensee will not be held responsible for violations of this policy as long as the licensee can document the title company request for the charges.

CONCLUSION: Adequate documentation of all tracking and reconveyance services must be retained by the licensed escrow agent whether conducted by the licensed escrow agent or officer, or by a third party service provider. Fees for tracking and reconveyance services must be reasonably related in value to the service provided. Fees for tracking or reconveyance services not provided by the licensed escrow agent or officer, or third party, must be refunded to the borrower within sixty days of the reconveyance being completed. A disclosure under RESPA may be required of the licensed escrow agent if the escrow agent uses an affiliated service provider to provide tracking or reconveyance services.

Prepared by: Cindy Fazio, Staff Attorney

STATUTES AND RULES RELIED UPON: Chapter 18.44 RCW; Chapter 208-680 WAC.