

**Chapter 48.29**  
**TITLE INSURERS**

Sections	
48.29.005	Administration of chapter—Rules.
48.29.010	Scope of chapter—Definitions.
48.29.015	Requirement to maintain records—Report to commissioner.
48.29.020	Certificate of authority—Qualifications.
48.29.040	May do business in two or more counties—Restrictions.
48.29.120	Reserve requirements.
48.29.130	Investments.
48.29.140	Premium rates—Required filings—Transition date set by rule.
48.29.143	Premium rates—Actuarially sound estimates.
48.29.147	Required filings—Information subject to review— Commissioner's powers—Timing.
48.29.150	Taxation of title insurers.
48.29.155	Agent license—Financial responsibility—Definitions.
48.29.160	Agents—County tract indexes required.
48.29.170	Agents—Separate licenses for individuals not required.
48.29.180	Disclosure of energy conservation payment obligations— Informational note—Liability.
48.29.190	Conducting business as escrow agent—Requirements— Violation, penalties.
48.29.193	Escrow services—Schedule of fees filed with commissioner.
48.29.195	Escrow services—Schedule of fees made available to public.
48.29.200	Prohibited practices.
48.29.210	Business inducements—Prohibited practices.
48.29.213	Return on ownership interest—Certain payments authorized.
48.29.900	Severability—2008 c 110.
48.29.901	Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.

**48.29.005 Administration of chapter—Rules.**

The commissioner may adopt rules to implement and administer this chapter, including but not limited to:

- (1) Establishing the information to be included in the report required under RCW 48.29.015;
- (2) Establishing the information required for the filing of rates for title insurance under RCW 48.29.147;
- (3) Establishing standards which title insurance rate filings must satisfy under RCW 48.29.147;
- (4) Establishing a date, which date shall not be earlier than January 1, 2010, by which all title insurers selling policies in this state must file their rates with the commissioner under RCW 48.29.143 and 48.29.147 rather than under RCW 48.29.140 and refile any rates that were in effect prior to the date established by the commissioner; and
- (5) Defining what things of value a title insurance insurer or title insurance agent is permitted to give to any person in a position to refer or influence the referral of title insurance business under RCW 48.29.210(2). In adopting rules under this subsection, the commissioner shall work with representatives of the title insurance and real estate industries and consumer groups in developing the rules. [2008 c 110 § 9.]

**48.29.010 Scope of chapter—Definitions.**

- (1) This chapter relates only to title insurers for real property.

(2) This code does not apply to persons engaged in the business of preparing and issuing abstracts of title to property and certifying to their correctness so long as the persons do not guarantee or insure the titles.

(3) For purposes of this chapter, unless the context clearly requires otherwise:

(a) "Title policy" means any written instrument, contract, or guarantee by means of which title insurance liability is assumed.

(b) "Abstract of title" means a written representation, provided under contract, whether written or oral, intended to be relied upon by the person who has contracted for the receipt of this representation, listing all recorded conveyances, instruments, or documents that, under the laws of the state of Washington, impart constructive notice with respect to the chain of title to the real property described. An abstract of title is not a title policy as defined in this subsection.

(c) "Preliminary report," "commitment," or "binder" means reports furnished in connection with an application for title insurance and are offers to issue a title policy subject to the stated exceptions in the reports, the conditions and stipulations of the report and the issued policy, and other matters as may be incorporated by reference. The reports are not abstracts of title, nor are any of the rights, duties, or responsibilities applicable to the preparation and issuance of an abstract of title applicable to the issuance of any report. The report is not a representation as to the condition of the title to real property, but is a statement of terms and conditions upon which the issuer is willing to issue its title policy, if the offer is accepted.

(d) "Financial interest" means any interest, legal or beneficial, that entitles the holder directly or indirectly to any of the net profits or net worth of the entity in which the interest is held.

(e) "Producers of title insurance business" means real estate agents and brokers, lawyers, mortgagees, mortgage loan brokers, financial institutions, escrow agents, persons who lend money for the purchase of real estate or interests therein, building contractors, real estate developers and subdividers, and any other person who is or may be in a position to influence the selection of a title insurer or title insurance agent whether or not the consent or approval of any other person is sought or obtained with respect to the selection of the title insurer or title insurance agent.

(f) "Associates of producers" means any person who has one or more of the following relationships with a producer of title insurance business:

- (i) A spouse, parent, or child of a producer;
- (ii) A corporation or business entity that controls, is controlled by, or is under common control with a producer;
- (iii) An employer, employee, independent contractor, officer, director, partner, franchiser, or franchisee of a producer; or

(iv) Anyone who has an agreement, arrangement, or understanding with a producer, the purpose or substantial effect of which is to enable the person in a position to influence the selection of a title insurer or title insurance agent to benefit finan-

cially from the selection of the title insurer or title insurance agent. [2008 c 110 § 1; 2005 c 223 § 14; 1997 c 14 § 1; 1947 c 79 § .29.01; Rem. Supp. 1947 § 45.29.01.]

#### **48.29.015 Requirement to maintain records—Report to commissioner.**

(1) A title insurance agent shall maintain records of its title orders sufficient to indicate the source of the title orders.

(2) Every title insurance agent shall file with the commissioner annually by March 15th of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for filing, a report, on a form prescribed by the commissioner, setting forth:

(a) The names and addresses of those persons, if any, who have had a financial interest in the title insurance agent during the calendar year, who are known or reasonably believed by the title insurance agent to be producers of title business or associates of producers; and

(b) The percent of title orders originating from each person who owns, or had owned during the preceding calendar year, a financial interest in the title insurance agent.

(3) Each title insurance agent shall keep current the information required by that portion of the report required by subsection (2)(a) of this section by reporting all changes or additions within fifteen days after the end of the month in which it learns of each change or addition.

(4) Each title insurance agent shall file that portion of the report required by subsection (2)(a) of this section with its application for a license.

(5) Each title insurance agent licensed on June 12, 2008, shall file the report required under this section within thirty days after June 12, 2008. [2008 c 110 § 2.]

#### **48.29.020 Certificate of authority—Qualifications.**

A title insurer is not entitled to have a certificate of authority unless:

- (1) It is a stock corporation;
- (2) It owns or leases and maintains a complete set of tract indexes of the county in this state in which its principal office is located; and
- (3) It has and maintains the capital and surplus requirements set forth in RCW 48.05.340. [2005 c 223 § 15; 1990 c 76 § 1; 1955 c 86 § 12; 1947 c 79 § .29.02; Rem. Supp. 1947 § 45.29.02.]

#### **NOTES:**

**Effective date—Supervision of transfers—1955 c 86:** See notes following RCW 48.05.080.

#### **48.29.040 May do business in two or more counties—Restrictions.**

(1) Subject to the deposit requirements of \*RCW 48.29.030, a title insurer having its principal offices in one county may be authorized to transact business in only such additional counties as to which it owns or leases and maintains, or has a duly authorized agent that owns or leases and maintains, a complete set of tract indexes.

(2) A title insurer not authorized to transact business in a certain county may purchase a title policy on property located therein from another title insurer which is so authorized in that county. The first title insurer may thereafter issue its own policy of title insurance to the owner of such property. The first title insurer may combine the insurance on the title of such property in a single policy which also insures the title of one or more other pieces of property. The first title insurer must pay the full premium based on filed rates for the policy, and must charge the precise same amount to its own customer for the insurance as to the title of such property. A title insurer using the authority granted by this subsection in a transaction must so notify its customer. [1990 c 76 § 2; 1957 c 193 § 17; 1947 c 79 § .29.04; Rem. Supp. 1947 § 45.29.04.]

#### **NOTES:**

\*Reviser's note: RCW 48.29.030 was repealed by 2005 c 223 § 35.

#### **48.29.120 Reserve requirements.**

In determining the financial condition of a title insurer doing business under this title, the general provisions of chapter 48.12 RCW requiring the establishment of reserves sufficient to cover all known and unknown liabilities including allocated and unallocated loss adjustment expense apply, except that a title insurer shall establish and maintain:

(1) A known claim reserve in an amount estimated to be sufficient to cover all unpaid losses, claims, and allocated loss adjustment expenses arising under title insurance policies, guaranteed certificates of title, guaranteed searches, and guaranteed abstracts of title, and all unpaid losses, claims, and allocated loss adjustment expenses for which the title insurer may be liable, and for which the insurer has received notice by or on behalf of the insured, holder of a guarantee or escrow, or security depositor;

(2)(a) A statutory or unearned premium reserve consisting of:

(i) The amount of the special reserve fund that was required prior to July 24, 2005, which balance must be released in accordance with (b) of this subsection; and

(ii) Additions to the reserve after July 24, 2005, must be made out of total charges for title insurance policies and guarantees written, as set forth in the title insurer's most recent annual statement on file with the commissioner, equal to the sum of the following:

(A) For each title insurance policy on a single risk written or assumed after July 24, 2005, fifteen cents per one thousand dollars of net retained liability for policies under five hundred thousand dollars; and

(B) For each title insurance policy on a single risk written or assumed after July 24, 2005, ten cents per one thousand dollars of net retained liability for policies of five hundred thousand or greater.

(b) The aggregate of the amounts set aside in this reserve in any calendar year pursuant to (a) of this subsection must be released from the reserve and restored to net profits over a period of twenty years under the following formula:

(i) Thirty-five percent of the aggregate sum on July 1st of the year next succeeding the year of addition;

(ii) Fifteen percent of the aggregate sum on July 1st of each of the succeeding two years;

(iii) Ten percent of the aggregate sum on July 1st of the next succeeding year;

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(iv) Three percent of the aggregate sum on July 1st of each of the next three succeeding years;

(v) Two percent of the aggregate sum on July 1st of each of the next three succeeding years; and

(vi) One percent of the aggregate sum on July 1st of each of the next succeeding ten years.

(c) The insurer shall calculate an adjusted statutory unearned premium reserve as of July 24, 2005. The adjusted reserve is calculated as if (a)(ii) and (b) of this subsection had been in effect for all years beginning twenty years prior to July 24, 2005. For purposes of this calculation, the balance of the reserve as of that date is deemed to be zero. If the adjusted reserve so calculated exceeds the aggregate amount set aside for statutory or unearned premiums in the insurer's annual statement on file with the commissioner on July 24, 2005, the insurer shall, out of total charges for policies of title insurance, increase its statutory or unearned premium reserve by an amount equal to one-sixth of that excess in each of the succeeding six years, commencing with the calendar year that includes July 24, 2005, until the entire excess has been added.

(d) The aggregate of the amounts set aside in this reserve in any calendar year as adjustments to the insurer's statutory or unearned premium reserve under (c) of this subsection shall be released from the reserve and restored to net profits, or equity if the additions required by (c) of this subsection reduced equity directly, over a period not exceeding ten years under to the [under the] following table:

Year of Addition	Release
Year 1 <sup>1</sup>	Equally over 10 years
Year 2	Equally over 9 years
Year 3	Equally over 8 years
Year 4	Equally over 7 years
Year 5	Equally over 6 years
Year 6	Equally over 5 years

<sup>1</sup>(The calendar year following July 24, 2005).

(3) A supplemental reserve shall be established consisting of any other reserves necessary, when taken in combination with the reserves required by subsections (1) and (2) of this section, to cover the company's liabilities with respect to all losses, claims, and loss adjustment expenses.

(4) The supplemental reserve required under subsection (3) of this section shall be phased in as follows: Twenty-five percent of the otherwise applicable supplemental reserve is required until December 31, 2006; fifty percent of the otherwise applicable supplemental reserve is required until December 31, 2007; and seventy-five percent of the otherwise applicable supplemental reserve is required until December 31, 2008. [2005 c 223 § 16; 1947 c 79 § .29.12; Rem. Supp. 1947 § 45.29.12.]

**48.29.130 Investments.**

A domestic title insurer shall invest its funds as follows:

(1) Funds in an amount not less than its reserve required by RCW 48.29.120 must be kept invested in investments eligible for domestic life insurers.

(2) Other funds may be invested in:

(a) The insurer's plant and equipment, up to a maximum of fifty percent of capital plus surplus.

(b) Stocks and bonds of abstract companies when approved by the commissioner.

(c) Investments eligible for the investment of funds of any domestic insurer. [2005 c 223 § 17; 1967 c 150 § 30; 1947 c 79 § .29.13; Rem. Supp. 1947 § 45.29.13.]

**48.29.140 Premium rates—Required filings—Transition date set by rule.**

(1) Premium rates for the insuring or guaranteeing of titles shall not be excessive, inadequate, or unfairly discriminatory.

(2) Each title insurer shall forthwith file with the commissioner a schedule showing the premium rates to be charged by it. Every addition to or modification of such schedule or of any rate therein contained shall likewise be filed with the commissioner, and no such addition or modification shall be effective until expiration of fifteen days after date of such filing.

(3) The commissioner may order the modification of any premium rate or schedule of premium rates found by him or her after a hearing to be excessive, or inadequate, or unfairly discriminatory. No such order shall require retroactive modification.

(4) The commissioner shall by rule set a date, which shall not be earlier than January 1, 2010, by which title insurers must file every manual of rules and rates, rating plan, rate schedule, minimum rate, class rate, and rating rule, and every modification of any of these filings, under RCW 48.29.143 and 48.29.147, rather than under this section. [2008 c 110 § 8; 1947 c 79 § .29.14; Rem. Supp. 1947 § 45.29.14.]

**48.29.143 Premium rates—Actuarially sound estimates.**

(1) Premium rates for the insuring or guaranteeing of titles shall not be excessive, inadequate, or unfairly discriminatory.

(2) A rate is not excessive, inadequate, or unfairly discriminatory if it is an actuarially sound estimate of the expected value of all future costs associated with an individual risk transfer. Such costs include claims, claim settlement expenses, operational and administrative expenses, and the cost of capital. [2008 c 110 § 4.]

**48.29.147 Required filings—Information subject to review—Commissioner's powers—Timing.**

(1) Every title insurer shall, before using, file with the commissioner every manual of title insurance rules and rates, rating plan, rate schedule, minimum rate, class rate, and rating rule, and every modification of any of the filings under this subsection which it proposes.

(2) Every filing shall be accompanied by sufficient information to permit the commissioner to determine whether the filing meets the requirements of RCW 48.29.143.

(3) Data used to justify title insurance rates may not include escrow income or expenses. The title insurance company shall include a detailed explanation showing how expenses are allocated between the title operations and escrow operations of the insurer or title insurance agent.

(4) Every such filing shall state its proposed effective date.

(5) The commissioner shall review a filing as soon as reasonably possible after it is received, to determine whether it meets the requirements of RCW 48.29.143.

(6) The filing's proposed effective date shall be no earlier than thirty days after the date on which the filing is received by the commissioner. By giving notice to the insurer within this thirty days, the commissioner may extend this waiting period for an additional period not to exceed an additional fifteen days. The commissioner may, upon application and for cause shown, waive part or all of the waiting period with respect to a filing the commissioner has not disapproved. If the commissioner does not disapprove the filing during the waiting period, the filing takes effect on its proposed effective date.

(7) If within the waiting period or any extension thereof as provided in subsection (6) of this section, the commissioner finds that a filing does not meet the requirements of RCW 48.29.143 or the requirements of subsections (2) through (4) of this section, the commissioner shall disapprove the filing and shall give notice to the insurer that the filing has been disapproved. This notice shall specify the respect in which the commissioner finds the filing fails to meet the requirements and shall state that the filing does not become effective as proposed.

(8) If a filing is not disapproved by the commissioner within the waiting period or any extension thereof, the filing becomes effective as proposed.

(9) A filing made under this section is exempt from RCW 48.02.120(3). However, the filing and all supporting information accompanying it is open to public inspection only after the filing becomes effective.

(10) A title insurer or title insurance agent shall not make or issue a title insurance contract or policy, or use or collect any premium on or after a date set by the commissioner by rule, which date shall not be any earlier than January 1, 2010, except in accordance with rates and rules filed with the commissioner as required by this section.

(11) If at any time subsequent to the applicable review period provided for in subsection (6) of this section, the commissioner has reason to believe that a title insurer's rates do not meet the requirements of RCW 48.29.143 or are otherwise contrary to law, or if any person having an interest in the rates makes a written complaint to the commissioner setting forth specific and reasonable grounds for the complaint and requests a hearing, or if any insurer upon notice of the commissioner's disapproval of a filing made under this section requests a hearing, the commissioner shall hold a hearing within thirty days and shall, in advance of it, give written notice of the hearing to all parties in interest. The commissioner may, by issuing an or-

der, confirm, modify, change, or rescind any previous action, if it is warranted by the facts shown at the hearing. The order shall not affect any contract or policy made or issued prior to a reasonable period of time, to be specified in the order, after the order is issued.

(12) In any hearing regarding rates filed under this chapter the burden shall be upon the title insurer to prove by a preponderance of the evidence that the rates comply with RCW 48.29.143. [2008 c 110 § 5.]

#### **48.29.150 Taxation of title insurers.**

Title insurers and their property shall be taxed by this state in accordance with the general laws relating to taxation, and not otherwise. [1947 c 79 § .29.15; Rem. Supp. 1947 § 45.29.15.]

#### **48.29.155 Agent license—Financial responsibility—Definitions.**

(1) At the time of filing an application for a title insurance agent license, or any renewal or reinstatement of a title insurance agent license, the applicant shall provide satisfactory evidence to the commissioner of having obtained the following as evidence of financial responsibility:

(a) A fidelity bond or fidelity insurance providing coverage in the aggregate amount of two hundred thousand dollars with a deductible no greater than ten thousand dollars covering the applicant and each corporate officer, partner, escrow officer, and employee of the applicant conducting the business of an escrow agent as defined in RCW 18.44.011 and exempt from licensing under RCW 18.44.021(6), or a guarantee from a licensed title insurance company as authorized by subsection (5) of this section; and

(b) A surety bond in the amount of ten thousand dollars executed by the applicant as obligor and by a surety company authorized, or eligible under chapter 48.15 RCW, to do a surety business in this state as surety, or some other security approved by the commissioner, unless the fidelity bond or fidelity insurance obtained by the licensee to satisfy the requirement in (a) of this subsection does not have a deductible. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its employee's violation of this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the commissioner of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the commissioner. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more

points in time be added together in determining the surety's liability. The bond is not liable for any penalties imposed on the licensee, including but not limited to any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090.

(2) For the purposes of this section, a "fidelity bond" means a primary commercial blanket bond or its equivalent satisfactory to the commissioner and written by an insurer authorized, or eligible under chapter 48.15 RCW, to transact this line of business in the state of Washington. The bond shall provide fidelity coverage for any fraudulent or dishonest acts committed by any one or more of the employees, officers, or owners as defined in the bond, acting alone or in collusion with others. The bond shall be for the sole benefit of the title insurance agent and under no circumstances whatsoever shall the bonding company be liable under the bond to any other party. The bond shall name the title insurance agent as obligee and shall protect the obligee against the loss of money or other real or personal property belonging to the obligee, or in which the obligee has a pecuniary interest, or for which the obligee is legally liable or held by the obligee in any capacity, whether the obligee is legally liable therefor or not. The bond may be canceled by the insurer upon delivery of thirty days' written notice to the commissioner and to the title insurance agent.

(3) For the purposes of this section, "fidelity insurance" means employee dishonesty insurance or its equivalent satisfactory to the commissioner and written by an insurer authorized, or eligible under chapter 48.15 RCW, to transact this line of business in the state of Washington. The insurance shall provide coverage for any fraudulent or dishonest acts committed by any one or more of the employees, officers, or owners as defined in the policy of insurance, acting alone or in collusion with others. The insurance shall be for the sole benefit of the title insurance agent and under no circumstances whatsoever shall the insurance company be liable under the insurance to any other party. The insurance shall name the title insurance agent as the named insured and shall protect the named insured against the loss of money or other real or personal property belonging to the named insured, or in which the named insured has a pecuniary interest, or for which the named insured is legally liable or held by the named insured in any capacity, whether the named insured is legally liable therefor or not. The insurance coverage may be canceled by the insurer upon delivery of thirty days' written notice to the commissioner and to the title insurance agent.

(4) The fidelity bond or fidelity insurance, and the surety bond or other form of security approved by the commissioner, shall be kept in full force and effect as a condition precedent to the title insurance agent's authority to transact business in this state, and the title insurance agent shall supply the commissioner with satisfactory evidence thereof upon request.

(5) A title insurance company authorized to do business in Washington under RCW 48.05.030 may provide a guarantee in a form satisfactory to the commissioner accepting financial responsibility, up to the aggregate amount of two hundred thousand dollars, for any fraudulent or dishonest acts committed by any one or more of the employees, officers, or owners of a title

insurance agent that is appointed as the title insurance company's agent. A title insurance company providing a guarantee as permitted under this subsection may only do so on behalf of its properly appointed title insurance agents. If the title insurance agent is an agent for two or more title insurance companies, any liability under the guarantee shall be borne by the title insurance company for those escrows for which a title insurance commitment or policy was issued on behalf of that title insurance company. If no commitment or policy was issued regarding the escrow for which moneys were lost, including but not limited to collection escrows, each title insurance company, for which the agent was appointed at the time of the fraudulent or dishonest act, shares in the liability. The liability will be shared proportionally, as follows: The premium the agent remitted to the title insurance company in the year prior to the fraudulent or dishonest act will be compared to the total premium the agent remitted to all title insurance companies, for whom the title insurance agent was appointed, during the same period.

(6) All title insurance agents licensed on or before July 24, 2005, shall comply with this section within thirty days following July 24, 2005. [2005 c 115 § 1; 2003 c 202 § 1.]

#### **48.29.160 Agents—County tract indexes required.**

To be licensed as [an] agent of a title insurer, the applicant must own or lease and maintain a complete set of tract indexes of the county or counties in which such agent will do business. [1981 c 223 § 1.]

#### **48.29.170 Agents—Separate licenses for individuals not required.**

Title insurance agents are exempt from the provisions of \*RCW 48.17.180(1) that require that each individual empowered to exercise the authority of a licensed firm or corporation must be separately licensed. [2005 c 223 § 18; 1981 c 223 § 2.]

##### **NOTES:**

\*Reviser's note: RCW 48.17.180 was amended by 2007 c 117 § 15, deleting subsection (1), effective July 1, 2009.

#### **48.29.180 Disclosure of energy conservation payment obligations—Informational note—Liability.**

The existence of notices of payment obligations in RCW 80.28.065 may be disclosed as an informational note to a preliminary commitment for policy of title insurance. Neither the inclusion nor the exclusion of any such informational note shall create any liability against such title insurer under any preliminary commitment for title insurance, policy or otherwise. [1993 c 245 § 4.]

##### **NOTES:**

**Findings—Intent—1993 c 245:** See note following RCW 80.28.065.

#### **48.29.190 Conducting business as escrow agent—Requirements—Violation, penalties.**

(1) Every title insurance company and title insurance agent conducting the business of an escrow agent as defined in RCW 18.44.011 and exempt from licensing under RCW 18.44.021(6) shall:

(a) Keep adequate records, as determined by rule by the insurance commissioner, of all transactions handled by the title insurance company or title insurance agent, including itemization of all receipts and disbursements of each transaction. These records shall be maintained in this state, unless otherwise approved by the insurance commissioner, for a period of six years from completion of the transaction. These records shall be open to inspection by the insurance commissioner or his or her authorized representatives;

(b) Keep separate escrow fund account or accounts in a recognized Washington state depository or depositories authorized to receive funds, in which shall be kept separate and apart and segregated from the title insurance company or title insurance agent's own funds, all funds or moneys of clients which are being held by the title insurance company or title insurance agent pending the closing of a transaction and such funds shall be deposited not later than the first banking day following receipt thereof; and

(c) Not make disbursements on any escrow account without first receiving deposits directly relating to the account in amounts at least equal to the disbursements. A title insurance company or title insurance agent shall not make disbursements until the next business day after the business day on which the funds are deposited unless the deposit is made in cash, by interbank electronic transfer, or in a form that permits conversion of the deposit to cash on the same day the deposit is made. The deposits shall be in one of the following forms:

(i) Cash;

(ii) Interbank electronic transfers such that the funds are unconditionally received by the title insurance company or the title insurance agent or the title insurance company or title insurance agent's depository;

(iii) Checks, negotiable orders of withdrawal, money orders, cashier's checks, and certified checks that are payable in Washington state and drawn on financial institutions located in Washington state;

(iv) Checks, negotiable orders of withdrawal, money orders, and any other item that has been finally paid as described in RCW 62A.4-213 before any disbursement; or

(v) Any depository check, including any cashier's check, certified check, or teller's check, which is governed by the provisions of the federal expedited funds availability act, 12 U.S.C. Sec. 4001 et seq.

(2) For purposes of this section, "item" means any instrument for the payment of money even though it is not negotiable, but does not include money.

(3) Violation of this section shall subject a title insurance company or title insurance agent to penalties as prescribed in Title 9A RCW and remedies as provided in chapter 19.86 RCW and shall constitute grounds for suspension or revocation of the certificate of authority of a title insurance company or the license of a title insurance agent. In addition, a violation of this section may subject a title insurance company or a title insurance agent to penalties as prescribed in this title. [1999 c 30 § 34.]

#### **48.29.193 Escrow services—Schedule of fees filed with commissioner.**

(1) Each title insurer and title insurance agent shall immediately file with the commissioner a schedule of its fees for providing escrow services.

(2) The schedule shall:

(a) Be dated to show the date the fees for providing escrow services are to become effective, which date shall be no earlier than fifteen days after the schedule has been filed with the commissioner; and

(b) Set forth the total fees for providing escrow services by clearly stating the amounts to be charged for the escrow services, the manner in which the fees for the escrow services are to be determined, and any charges that will be charged to the consumer that are not included in the total escrow fee. [2008 c 110 § 6.]

#### **48.29.195 Escrow services—Schedule of fees made available to public.**

(1) Each title insurer and title insurance agent shall make available to the public schedules of its currently effective title insurance premiums and fees for providing escrow services.

(2) The schedules shall:

(a) Be dated to show the date the title insurance premiums or fees for providing escrow services became effective;

(b) Be made available to the public during normal business hours in each office of the title insurer and its appointed title insurance agents in this state;

(c) Be made available on the title insurer's and title insurance agent's web site, if the title insurer or title insurance agent has a web site;

(d) Set forth the total title insurance premium charged for the title insurance policy issued by the title insurer either by stating the premium for each title insurance policy in given amounts of coverage, or by stating the charge per unit amount of coverage, or by a combination of the two; and

(e) Set forth the total fees for providing escrow services by clearly stating the amounts to be charged for the escrow services, the manner in which the fees for the escrow services are to be determined, and any charges that will be charged to the consumer that are not included in the total escrow fee.

(3) Each title insurer and title insurance agent shall keep a complete file of its schedules of title insurance premiums and fees for providing escrow services and all changes and amendments to those schedules until at least one year after they have ceased to be in effect. [2008 c 110 § 7.]

#### **48.29.200 Prohibited practices.**

It is a violation of this chapter for any title insurance company and title insurance agent in the conduct of the business of an escrow agent as defined in RCW 18.44.011 and exempt from licensing under RCW 18.44.021(6) to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) Directly or indirectly engage in any unfair or deceptive act or practice toward any person;

(3) Directly or indirectly obtain property by fraud or misrepresentation;

(4) Knowingly make, publish, or disseminate any false, deceptive, or misleading information in the conduct of the business of escrow, or relative to the business of escrow or relative to any person engaged therein;

(5) Knowingly receive or take possession for personal use of any property of any escrow business, other than in payment authorized by this chapter, and with intent to defraud, omit to make, or cause or direct to be made, a full and true entry thereof in the books and accounts of the title insurance company or title insurance agent;

(6) Make or concur in making any false entry, or omit or concur in omitting to make any material entry, in its books or accounts;

(7) Knowingly make or publish, or concur in making or publishing any written report, exhibit, or statement of its affairs or pecuniary condition containing any material statement which is false, or omit or concur in omitting any statement required by law to be contained therein;

(8) Willfully fail to make any proper entry in the books of the escrow business as required by law;

(9) Fail to disclose in a timely manner to the other officers, directors, controlling persons, or employees the receipt of service of a notice of an application for an injunction or other legal process affecting the property or business of a title insurance company or title insurance agent conducting an escrow business, including an order to cease and desist or other order of the insurance commissioner; or

(10) Fail to make any report or statement lawfully required by the insurance commissioner or other public official. [1999 c 30 § 35.]

**48.29.210 Business inducements—Prohibited practices.**

(1) A title insurer, title insurance agent, or employee, agent, or other representative of a title insurer or title insurance agent shall not, directly or indirectly, give any fee, kickback, or other thing of value to any person as an inducement, payment, or reward for placing business, referring business, or causing title insurance business to be given to either the title insurer, or title insurance agent, or both.

(2) A title insurer, title insurance agent, or employee, agent, or other representative of a title insurer or title insurance agent shall not, directly or indirectly, give anything of value to any person in a position to refer or influence the referral of title insurance business to either the title insurance company or title insurance agent, or both, except as permitted under rules adopted by the commissioner. [2008 c 110 § 3.]

**48.29.213 Return on ownership interest—Certain payments authorized.**

(1) RCW 48.29.210, 18.85.053, 18.44.305, or 19.146.103 does not make unlawful the payment by a title insurer or title insurance agent and the receipt by a producer of title insurance business of a return on ownership interest in the title insurer or title insurance agent.

(2) A return on ownership interest may include:

(a) Bona fide dividends, and capital or equity distributions, related to ownership interest or franchise relationship, between entities in an affiliated relationship; and

(b) Bona fide business loans, advances, and capital or equity contributions between entities in an affiliate relationship (in any direction), so long as they are for ordinary business purposes and are not fees for the referral of settlement service business or unearned fees.

(3) A return on ownership interest does not include:

(a) Any payment which has a basis of calculation of no apparent business motive other than distinguishing among recipients of payments on the basis of the amount of their actual, estimated, or anticipated referrals;

(b) Any payment which varies according to the relative amount of referrals by the different recipients of similar payments; or

(c) A payment based on an ownership, partnership, or joint venture share which has been adjusted on the basis of previous relative referrals by recipients of similar payments. [2008 c 110 § 13.]

**48.29.900 Severability—2008 c 110.**

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2008 c 110 § 14.]

**48.29.901 Construction—Chapter applicable to state registered domestic partnerships—2009 c 521.**

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 122.]

