



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (10/1/89)
 Permanent Rule
 Emergency Rule

Agency: Department of General Administration, Division of Banking

(1) Date of adoption: July 27, 1993

(2) Purpose: To make the rule consistent with with changes in the statute passed by the 1993 legislature (amending RCW 31.45.030), Chapter 176, 1993 Session Laws, relating to the bonding and security requirements for check sellers.

(3) Citation of existing rules affected by this order:
Repealed:
Amended: WAC 50-30-030
Suspended:

(4) Authority for adoption:
Statute: RCW 31.45.200
Other Authority:

(5.1) PERMANENT RULE ONLY
Pursuant to notice filed as WSR 93-13-143 on June 23, 1993 (date).
Describe any changes other than editing from proposed to adopted version: n/a.

(5.2) EMERGENCY RULE ONLY
Pursuant to RCW 34.05.350 the agency for good cause finds:
 (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
 (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?
 Yes No If yes, explain:

(6) Effective date of rule:
Permanent Rules **Emergency Rules**
 31 days after filing Immediately
 Other (specify) _____ * Later (specify) _____
*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY
CODE REVISER'S OFFICE
STATE OF WASHINGTON
JUL 27 1993
TIME 11:00
BY B. H. O'S

NAME (TYPE OR PRINT)
John L. Bley
SIGNATURE
John L. Bley
TITLE
Supervisor of Banking
DATE
7/27/93

AMENDATORY SECTION (Amending WSR 92-24-028, filed 11/24/92, effective 12/25/92)

WAC 50-30-030 Bond for applicants engaging in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose. (1) (a) RCW 31.45.030 (5) (a) requires a licensee engaged in the business of selling checks, drafts, money orders, or other commercial paper serving the same purpose to obtain at the beginning of each calendar year and file with the supervisor a bond running to the state of Washington, which bond shall be (~~"for the protection of the public against loss suffered through embezzlement by any person having access to funds collected by or for the licensee or having authority to draw against such funds or from mysterious disappearance, theft, holdup, or burglary."~~ Such bond shall be) issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the supervisor. This surety bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the supervisor and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the supervisor. 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 or cumulative 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 shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the

superior court or a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event said claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(b) The penal sum of the surety bond that shall be filed by each licensee shall not be less than the amount established in the following table:

Highest Monthly Liability*	Required Bond	Plus Percentage of Excess Over
Up to \$50,000	Highest Monthly Liability	Highest Monthly Liability
\$50,001 to \$100,000	\$50,000	.5 above \$50,000
\$100,000 plus	\$75,000	.25 above \$100,000

The maximum fidelity coverage required shall be three million dollars.

* The monthly liability is the total sum of checks for a given month. The "Highest Monthly Liability" shall be determined by the highest monthly liability of checks from the preceding calendar year multiplied by seventy-five percent.

(2) In lieu of such surety bond, the applicant may deposit with such banks, savings banks, savings and loan associations, or trust companies in this state as such applicant may designate and the supervisor may approve, bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof or guaranteed by the United States or of the state of Washington or of a municipality, county, school district, or instrumentality of the state of Washington or guaranteed by the state to an aggregate amount, based on principal amount or market value, whichever is lower, of not less than the amount of the required fidelity bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the fidelity bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the supervisor, to substitute other qualified securities for those deposited, and shall be required so to do on written order of the supervisor made for good cause shown.

(3) In lieu of such surety bond, the applicant may deposit with the supervisor an irrevocable letter of credit drawn in favor of the supervisor for an amount equal to or greater than the required bond. The irrevocable letter of credit must be issued by a bank, savings bank, or savings and loan association in this state as such applicant may designate and the supervisor may approve.