

WAC 208-680-045 Exceptions—Attorneys. (1) **I am licensed to practice law in Washington. Am I excepted from licensing as an escrow agent?** Yes, as long as you only perform escrow services as part of your law practice. You are excepted from licensure as an escrow agent while you are engaged in the practice of law, but you are required to apply for and receive an escrow license before you perform escrow services outside of your legal practice. Your attorney exception may be extended to your bona fide legal practice, but is otherwise an individual exception and may not be extended to a separate business entity. Your exception may not be extended to nonattorney individuals unless they are employees of your bona fide law practice and you supervise all of their transactions.

You or your attorney-owned business entity will be required to license as an escrow agent if you or your business entity do one or more of the following:

- (a) Principally provide escrow services, not including escrow services provided incidentally to the practice of law;
- (b) Advertise yourself or your business entity as providing the services of an escrow agent without identifying yourself or your business entity as an attorney or law practice;
- (c) Receive compensation or gain for providing escrow services through a business entity other than a bona fide law practice; or
- (d) Permit nonattorney associates or employees to conduct escrow transactions without either a valid escrow officer license or an attorney's supervision. See RCW 18.44.021(2).

(2) **I am licensed to practice law in Washington. Am I subject to the department's investigative authority?** Yes. The department has broad investigative authority under the act and these rules, and its investigatory authority is not restricted to persons who are required to obtain a license. The department has the power to investigate unlicensed persons and entities at least to the extent necessary to determine whether a violation of the act or these rules has occurred. This includes preliminary investigations of attorneys and business entities claiming the attorney exception from licensure.

Among other actions, the department may:

- (a) Compel written statements from or subpoena any person with relevant information;
- (b) Compel production of written materials and take evidence; and
- (c) Apply to a superior court for an order compelling compliance with its authority under the act.

For further information on the department's investigative authority, see RCW 18.44.420 and WAC 208-680-620.

(3) **I am licensed to practice law in Washington. Am I subject to the department's examination authority?** Generally, no. Unless the department determines that the attorney exception from licensure does not apply to you or your business, you will not be subject to the department's examination authority under WAC 208-680-610. If the department has determined that the exception does not apply, you will be required to license the escrow portion of your business and it may be subject to regular examinations.

(4) **I am licensed to practice law in Washington and excepted from licensing under the act. Am I subject to other provisions of the act?** You may be subject to other provisions of the act for services you provide outside the practice of law. The attorney exception is a limited, individual exception from the act's licensure provision for ac-

tions undertaken while engaged in your professional, legal duties, and is not a general exemption from the act.

[Statutory Authority: RCW 43.320.040 and 18.44.410. WSR 13-24-022, § 208-680-045, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040 and chapter 18.44 RCW (as amended by 2010 c 34). WSR 10-20-124, § 208-680-045, filed 10/5/10, effective 11/5/10.]