

WAC 208-680-310 Fidelity and surety bonds. (1) **What is a fidelity bond under the act?** For purposes of the act, a fidelity bond is a primary commercial blanket bond or an equivalent bond or a combination of more than one bond acceptable to the department, regardless of the name used to identify the specific insurance product. A bond or bond combination is an acceptable equivalent if it meets the requirements of the act. At a minimum, the fidelity bond or equivalent or bond combination must:

- (a) Provide an aggregate minimum coverage of one million dollars;
- (b) Have a deductible of no more than ten thousand dollars;
- (c) Cover fraudulent or dishonest acts committed by one or more principal officers, partners, sole practitioners, escrow officers, and employees, acting alone or in concert; and
- (d) Run to the benefit of the escrow agent, unless the fraudulent or dishonest act is committed by one or more principal officers, partners, or sole practitioners, in which case it runs to the benefit of the harmed consumer(s).

(2) If my fidelity bond does not cover principal officers, partners, or sole proprietors, or limits coverage for the fraudulent or dishonest acts committed by them, is it compliant with the act? No, not unless the principal officers, partners, or sole proprietors are also employees as defined in the policy and covered by the policy. If your policy does not cover or limits coverage for principal officers, partners or sole practitioners, the department may require that you provide a declaration confirming the employment status of those individuals. Not providing the declaration may result in the department's rejection of the bond. The declaration may also require that you certify that any employees not included in the declaration are not providing escrow services and have no involvement with the day-to-day operations of the escrow agent or trust account.

(3) **I am unable to find a fidelity bond that permits third parties to claim on the bond. Can I use a bond that does not allow a third party to claim on the bond?** If you make a good faith effort to find a bond that complies with the statutory and regulatory requirements, and are unable to do so, the department may accept a bond that meets the other fidelity requirements but does not permit third-party claims. The department may relax this requirement only until a determination can be made about the general availability of conforming bonds.

Licensees that use a nonconforming bond as authorized under this subsection should be aware that the department may consider a refusal to file a claim on a fidelity bond for fraudulent or dishonest acts committed by a principal officer, partner, or sole practitioner, to be conducting business in an unsafe or unsound manner under RCW 18.44.455 and WAC 208-680-645.

(4) **Am I required to maintain any other kind of bond?** If your fidelity bond has a deductible, you must maintain a surety bond in the amount of ten thousand dollars. The surety bond is a promise to pay the ten thousand dollar deductible in the event there is a claim on the fidelity bond and must run to the benefit of the state and any person harmed by an escrow agent or its employees. The surety bond must be an original signed and sealed document with power of attorney attached, not a certificate of insurance.

(5) **How long must I maintain my bonds?** All bonds must be kept in effect while you are providing escrow services. Additionally, after closure of your office you must maintain your fidelity bond and surety

bond if applicable until your escrow trust accounts have been reconciled and all trust account balances are zero.

(6) How do I demonstrate compliance with the bond requirements?

Along with your application or renewal, you must provide the department with a certificate of insurance. You must also provide coverage information to the department upon demand. The certificate of insurance does not need to be entitled certificate of insurance, but must include at a minimum:

- (a) Your escrow agent's name;
- (b) The insurer's name;
- (c) The aggregate amount of coverage; and
- (d) The amount of any deductible.

To ensure compliance with the bonding requirements, you must provide a copy of the full bond language to the department during your first year of compliance, and then upon demand in subsequent years.

[Statutory Authority: RCW 43.320.040 and 18.44.410. WSR 13-24-022, § 208-680-310, 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, § 208-680-310, filed 10/5/10, effective 11/5/10.]