

WSR 08-09-033
EXPEDITED RULES
DEPARTMENT OF LICENSING

[Filed April 9, 2008, 10:09 a.m.]

Title of Rule and Other Identifying Information: WAC 308-390-105 Fees.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Margaret Vogeli, DOL/UCC, P.O. Box 9660, Olympia, WA 98507-9660, AND RECEIVED BY June 24, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To add 2008 legislated surcharge to filing fees.

Reasons Supporting Proposal: In an effort to combat financial fraud and identify theft, the 2008 legislature added a surcharge to the current fee for each record filed with the Uniform Commercial Code program. Beginning June 12, 2008, a surcharge of \$3 is being added to each electronic filing, and a surcharge of \$8 is being added to each paper filing. These surcharges will fund the new financial fraud and identity theft crimes investigation and prosecution program that will be run by the department of community, trade, and economic development.

Statutory Authority for Adoption: Chapters 62A.9A, 60.11, 60.13, 60.68 RCW.

Statute Being Implemented: RCW 62A.9A-525 (f)(2).

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Margaret Vogeli, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1530; Implementation: Reddy Adamala, 405 Black Lake Boulevard, Olympia, WA 98502; and Enforcement: Nancy Skewis, 405 Black Lake Boulevard, Olympia, WA 98502, (360) 664-1446.

April 3, 2008
 Nancy Skewis
 Administrator

AMENDATORY SECTION (Amending WSR 07-23-030, filed 11/9/07, effective 2/11/08)

WAC 308-390-105 Fees. (1) The fee for filing and indexing a UCC record ~~((of one or two pages communicated on paper is \$15.00. If there are additional pages, the fee is \$1.00 for each additional page. The fee for filing and indexing a UCC record communicated by a medium authorized by these rules which is other than on paper is \$8.00.))~~ is:

<u>FILINGS</u>	<u>DELIVERY MODE</u>	<u>FEE INCLUDING SURCHARGE</u>
<u>Financing Statement</u>	<u>electronic</u>	<u>\$11.00</u>
<u>Financing Statement Amendment</u>	<u>electronic</u>	<u>\$11.00</u>
<u>Correction Statement</u>	<u>electronic</u>	<u>\$11.00</u>
<u>UCC1 Financing Statement (1 or 2 pages)</u>	<u>mail</u>	<u>\$23.00</u>
<u>UCC3 Financing Statement Amendment (1 or 2 pages)</u>	<u>mail</u>	<u>\$23.00</u>
<u>UCC5 Correction Statement (1 or 2 pages)</u>	<u>mail</u>	<u>\$23.00</u>
<u>Attachment (third and subsequent pages)</u>	<u>mail</u>	<u>\$1.00 each page</u>

(2) UCC search fee. The fee for processing a UCC search request ~~((communicated on paper is \$10.00. The fee for processing a UCC search request communicated by a medium authorized by these rules which is other than on paper is \$0.00.~~

(3) UCC search with copies. The fee for a UCC search and copies of all relevant records is ~~\$15.00.))~~ is:

<u>SEARCHES</u>	<u>DELIVERY MODE</u>	<u>FEE</u>
<u>Search by debtor name</u>	<u>electronic</u>	<u>No charge</u>
<u>Search by file number</u>	<u>electronic</u>	<u>No charge</u>
<u>Debtor name search with copies</u>	<u>electronic</u>	<u>\$15.00</u>
<u>Search held to reflect the filing</u>	<u>electronic</u>	<u>\$10.00/debtor name</u>
<u>UCC11 Search response</u>	<u>mail</u>	<u>\$10.00</u>
<u>UCC11 Search response with copies</u>	<u>mail</u>	<u>\$15.00</u>
<u>Search held to reflect the filing (UCC1 box 7)</u>	<u>mail</u>	<u>\$10.00/debtor name</u>

WSR 08-09-058
EXPEDITED RULES

DEPARTMENT OF LICENSING

[Filed April 15, 2008, 9:07 a.m.]

Title of Rule and Other Identifying Information: WAC 308-33-110, 308-33-120 and 308-33-130, relating to brief adjudicative proceedings and the Employment Agency Act.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Ramona Provost, Department of Licensing, P.O. Box 9020, Olympia, WA 98507-9020, AND RECEIVED BY June 24, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To repeal those administrative rules that conflict with the Uniform Regulation of Business and Professions (URBP) Act rules regarding brief adjudicative proceedings.

Reasons Supporting Proposal: The program now uses the URBP WAC 308-08-115 and 308-08-525.

Statutory Authority for Adoption: RCW 19.31.070.

Statute Being Implemented: Chapter 19.31 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Harumi Tolbert, 405 Black Lake Boulevard S.W., Olympia, WA 98507, (360) 664-1389.

April 8, 2008
Nancy Skewis
Administrator

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 308-33-110 Application of brief adjudicative proceedings.
- WAC 308-33-120 Preliminary record in brief adjudicative proceedings.
- WAC 308-33-130 Conduct of brief adjudicative proceedings.

WSR 08-09-133
EXPEDITED RULES

OFFICE OF
INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2008-10—Filed April 23, 2008, 8:23 a.m.]

Title of Rule and Other Identifying Information: Amending chapter 284-02 WAC to more completely state the types of hearings conducted by the commissioner and how the office of the insurance commissioner (OIC) will accept materials required to be "sent" or "delivered."

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Insurance Commissioner, P.O. Box 40258, Olympia, WA 98504-0258, e-mail Kacys@oic.wa.gov, AND RECEIVED BY June 24, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Recently it was noticed that the description in chapter 284-02 WAC of the commissioner's hearing process was incomplete. The amendment to WAC 284-02-070 adds the correct citation for "general" hearings to the description of hearings held by the office of the insurance commissioner.

There is no definition of "send" in Title 284 WAC and over the years the customary methods of sending documents to the OIC have expanded to include electronic transmission. New WAC 284-02-105 will inform interested persons that, except where a specific section requires otherwise, "sending" or "delivery" includes mail, personal delivery, fax, and e-mail.

Reasons Supporting Proposal: Chapter 284-02 WAC is a description of how the office of the insurance commissioner works (as required by RCW 34.05.220 (1)(b)). These amendments add clarity to that chapter.

Statutory Authority for Adoption: RCW 48.02.060, 34.05.220.

Statute Being Implemented: RCW 34.05.220.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7039; Implementation and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

April 23, 2008
Mike Kreidler
Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2003-09, filed 12/14/06, effective 1/14/07)

WAC 284-02-070 How does the OIC conduct hearings? (1) Generally.

(a) Hearings of the OIC are conducted according to chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). In addition to general hearings conducted pursuant to RCW 48.04.010, two specific types of hearings are conducted pursuant to the Administrative Procedure Act: Rule-making hearings and adjudicative proceedings or contested case hearings. Contested case hearings include appeals from disciplinary actions taken by the commissioner.

(b) **How to demand or request a hearing.** Under RCW 48.04.010 the commissioner is required to hold a hearing upon demand by any person aggrieved by any act, threatened act, or failure of the commissioner to act, if the failure is deemed an act under the insurance code or the Administrative Procedure Act.

(i) Hearings can be demanded by an aggrieved person based on any report, promulgation, or order of the commissioner.

(ii) Requests for hearings must be in writing and delivered to the Tumwater office of the OIC. The request must specify how the person making the demand has been aggrieved by the commissioner, and must specify the grounds to be relied upon as the basis for the relief sought.

(c) Accommodation will be made for persons needing assistance, for example, where English is not their primary language, or for hearing impaired persons.

(2) Proceedings for contested cases or adjudicative hearings.

(a) Provisions specifically relating to disciplinary action taken against persons or entities authorized by the OIC to transact the business of insurance are contained in RCW 48.17.530, 48.17.540, 48.17.550, 48.17.560, chapter 48.102 RCW, and other chapters related to specific licenses. Provisions applicable to other adjudicative proceedings are contained in chapter 48.04 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The uniform rules of practice and procedure appear in Title 10 of the Washington Administrative Code. The grounds for disciplinary action against insurance agents, brokers, solicitors, and adjusters are contained in RCW 48.17.530; grounds for similar action against insurance companies are contained in RCW 48.05.140; grounds for actions against fraternal benefit societies are found at RCW 48.36A.300 (domestic) and RCW 48.36A.310 (foreign); grounds for actions against viatical settlement providers are found in chapter 48.102 RCW; grounds for actions against health care service contractors are contained in RCW 48.44.160; and grounds for action against health maintenance organizations are contained in RCW 48.46.130. Grounds for actions against other persons or entities authorized by the OIC under Title 48 RCW are found in the chapters of Title 48 RCW applicable to those licenses.

(b) The insurance commissioner may suspend or revoke any license, certificate of authority, or registration issued by the OIC. In addition, the commissioner may generally levy fines against any persons or organizations having been authorized by the OIC.

(c) Adjudicative proceedings or contested case hearings of the insurance commissioner are informal in nature, and compliance with the formal rules of pleading and evidence is not required.

(i) The insurance commissioner may delegate the authority to hear and determine the matter and enter the final order under RCW 48.02.100 and 34.05.461 to a presiding officer; or may use the services of an administrative law judge in accordance with chapter 34.12 RCW and the Administrative Procedure Act (chapter 34.05 RCW). The initial order of an administrative law judge will not become a final order without the commissioner's review (RCW 34.05.464).

(ii) The hearing will be recorded by any method chosen by the presiding officer. Except as required by law, the OIC is not required, at its expense, to prepare a transcript. Any party, at the party's expense, may cause a reporter approved by the presiding officer to prepare a transcript from the agency's record, or cause additional recordings to be made during the hearing if, in the opinion of the presiding officer, the making of the additional recording does not cause distraction or disruption. If appeal from the insurance commissioner's order is made to the superior court, the recording of the hearing will be transcribed and certified to the court.

(iii) The insurance commissioner or the presiding officer may allow any person affected by the hearing to be present during the giving of all testimony and will allow the aggrieved person a reasonable opportunity to inspect all documentary evidence, to examine witnesses, and to present evidence. Any person heard must make full disclosure of the facts pertinent to the inquiry.

(iv) Unless a person aggrieved by an order of the insurance commissioner demands a hearing within ninety days after receiving notice of that order, or in the case of persons or entities authorized by the OIC to transact the business of insurance under Title 48 RCW, within ninety days after the order was mailed to the most recent address shown in the OIC's licensing records, the right to a hearing is conclusively deemed to have been waived (RCW 48.04.010(3)).

(v) Prehearing or other conferences for settlement or simplification of issues may be held at the discretion and direction of the presiding officer.

(3) **Rule-making hearings.** Rule-making hearings are conducted based on requirements found in the Administrative Procedure Act (chapter 34.05 RCW) and chapter 34.08 RCW (the State Register Act).

(a) Under applicable law all interested parties must be provided an opportunity to express their views concerning a proposed rule, either orally or in writing. The OIC will accept comments on proposed rules by mail, electronic telefacsimile transmission, or electronic mail but will not accept comments by recorded telephonic communication or voice mail (RCW 34.05.325(3)).

(b) Notice of intention of the insurance commissioner to adopt a proposed rule or amend an existing rule is published in the state register and is sent to anyone who has requested notice in advance and to persons who the OIC determines would be particularly interested in the proceeding. Persons requesting paper copies of all proposed rule-making notices of inquiry and hearing notices may be required to pay the cost of mailing these notices (RCW 34.05.320(3)).

(c) Copies of proposed new rules and amendments to existing rules as well as information related to how the public may file comments are available on the OIC web site (www.insurance.wa.gov).

NEW SECTION

WAC 284-02-105 What does "sending" or "delivery" include? Throughout Title 284 WAC, whenever written notice is required to be sent or delivered to the commissioner, "sending" or "delivery" includes transmitting the required information in writing and, where appropriate, on forms designated by the commissioner for that purpose via first class mail, commercial parcel delivery company, electronic telefacsimile, or e-mail, unless the relevant requirement specifies sending the written notice in some specific manner, such as via first class mail, postage prepaid.

**WSR 08-09-139
EXPEDITED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS**

[Filed April 23, 2008, 8:51 a.m.]

Title of Rule and Other Identifying Information: The fees section of the rules implementing the Mortgage Broker Practices Act (chapter 19.146 RCW and chapter 208-660 WAC) must be amended to not contravene I-960. The fee section proposed for amendment is WAC 208-660-550.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Elizabeth Stancil, Department of Financial Institutions, Division of Consumer Services, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-8786, estancil@dfi.wa.gov, AND RECEIVED BY June 24, 2008.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The fee section of the rules must be amended to not contravene I-960. See the full text of the rules proposed for amendment below.

Reasons Supporting Proposal: If the rules are not amended they would be in opposition to I-960.

Statutory Authority for Adoption: RCW 43.320.040, 19.146.223.

Statute Being Implemented: Chapter 19.146 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Tumwater, WA, (360) 902-8800; Implementation and Enforcement: Deborah Bortner, 150 Israel Road, Tumwater, WA, (360) 902-0511.

April 23, 2008

Deborah Bortner, Director
Division of Consumer Services

AMENDATORY SECTION (Amending WSR 08-05-126, filed 2/20/08, effective 3/22/08)

WAC 208-660-550 Department fees and costs. (1) ~~((The department intends to increase its fees and costs each year for several bienniums. The department intends to initiate rule making each biennium for this purpose. This rule provides for an automatic annual increase in the rate of fees and costs each fiscal year during the 2007-2009 biennium.~~

~~(a) On July 1, 2007, and July 1, 2008, these fees and costs, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.~~

~~(b) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.~~

~~(c) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.~~

~~(2))~~ **Mortgage broker licenses.**

Mortgage broker - license application fee	\$371.00
Mortgage broker - annual assessment (due upon initial licensing, then an annual renewal fee, per location)	\$530.00
Mortgage broker late renewal assessment (fifty percent of annual assessment)	\$265.00
Mortgage broker branch office - license application fee	\$185.00
Mortgage broker branch office - annual assessment (annual renewal fee, per location)	\$530.00
Mortgage broker - license amendment	No fee
Mortgage broker - change of designated broker	\$25.00

~~((3))~~ **(2) Loan originator licenses.**

Loan originator - license application fee	\$125.00
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Loan originator - annual assessment (not due until first renewal; then an annual renewal fee)	\$125.00
Loan originator late renewal assessment (fifty percent of annual assessment)	\$62.50
Loan originator - cancel association with any mortgage broker	No fee
Loan originator - license amendment - add a mortgage broker relationship	\$50.00
Loan originator - license amendment - other	No fee

When the realignment of license expiration or renewal dates results in a partial year of licensing, the department will impose a proportionate fee structure to accommodate that realignment.

~~((4))~~ **(3) Examinations.**

(a) In Washington. The department does not charge a licensee located in Washington for the costs of an examination.

(b) Outside of Washington. The department will charge the licensee for travel costs.

(c) If the department hires professionals, specialists, or both to examine an out-of-state licensee, the professional, specialist, or both will be considered examiners for the purpose of billing the licensee for travel costs.

~~((5))~~ **(4) Investigations.**

(a) The department will charge forty-eight dollars per hour for an examiner's time devoted to an investigation.

(b) The department will bill the licensee for the costs of services from attorneys, accountants, or other professionals or specialists retained by the director to aid in the investigation.

~~((6))~~ **(5) Travel costs.** If the mortgage business is out-of-state, the department will charge the business the travel costs associated with an examination or investigation. Travel costs include, but are not limited to, transportation costs (airfare, rental cars), meals, and lodging.

~~((7))~~ **(6) How is the annual assessment calculated?**

The assessment is a flat rate per license.

~~((8))~~ **(7) How does the department use license application fees?** The fees collected by the department are used to pay the costs of administering the act.