



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** Office of Insurance Commissioner

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** RCW 48.29.015 requires that title insurance agents file an annual report with the Insurance Commissioner setting forth the name and address of those persons who have a financial interest in the title insurance agent during the year. In addition the report must included the percent of title orders originating from each of those persons who own a financial interest in the title insurance agent. These rules establish the information that must be included in the report, the procedures for filing the report, the procedures for reporting the sources of title orders received, and recordkeeping requirements related to the reporting procedures.

Insurance Commissioner Matter No. R 2008-22

**Citation of existing rules affected by this order:**

Repealed:  
Amended:  
Suspended:

**Statutory authority for adoption:** RCW 48.02.060, RCW 48.29.005

**Other authority :** RCW 48.29.015

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR 09-14-039 on June 24, 2009 (date).

Describe any changes other than editing from proposed to adopted version: N/A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

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**Date adopted:**

October 5, 2009

**NAME (TYPE OR PRINT)**

Mike Kreidler

**SIGNATURE**

**TITLE**

Insurance Commissioner

**CODE REVISER USE ONLY**

**OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED**

**DATE: October 05, 2009  
TIME: 8:47 AM**

**WSR 09-20-070**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	7	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	7	Amended	_____	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	7	Amended	_____	Repealed	_____

## Chapter 284-29 WAC

### TITLE INSURANCE

#### NEW SECTION

**WAC 284-29-100 Definitions.** For purposes of this rule:

(1) An "affiliate" of, or person "affiliated" with a title insurance agent is a person who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(2) "Associates of producers" has the meaning as set forth in RCW 48.29.010 (3) (f).

(3) "Financial interest" has the meaning as set forth in RCW 48.29.010 (3) (d).

(4) "Person" has the meaning as set forth in RCW 48.01.070.

(5) "Producers of title insurance business or producer" has the meaning as set forth in RCW 48.29.010 (3) (e) and also includes associate of producers as set forth in RCW 48.29.010 (3) (f).

(6) "Report of affiliated business ownership" means a report required by RCW 48.29.015 setting forth the name, address, and percent of title orders originating from those persons who have had a financial interest in a title insurance agent.

(7) "Title insurance agent" has the meaning as set forth in RCW 48.17.010(15).

(8) "Title order" has the same meaning as "preliminary report," "commitment," or "binder" as set forth in RCW 48.29.010 (3) (c) and also includes "title policy" as set forth in RCW 48.29.010 (3) (a).

#### NEW SECTION

**WAC 284-29-110 No report required.** (1) If a title insurance agent does not have any producers of title insurance business or associates of a producer who own a financial interest in the title insurance agent, then the title insurance agent is not required to file the title insurance agent report of affiliated business ownership.

(2) If a title insurance agent is wholly owned through one or

more intermediaries of a company traded on a national stock exchange, then the title insurance agent is not required to file the title insurance agent report of affiliated business ownership.

NEW SECTION

**WAC 284-29-120 Report form.** The title insurance agent report of affiliated business ownership form and instructions as to how and where to submit the form are on the commissioner's web site at [www.insurance.wa.gov](http://www.insurance.wa.gov).

NEW SECTION

**WAC 284-29-130 Report required.** (1) The title insurance agent report of affiliated business ownership must be filed with the commissioner annually by March 15th.

(2) If there is any change or addition to the ownership information contained in the annual report, then the title insurance agent must file an amended report with the commissioner within fifteen days after the end of the month in which the title insurance agent learns of the change or addition.

(3) Changes to the information regarding the percent of title orders originating from each of the producers do not need to be filed with the commissioner except with the annual filing. If the title insurance agent discovers or reasonably should have discovered that the information contained in the annual filing was not correct, then the title insurance agent must file an amended report within fifteen days after the end of the month in which the title insurance agent discovered the incorrect information.

NEW SECTION

**WAC 284-29-140 Identifying producers.** (1) If a person who has a financial interest in a title insurance agent also owns a controlling interest in another producer, then the title insurance agent must report this person and the other business entities controlled by the person as producers who have a financial interest in the title insurance agent. For example if John Brown personally has a financial interest in a title insurance agent and John Brown also owns a controlling interest in ABC Realty Co. and XYZ Home

Builders Inc., then the title insurance agent, in addition to reporting John Brown as a producer, must also report ABC Realty Co. and XYZ Home Builders Inc. as producers having a financial interest in the title insurance agent.

(2) In reporting producers who have a financial interest in the title insurance agent, the information about the producer must be sufficient to properly identify the person who is directly in a position to refer or influence the referral of title insurance business to the title insurance agent.

(3) If a producer owns the financial interest in the title insurance agent through one or more intermediary entities, then the identity of the producer and the identity of other entities that the producer owns a controlling interest in that are producers must be set forth in the report. For example, if Henry Smith and Frank Jones own an interest in Joint Venture Co., and Joint Venture Co. has a financial interest in the title insurance agent, then Henry Smith and Frank Jones must be identified in the report as producers who have a financial interest in the title insurance agent, in addition to reporting other entities who are producers that are owned by Henry Smith and Frank Jones.

#### NEW SECTION

**WAC 284-29-150 Reporting of amount of business.** A title insurance agent must make all reasonable and good faith efforts to determine the source of the title orders that it receives. This must also include information that the title insurance agent obtains when it is also acting as an escrow agent for the transaction. For example:

(1) If a title insurance agent receives a title order in which the seller is XYZ Home Builders Inc., owned by John Brown who has a financial interest in the title insurance agent, then it may be assumed that the source of the title order was John Brown (XYZ Home Builders, Inc.) even though the title order may have been directly received from another person.

(2) If the title insurance agent receives a title order from a producer with a financial interest in the title insurance agent held through one or more intermediary entities, then the specific producer must be identified as the source of the title order. For example, Henry Smith and Frank Jones own an interest in Joint Venture Co., and Joint Venture Co. directly holds the financial interest in the title insurance agent. Henry Smith must be reported as the source of the title insurance business for title orders received from Henry Smith. Likewise, Frank Jones must be reported as the source of title insurance business of orders received from Frank Jones. The amount of business received from both Henry Smith and Frank Jones may not be aggregated and reported as being from Joint Venture Co.

(3) If a title insurance agent receives an order in its escrow department from ABC Realty Co. (owned by John Brown who also has a financial interest in the title insurance agent), and the escrow department then places the title order with the title department of the title insurance agent, then the title insurance agent must report the source of the title order as being ABC Realty Inc.

(4) If the title insurance agent handling the transaction, either through its title department or its escrow department, or both, has information that ABC Realty Inc. (owned by John Brown who has a financial interest in the title insurance agent) is one of the real estate companies involved in the transaction, then it must be assumed that ABC Realty Inc. was the source of the title order unless the title insurance agent has sufficient evidence that the title order was referred to the title insurance agent by another producer.

#### NEW SECTION

**WAC 284-29-160 Recordkeeping.** (1) A title insurance agent must keep and maintain complete and accurate records of the names and business addresses of those persons who have had a financial interest in the title insurance agent who are reasonably known or reasonably believed by the title insurance agent to be producers.

(2) A title insurance agent must keep and maintain records of its title orders sufficient to identify the source of the title orders.

(3) The records required by WAC 284-29-100 through 284-29-160 must be kept by the title insurance agent for a period of three years after the end of the year being reported upon.

(4) All records of a title insurance agent kept pursuant to WAC 284-29-100 through 284-29-160 must be available to the commissioner or the commissioner's representative during regular business hours.