



November 17, 2021

VIA Email

Tabba Alam
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rulescoordinator@oic.wa.gov

Dear Tabba Alam,

Whatcom Land Title Company, Inc. (WLT) is interested in the discussions pertaining to Proposed Rule Making CR-102 (October 2017), WSR 21-21-102, and wishes to make a comment for consideration.

The proposed regulation, where inserted in the WACs, and as written, is ambiguous as to what records in particular must be stored in Washington State. WAC 284-29-160 (1) through (4) address only: (1) those records relating to "names and business addresses of those persons who have had a financial interest in the title insurance agent," (2) "records . . . sufficient to identify the source of the title orders," (3 and 4) and records under WAC 284-29-100 through WAC 284-29-160. The records described under WAC 284-29-100 through WAC 284-29-150 relate exclusively to affiliated business ownership and those who have a controlling interest in another producer. This is a very select group of records, and does not include all title records, i.e. those records referenced under RCW 48.17.470 and RCW 48.29.190(1)(a).

The Proposed Rule Making, however, states the *purpose of the proposal* is,

"The current state law on out of state title records storage requires title insurance companies and agents, who are conducting business of an escrow agent, to keep adequate records of all transactions, and these records must be maintained in Washington, unless otherwise approved by the Commissioner (RCW 48.29.190(1)(a))."

The Proposed Rule Making further states the *reasons supporting the proposal* as,

*"Rulemaking is required to outline the process for title insurance companies and agents to request approval under RCW 48.29.180(1)(a) and detail the requirements for title insurance companies and agents to store **title records** outside of Washington."*

This *purpose* and *reason* are more broad than what the actual proposed language appears to change. The records described in RCW 48.29.190(1)(a) are more robust and entirely different than those records currently described under WAC 284-29-100 through 160. Records under RCW 48.29.190(1)(a) have a retention period of 6 years while records under WAC 284-29-100 through 160 have a retention period of 3 years.


If the Office of the Insurance Commissioner indeed intends to alter the retention location of all *title records*, WLT shares in the concerns expressed in comments by First American Title Insurance Company, Fidelity

National Title Group, and NexTitle. The proposed language would need to be much more clear; should include a large grace period for compliance, address cloud/hard copy/server storage, and address whether duplicative retention locations require approval since the proposed language currently contemplates a single storage location and any useful disaster recovery plan has built in redundancies.

If the intent of the proposed rule making is to clarify the storage location of records currently described under WAC 284-29-100 through 160, *and not alter the storage or treatment of other title records*, WLT proposes clarify language as follows,

- (5) Title insurance companies and agents shall store records **described in paragraphs (1) through (4) of this section** in this state, unless otherwise approved by the commissioner in accordance with RCW 48.29.190.
- (a) Title Insurance companies and agents must request approval from the commissioner prior to storing **said** records outside of the state. Requests shall be emailed to prodcomp@oic.wa.gov.
- (b) The commissioner will review and consider approval of the out-of-state title records storage if the records are readily accessible, securely stored, and maintained **per** the required statutory terms.
- (c) If the title insurance company or agent plans to change the approved location of the out-of-state record storage, notification to the commissioner is required and reapproval must be granted prior to the change.
- (d) Out-of-state record storage must comply with the security and data breach reporting requirements in WAC 284-04-625.

Respectfully,



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