



## ***DCU BULLETIN***

*Division of Credit Unions*

*Washington State Department of Financial Institutions*

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October 22, 2001

No. B-01-18

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### **Division Distributes Revised Version of WAC 208-418**

As you know, the Division of Credit Unions recently completed the revision of Chapter 208-418 WAC regarding fees charged to credit unions and other persons. The Office of the Code Reviser has now completed the revisions, and the new version can be found on our web site at <http://www.dfi.wa.gov/cu/default.htm>.

Included is a copy of the CR-103, the marked-up version of the rule, and the new (clean) version of the rule, for your convenience in reviewing the changes. If you have any questions, please contact:

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# RULE-MAKING ORDER

(RCW 34.05.360)

**CR-103** (12/31/00)

<b>Agency:</b> Department of Financial Institutions	<input checked="" type="checkbox"/> Permanent Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Expedited Repeal						
<b>(1) Date of adoption:</b> May 23, 2001							
<b>(2) Purpose:</b> To increase assessments and fees paid by credit unions and other parties to the Division of Credit Unions.							
<b>(3) Citation of existing rules affected by this order:</b> Repealed: WAC 208-418-060 Amended: WAC 208-418-020, -040, -050, -070 Suspended:							
<b>(4) Statutory authority for adoption:</b> RCW 31.12.426(1), RCW 31.12.516(2), RCW 43.320.040 Other Authority:							
<b>PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)</b> Adopted under notice filed as WSR 01-07-082 on March 21, 2001. Describe any changes other than editing from proposed to adopted version: Based on comments received, the Division changed the rule in its final version to limit to two the number of automatic annual increases in the rate of assessments/fees: one on July 1, 2001, and one on July 1, 2002.							
<b>EMERGENCY RULE ONLY</b> Under RCW 34.05.350 the agency for good cause finds: <input type="checkbox"/> (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest. <input type="checkbox"/> (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.  Reasons for this finding:							
<b>EXPEDITED REPEAL ONLY</b> Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)							
<b>(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No    If Yes, explain:							
<b>(6) Effective date of rule:</b> <table style="width:100%; border:none;"> <tr> <td style="width:50%;"><b>Permanent Rules</b></td> <td style="width:50%;"><b>Emergency Rules</b></td> </tr> <tr> <td><input checked="" type="checkbox"/> 31 days after filing</td> <td><input type="checkbox"/> Immediately</td> </tr> <tr> <td><input type="checkbox"/> Other (specify) *</td> <td><input type="checkbox"/> Later (specify)</td> </tr> </table> <small>*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)</small>	<b>Permanent Rules</b>	<b>Emergency Rules</b>	<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately	<input type="checkbox"/> Other (specify) *	<input type="checkbox"/> Later (specify)	<b>CODE REVISER USE ONLY</b>
<b>Permanent Rules</b>	<b>Emergency Rules</b>						
<input checked="" type="checkbox"/> 31 days after filing	<input type="checkbox"/> Immediately						
<input type="checkbox"/> Other (specify) *	<input type="checkbox"/> Later (specify)						
Name (Type or Print) John L. Bley							
Signature							
Title Director	Date						

**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	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

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

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted on the agency's own initiative:**

	New	<u>3</u>	Amended	<u>4</u>	Repealed	<u>1</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**Chapter 208-418 WAC**  
**FEES CHARGED TO CREDIT UNIONS AND**  
**OTHER PERSONS**

(Formerly chapter 419-18 WAC) **Last Update: 5/23/01 WAC**

08-418-010	Definitions.
08-418-020	Collection of fees.
08-418-040	Quarterly asset assessments.
08-418-050	Pass through of attorney general costs.
08-418-070	Other fees.
08-418-090	Rate increase.
08-418-100	Waiver of fees.

**DISPOSITION OF SECTIONS FORMERLY**  
**CODIFIED IN THIS CHAPTER**

208-418-030	Hourly charge for examinations. [96-06-011, recodified as § 208-418-030, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-030, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-030, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1). 85-07-008 (Order 85-2), § 419-18-030, filed 3/8/85. Statutory Authority: RCW 31.12.320. 82-13-016 (Order 82-5), § 419-18-030, filed 6/7/82.] Repealed by 96-12-058, filed 5/31/96, effective 7/1/96. Statutory Authority: 1996 c 274.
208-418-045	Credit unions examination fund--Minimum cash balance--Acceleration of semiannual asset charge. [96-06-011, recodified as § 208-418-045, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-045, filed 2/28/95, effective 3/31/95.] Repealed by 96-17-072, filed 8/20/96, effective 9/20/96. Statutory Authority: RCW 42.320.040 [43.320.040].
208-418-060	One-time special assessment for fiscal 1997. [Statutory Authority: 1996 c 274. 96-12-058, § 208-418-060, filed 5/31/96, effective 7/1/96. 96-06-011, recodified as § 208-418-060, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-060, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-060, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1). 85-07-008 (Order 85-2), § 419-18-060, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-060, filed 9/26/83.] Repealed by 01-12-004, filed 5/23/01, effective 6/23/01. Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040.
208-418-080	Scheduled increases in rate of examination and supervision charges. [96-06-011, recodified as § 208-418-080, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-080, filed 2/28/95, effective 3/31/95.] Repealed by 96-12-058, filed 5/31/96, effective 7/1/96. Statutory Authority: 1996 c 274.

**WAC 208-418-010 Definitions.** Unless the context clearly requires otherwise, as used in this chapter:

(1) "Credit union" includes a Washington credit union, an out-of-state credit union and a foreign credit union.

(2) "Foreign credit union" means a credit union organized and operating under the laws of another country or other foreign jurisdiction, that is operating a branch in Washington in accordance with RCW 31.12.471.

(3) "Hourly fee" means a fee of \$57.42 per hour per examiner or other staff person of the division.

(4) "Out-of-state credit union" means a credit union organized and operating under the laws of another state or U.S. territory or possession, that is operating a branch in Washington in accordance with RCW 31.12.471.

(5) (a) "Total assets" of a Washington credit union includes all assets of the credit union as reported on the credit union's most recent form 5300 or similar financial report.

(b) "Total assets" of an out-of-state or foreign credit union is derived from the following fraction:

Total assets x in-state branch shares and  
deposits

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Total shares and deposits

"Total assets" and "shares and deposits" include respectively all assets and shares and deposits as reported on the credit union's most recent form 5300 or similar financial report.

(6) "Washington credit union" means a credit union organized and operating under chapter 31.12 RCW.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-010, filed 5/23/01, effective 6/23/01.]

**WAC 208-418-020 Collection of fees.** Chapter 31.12 RCW authorizes the director to charge fees to credit unions and certain other persons in order to cover the costs of the operation of the division of credit unions and to establish a reasonable reserve for the division. As set forth in more detail in this chapter, the fees for this purpose shall consist of:

- (1) Quarterly asset assessments charged to credit unions;
- (2) Charges to a credit union for costs incurred by the division for certain types of attorney general or special counsel assistance in regard to the credit union; and
- (3) Certain other fees charged by the director.

The director may waive all or any portion of any fee payable by a credit union or other person.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-020, filed 5/23/01, effective 6/23/01. Statutory Authority: 1996 c 274. 96-12-058, § 208-418-020, filed 5/31/96, effective 7/1/96. 96-06-011, recodified as § 208-418-020, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-020, filed 2/28/95, effective 3/31/95. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-020, filed 9/26/83; 82-13-016 (Order 82-5), § 419-18-020, filed 6/7/82.]

**WAC 208-418-040 Quarterly asset assessments.** (1) The director will charge each credit union a quarterly asset assessment at the rate set forth in subsection (2) of this section. Asset assessments will be due on January 1, April 1, July 1, and October 1. Asset assessments must be paid no later than thirty days after their due date. The assessments will be computed on total assets as of the prior June 30 for the October 1 and January 1 assessments, and as of the prior December 31 for the April 1 and July 1 assessments.

(2)	Credit Union's Total Assets	Quarterly Asset Assessment
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over \$500M	\$18,883 + 0.00001543 x total assets over \$500M
over \$100M up to \$500M	\$5,250 + 0.00003408 x total assets over \$100M
over \$25M up to \$100M	0.00005250 x total assets
over \$10M up to \$25M	\$1,157
over \$2M up to \$10M	\$771
over \$500K up to \$2M	\$514
up to \$500K	\$0

M = Million K = Thousand

(3) Quarterly asset assessments are charged for the calendar quarter that begins on the due date of the assessment. No rebates will be made to credit unions that cease to be state-chartered during the quarter. A credit union converting to state charter will pay a prorated quarterly asset assessment for the quarter during which the conversion is completed.

(4) From time to time, the director may determine that asset assessments on an out-of-state credit union or foreign credit union are inappropriate relative to the level of examination and supervision of that credit union by the division. In that event, the director may charge the credit union hourly fees for examination and supervision of the credit union, including, but not limited to, off-site monitoring, in lieu of asset assessments. Such fees are due upon receipt of billing from the division.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-040, filed 5/23/01, effective 6/23/01. Statutory Authority: 1996 c 274. 96-12-058, § 208-418-040, filed 5/31/96, effective 7/1/96. 96-06-011, recodified as § 208-418-040, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-040, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-040, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1). 85-07-008 (Order 85-2), § 419-18-040, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-040, filed 9/26/83; 82-13-016 (Order 82-5), § 419-18-040, filed 6/7/82.]

**WAC 208-418-050 Pass through of attorney general costs.** (1) The director will charge each credit union the actual cost incurred by the division of credit unions for certain legal assistance rendered by an assistant attorney general or special counsel in regard to the credit union. Legal assistance includes legal assistance rendered in connection with: Supervisory committee meetings and board meetings; receiverships, conservatorships, liquidations and declarations of insolvency; enforcement agreements or actions; collection actions; administrative hearings; and opinions requested by a credit union or the division of credit unions. Charges are due upon receipt of billing from the division.

(2) The division will notify a credit union before the division incurs expense for legal assistance which may be charged to the credit union under this section.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-050, filed 5/23/01,

effective 6/23/01. Statutory Authority: 1996 c 274. 96-12-058, § 208-418-050, filed 5/31/96, effective 7/1/96. 96-06-011, recodified as § 208-418-050, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-050, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-050, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-050, filed 9/26/83.]

**WAC 208-418-070 Other fees.** (1) The director will charge hourly fees as follows:

(a) An hourly fee will be charged to a person other than a credit union or a subsidiary of one or more credit unions for each electronic data processing examination of the person by the division of credit unions.

(b) An hourly fee will be charged to a credit union for the processing of the credit union's application to add a community group to its field of membership.

(c) An hourly fee will be charged to a credit union for a fraud investigation of the credit union and/or persons involved with the credit union by the division.

(d) An hourly fee will be charged to an out-of-state or foreign credit union for examination and supervision by the division under WAC 208-418-040(4).

(e) An hourly fee will be charged to an out-of-state or foreign credit union for the processing of the credit union's application to operate a branch in this state.

(f) An hourly fee will be charged to other divisions or agencies for examinations, investigations, or similar undertakings performed on their behalf by the division.

(2) In addition, the director will charge a credit union or other person for the actual cost incurred by the division for an examination or investigation of the credit union or person performed under personal services contract by third parties.

(3) Charges under this section are due upon receipt of billing from the division.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-070, filed 5/23/01, effective 6/23/01. Statutory Authority: 1996 c 274. 96-12-058, § 208-418-070, filed 5/31/96, effective 7/1/96. 96-06-011, recodified as § 208-418-070, filed 2/23/96, effective 6/1/96. Statutory Authority: RCW 31.12.535 and 31.12.545. 95-06-066, § 419-18-070, filed 2/28/95, effective 3/31/95; 91-06-062, § 419-18-070, filed 3/1/91, effective 4/1/91. Statutory Authority: RCW 31.12.545(1). 85-07-008 (Order 85-2), § 419-18-070, filed 3/8/85. Statutory Authority: RCW 31.12.320. 83-20-027 (Order 83-4), § 419-18-070, filed 9/26/83.]

**WAC 208-418-090 Rate increase.** The division intends to increase its assessment and fee rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of assessments and fees each fiscal year during the 2001-03 biennium.

(1) On July 1, 2001, and July 1, 2002, the fee and assessment rates under WAC 208-418-010(3) and 208-418-040, 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.

(2) 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.

(3) 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.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-090, filed 5/23/01, effective 6/23/01.]

**WAC 208-418-100 Waiver of fees.** The director may waive any or all of the fees and assessments imposed under WAC 208-418-040 and 208-418-070, in whole or in part, when he or she determines that both of the following factors are present:

(1) The credit union program fund exceeds the projected acceptable minimum fund balance level approved by the office of financial management; and

(2) That such course of action would be fiscally prudent.

[Statutory Authority: RCW 31.12.426(1), 31.12.516(2), 43.320.040. 01-12-004, § 208-418-100, filed 5/23/01, effective 6/23/01.]