



PROPOSED RULE MAKING

CR-102 (December 2017) (Implements RCW 34.05.320)

Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: February 20, 2019

TIME: 9:26 AM

WSR 19-05-085

Agency: Department of Financial Institutions, Securities Division

Original Notice

Supplemental Notice to WSR _____

Continuance of WSR _____

Preproposal Statement of Inquiry was filed as WSR 18-06-075 ; or

Expedited Rule Making--Proposed notice was filed as WSR _____ ; or

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or

Proposal is exempt under RCW _____.

Title of rule and other identifying information: (describe subject) The Securities Division is proposing to amend chapter 460-80 WAC to require the filing of applications for registration of franchise offerings and franchise brokers, as well as for franchise exemption notice filings, to be made through the Securities Division's electronic franchise filing system. The proposed amendments amend WAC 460-80-100; 460-80-110; 460-80-125; and 460-80-135. The proposed amendments also create a new rule, WAC 46-80-138, which provides instructions on how franchise broker license applications must be filed.

Hearing location(s):

| Date: | Time: | Location: (be specific) | Comment: |
|----------------|---------|---|----------|
| March 26, 2019 | 1:00 PM | 150 Israel Road SW – Room 320 Tumwater, WA 98501 | |

Date of intended adoption: March 27, 2019 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Michelle Webster

Address: 150 Israel Road SW, Tumwater, WA 98501

Email: michelle.webster@dfi.wa.gov

Fax: (360)704-6491

Other:

By (date) March 25, 2019

Assistance for persons with disabilities:

Contact Carolyn Hawkey

Phone: (360) 902-8760

Fax: (360) 704-6491

TTY: (360) 664-8126

Email: Carolyn.Hawkey@dfi.wa.gov

Other:

By (date) March 25, 2019

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed amendments would require franchisors to file all applications for franchise registration, renewal applications and post-effective amendments to franchise disclosure documents, as well as all notices of claims for exemption to be filed through the electronic franchise filing system administered by the Division. In addition, the proposed amendments would require all applications for a franchise broker license to be filed through the electronic franchise filing system.

Reasons supporting proposal: In 2013, the Securities Division announced the availability of its online electronic franchise filing system (“e-filing system”). The e-filing system was intended to facilitate electronic submission of franchise registration and renewal applications, and post-effective amendments online, eliminating the need to make any paper or other physical submissions to the Securities Division. Since then, the Securities Division has expanded its e-filing system capabilities to accept franchise broker and franchise exemption filings.

A significant number of applicants have utilized the e-filing system since its inception. In 2017 alone, the Securities Division received approximately 1,000 franchise registration filings through the e-filing system, which represents approximately 81% of all franchise registration filings received. Although the Securities Division currently accepts filings through the e-filing system and paper submissions, paper submissions require the Securities Division to manually receive, process and scan the filings, which may result in delays to the applicant receiving any follow-up correspondence or notice of effective registration. Requiring franchisors and franchise brokers to use the e-filing system will eliminate inefficiencies and result in a streamlined process for both applicants and the Securities Division.

Statutory authority for adoption: RCW 19.100.250

Statute being implemented: RCW 19.100.030; RCW 19.100.070; RCW 19.100.140

Is rule necessary because of a:

- Federal Law? Yes No
Federal Court Decision? Yes No
State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Name of proponent: (person or organization) Department of Financial Institutions, Securities Division Private
 Public
 Governmental

Name of agency personnel responsible for:

| | Name | Office Location | Phone |
|----------------------------|---------------------------|--|--------------|
| Drafting: | Michelle Webster, Esq. | 150 Israel Road SW, Tumwater, WA 98501 | 360-902-8736 |
| Implementation: Manager | Faith Anderson, Program | 150 Israel Road SW, Tumwater, WA 98501 | 360-902-8760 |
| Enforcement: Securities | William Beatty, Director, | 150 Israel Road SW, Tumwater, WA 98501 | 360-902-8760 |

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

- Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

- Yes: A preliminary cost-benefit analysis may be obtained by contacting:
Name:
Address:
Phone:

Fax:
TTY:
Email:
Other:

No: Please explain: The Department of Financial Institutions is not one of the agencies identified in RCW 34.05.328.

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|---|
| <input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations) | <input type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(g) ((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of exemptions, if necessary: The proposed amendments seek to require the process that licensees must follow in submitting registration and renewal applications, exemption notice filings, and franchise broker license applications.

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's analysis showing how costs were calculated.
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: February 20, 2019

Name: Gloria Papiez

Title: Director, DFI

Signature:

