2013 Escrow Fidelity Bonding Webinar

Webinar Logistics

- Please MUTE your phone. Do not put us on hold.
- We will also mute all lines during the presentation.
- If you have questions, please submit them through the chat function. You can mark the question as private if you wish not to be identified, but if a question applies to the group, we will provide an answer to the group.

Why is there additional focus on the fidelity bonds this year?

- Recent defalcations resulted in significant consumer harm
- Caused Department to continue to scrutinize bond language to ensure compliance with statute

What are some of the main challenges in getting a compliant bond?

- Traditional fidelity bond protects company against employee theft. The Escrow Agent Registration Act (EARA) requires additional protections that are not the typical use of a fidelity bond.
  - Benefit of harmed consumer
  - Owners and certain individuals covered

Key documents for reference

- Washington Endorsement
  - Provided by DFI and can be added to a policy to make it compliant http://dfi.wa.gov/cs/escrow/esformsapps/escrow-agent-endorsement.pdf
- Employee Declaration
  - Provided by DFI and can be used in conjunction with some Travelers policies to avoid the need for an excess coverage policy http://dfi.wa.gov/cs/escrow/esformsapps/declaration-employee-status.pdf
- Other Endorsements (sometimes referred to as riders)
  - Provided by insurers to add or change coverage to a policy. Some endorsements meet DFI requirements and some do not.
- Excess Coverage Policy
  - Necessary if your existing policy does not meet minimum coverage limits for certain individuals

Where can I get a compliant bond?

- We will accept policies from insurers that are able to write language that complies with RCW 18.44, and we cannot recommend any insurer over another. There are a few companies that we have been working with to arrive at mutually acceptable language:
  - Travelers
  - Lloyds
  - Markel

Travelers + Employee Declaration

- Policy must cover following individuals: owners, controlling persons, officers, designated escrow officer and branch designated escrow officer, or other persons subject to chapter 18.44 RCW.
- If your company is a corporation AND all of the individuals listed above are W-2 employees or 1099 Independent Contractors, you must provide:
  - Your complete policy that includes the new approved endorsements and excludes unacceptable endorsements
  - Declaration of Employee Status form (original signed document required, no copies please) http://dfi.wa.gov/cs/escrow/esformsapps/declaration-employee-status.pdf

Travelers + Excess Coverage Policy

- Policy must cover following individuals: owners, controlling persons, officers, designated escrow officer and branch designated escrow officer, or other persons subject to chapter 18.44 RCW.
- If your company is a corporation BUT NOT ALL of the individuals listed above are W-2 employees or 1099 Independent Contractors, or if your company is a Limited Liability Company or Sole Proprietorship, you need to provide:
  - Your complete policy that includes the new approved endorsements and excludes unacceptable endorsements
  - Excess coverage policy. Currently, Markel is an insurer that has indicated they will provide an acceptable excess coverage policy to increase coverage for owners to $1 million.

Some Key Travelers Endorsements

- This is one endorsement that explains a key challenge with coverage for Travelers policies
  - **CRI-10004** Escrow Agent Endorsement-State of Washington – This endorsement is necessary, but it is also part of the reason that the policy is not compliant. This endorsement contains a limitation in coverage for specific individuals that is not acceptable to DFI. For this reason, you must have the employee declaration or excess coverage policy in combination with the Travelers policy.
- The following endorsements are new or need modification to be compliant
  - **CRI-7120** Special Notice of Cancellation or Termination Requirements Endorsement – Endorsement that provides 30 days cancellation notice in lieu of the 20 days provided in CRI-5048. Need to remove the term "endeavor" from the endorsement wording
  - **CRI-7225** Extended Discovery Period Endorsement – Endorsement that amends extended discovery period from 90 days to 12 months
  - **CRI-7101** Amend Definition of Employee to Include Independent Contractor Endorsement – Needs to be added to the policy if company has independent contractors
- All of these endorsements are currently available except for the modifications to 7120. We anticipate that 7120 will be available soon.
- The endorsements listed above represent only some of those that your policy will have. DFI will review your policy and let you know if we see any others that are not compliant or need to be added.

Lloyds – Two options to satisfy requirements

- Provide the new Washington State Escrow Agent Endorsement http://dfi.wa.gov/cs/escrow/esformsapps/escrow-agent-endorsement-lloyds.pdf **OR**
- Provide a complete policy that includes new approved endorsements and excludes unacceptable endorsements

Some Key Lloyds Endorsements

- The following information applies if you DON'T have the Washington Endorsement written by DFI
- The following endorsements need to be removed from your policy or modified
  - D 40
  - D 16 Special Cancellation Rider – Address needs correction
- There is a new endorsement that you will need to add to your policy. It is anticipated to be available around the middle of next week.
- The endorsements listed above represent only some of those that your policy will have. DFI will review your policy and let you know if we see any others that are not compliant or need to be added.

Other Insurers

- Excess Coverage Policy
  - Markel + Washington Endorsement
    - Markel has indicated that they will write an excess coverage policy and that they will include the Washington Endorsement on that policy. It must have the Washington Endorsement in order to be acceptable to DFI. This policy is already available.
- Other
  - We will accept policies or a combination of policies from other insurers if they are compliant. Please note that it will take additional time to review and address any identified concerns with policies from companies that we have not reviewed before.

Contact Information

- Ariana Wood through 11/22/13. awood@dfi.wa.gov or 360-664-7887.
- After 11/22/13, new contact will be assigned to this issue - keep your eye out for new contact information.
- Side note: Escrow Agent license renewal notices will go out very soon as well.