



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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UNIFORM MONEY SERVICES ACT
INTERPRETIVE STATEMENT 2012-01

DATE: September 7, 2012

FROM: Deborah Bortner, Director, Division of Consumer Services *DB*

RE: Authorized Delegates: Advertising and Supervision

INTRODUCTION: This interpretation clarifies the Department's position on two components of the licensee/authorized delegate relationship.

ISSUES AND BRIEF ANSWERS:

1. How must my authorized delegates advertise the money services they are providing on my behalf? Your authorized delegates must conspicuously include your business name when marketing, advertising, providing disclosures and receipts, or otherwise operating on your behalf while providing money services.
2. What are my supervisory responsibilities over my authorized delegates? You are ultimately responsible for the actions of your authorized delegates in their provision of services on your behalf.

DISCUSSION:

1. An authorized delegate provides money services on behalf of the licensee. The authorized delegate must "only perform the contractual duties as authorized by the licensee in the contract between the licensee and the authorized delegate." WAC 208-690-010. Because the authorized delegate is acting on behalf of the licensee the authorized delegate must include the licensee's name in any advertising or marketing of the licensee's services. Additionally, any disclosures or receipt for business services must include the licensee's name along with the other applicable requirements of RCW 19.230.330(2). The authorized delegate cannot provide the licensee's services solely under a name other than the licensee's name. The department will consider such activity misleading or deceptive.

The Department will take action against a licensee whose authorized delegate is marketing, advertising, providing disclosures or receipts, or otherwise conducting the licensee's business without including the licensee's name. Additionally, the Department may consider that the

authorized delegate's activities rise to the level of unlicensed activity and may take action against the authorized delegate.

2. A licensee has supervisory authority over the actions by the authorized delegate when providing services on behalf of the licensee. A licensee must have a written contract with each authorized delegate detailing the activities the authorized delegate will provide on the licensee's behalf. The rules implementing the Act provide:

(4) A written contract between a licensee and an authorized delegate must contain, among all the other contract provisions, provisions with language substantially similar to the following:

(a) The authorized delegate must operate in full compliance with chapter 19.230 RCW and the rules adopted under this chapter.

(b) The authorized delegate is prohibited from using subdelegates or conducting business from locations not authorized by the department.

(c) A description of the specific money services the licensee has permitted the authorized delegate to perform on behalf of the licensee. See WAC 208-690-035.

Additionally, the licensee's bond covers the actions of the authorized delegate. See RCW 19.230.050(2). A licensee must supervise each authorized delegate to enforce the terms of the parties' contract. The Department will take action against a licensee for any actions by the authorized delegate in violation of the Act or rules.

CONCLUSION: Authorized delegates must include the licensee's name when conducting activities on behalf of a licensee. A licensee will be held in violation of the Act for the actions of authorized delegates in violation of this interpretation. Licensees are responsible for the actions of their authorized delegates. The licensee's bond includes coverage of the actions of the authorized delegates.

Prepared by: Cindy Fazio, Staff Attorney

STATUTES AND RULES RELIED UPON: (Chapter 19.230 RCW and chapter 208-690 WAC)