**WFG Washington Underwriting Bulletin**

**WFG National Title Company**

**10800 NE 8th St., Suite 200, Bellevue, WA 98004**

**Date:** May 21, 2015

**From:** Bob Horvat

**To:** WFG WA Escrow Employees

**Re:** New WA Law re Handling of Earnest Money

On July 24 of this year, a new law (WA House Bill 1730) will go into effect that will significantly impact the way we handle earnest money and earnest money disputes. Specifically:

1. From and after July 24, 2015, if you receive a written demand from a buyer or seller in a residential transaction for all or any part of the earnest money held by WFG, you must, within 15 days of your receipt of the demand, (i) notify the other parties in writing that WFG has received the demand, (ii) release the earnest money to one or more of the parties, or (iii) commence an interpleader action.

As a practical matter, unless you have instructions signed by both the seller and buyer, you will not release the earnest money and, unless you have management approval to do so, you will not start an interpleader action. Therefore, in most cases you will be required to notify the other parties that you have received a demand for the earnest money from one of the parties.

WFG’s notice to the other parties must include a copy of the demand and advise the other parties (i) that they have 20 days within which to notify WFG in writing of their objection to the release of the earnest money, (ii) that their failure to timely object will result in WFG releasing the earnest money to the demanding party upon expiration of the 20-day period, and (iii) of the WFG address to which objections are to be sent.

You must send the notice via United States postal service and email, using the last known mailing and email addresses for the parties that were provided to you and are contained in WFG’s records. You have no obligation to search outside of WFG’s records, and WFG is not liable if you do use outside records and are unsuccessful in locating the mailing or email address. Also, you must keep a log or other method evidencing the mailing of WFG’s notice.

The 20-day period within which a party must notify WFG of their objection to the release of the earnest money starts on the date on which WFG places its notice in the mail and sends an email. However, if we were not provided with an email address for a party, the 20-day period, with respect to that party, will commence on the date on which WFG places its notice in the mail.

To assist you, a template WFG notice that you can use should you receive a unilateral demand for release of earnest money on or after July 24 is attached to this Bulletin as Exhibit A.

2. If you do not receive a written objection to the release of or an inconsistent demand for the earnest money within the 20-day period, you must, within 10 days of the expiration of the 20-day period, deliver the earnest money to the demanding party in accordance with the demand. As long as we comply with the requirements of this new law, WFG is not liable to any party or other person for so releasing the earnest money to the demanding party.

3. If you do receive a written objection to the release of or an inconsistent demand for the earnest money from another party within the 20-day period, you may not release the earnest money and should promptly inform management thereof.

WFG must then commence an interpleader action within 60 days of WFG’s receipt of the written objection to the release of or an inconsistent demand for the earnest money unless, before WFG institutes the interpleader action, the parties provide subsequent consistent instructions authorizing WFG to either release the earnest money or refrain from commencing an interpleader action for a specified period of time.

If an interpleader action is filed, WFG may use the form of summons attached to this Bulletin as Exhibit B, the form of complaint attached as Exhibit C, and may recover its attorneys’ fees and costs as awarded by the court. Personal service on the parties in any such interpleader action can be made by mailing a copy of the summons by first class mail, postage prepaid, to the party at his or her usual mailing address or at the address for that party set forth in the real estate purchase and sale agreement.

4. Nothing in this new law prohibits WFG from electing to interplead the earnest money at any time.

If you have any questions related to this Bulletin, please contact your local WFG underwriting personnel.

***THIS BULLETIN IS A CONFIDENTIAL COMMUNICATION BETWEEN WFG AND THE ADDRESSEE AND IS INTENDED ONLY FOR WFG’S INTERNAL USE. WFG DOES NOT AUTHORIZE THE DISCLOSURE OF THIS COMMUNICATION TO ANY THIRD PARTY IN ANY MANNER WITHOUT WFG’S PRIOR WRITTEN CONSENT.***

**EXHIBIT A**

**Form WFG Notice of Earnest Money Demand**

**[TO BE PLACE ON WFG LETTERHEAD]**

**Via U.S. Post and Email** \_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Re: NOTICE OF RECEIPT OF EARNEST MONEY DEMAND; WFG Order # \_\_\_\_\_\_\_\_\_\_\_\_\_

Dear \_\_\_\_\_\_\_\_\_\_\_:

This is to notify you that WFG National Title Company (“WFG”) has received the attached written demand for release of earnest money in the referenced matter (the “Demand”).

You have twenty (20) days within which to notify WFG in writing of any objection to the release of the earnest money as set forth in the Demand. If you fail to timely do so, WFG will release the earnest money to the demanding party as set forth in the Demand.

Any objection to the release of the earnest money must be sent to WFG at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

Sincerely,

**EXHIBIT B**

**Interpleader Summons Form**

SUPERIOR COURT OF WASHINGTON

FOR . . . . . COUNTY

. . . . . . . . . . . . . . . . . . . ,

Interpleader Plaintiff, NO.

vs.. . . . . . . . . . . . . . . . . . . , INTERPLEADER

Defendant Seller, SUMMONS

and. . . . . . . . . . . . . . . . . . . ,

Defendant Buyer.

TO: THE DEFENDANTS

This interpleader lawsuit has been started against you in the above court. The plaintiff's claim is stated in the complaint.

In order to protect any right you have in the money described in the complaint, you must file a response to the complaint and serve a copy of your response on the other defendant within twenty (20) days after the service of this summons, if served within the state of Washington [or within sixty (60) days after service if served outside the state of Washington], excluding the day of service. The day of service is the day that this summons is personally served or postmarked, if served by mail. If you do not respond to the complaint within this time period, the other defendant may enter a default judgment against you, without notice and you would lose any interest you may have in the money described in the complaint. If you serve a "Notice of Appearance" on the other defendant, you are entitled to notice before such a default judgment is entered.

The plaintiff has waived all claims to the money deposited with the court, except for reimbursement of its reasonable attorneys' fees and costs.

You may wish to seek the advice of an attorney. In such case, you should do so promptly so that your response, if any, can be served within the applicable time.

This summons is issued pursuant to Rule 4 of the superior court civil rules of the state of Washington.

Interpleader Plaintiff

By:

Dated:

Address:

**EXHIBIT C**

**Interpleader Complaint Form**

SUPERIOR COURT OF WASHINGTON

FOR . . . . . COUNTY

. . . . . . . . . . . . . . . . . . . ,

Interpleader Plaintiff, NO.

vs.. . . . . . . . . . . . . . . . . . . , INTERPLEADER

Defendant Seller, SUMMONS

and. . . . . . . . . . . . . . . . . . . ,

Defendant Buyer.

COMES NOW the interpleader plaintiff, and alleges as follows:

 1. INTERPLEADER. Plaintiff is holding earnest money related to the attached real estate purchase and sale agreement (the "agreement").

 2. DEFENDANTS' AGREEMENT. Defendants are the "buyer" and "seller" under the agreement.

 3. EARNEST MONEY - CONFLICTING CLAIMS. Pursuant to the agreement, buyer deposited the earnest money with plaintiff in the amount of $. . . . .. The sale contemplated by the agreement did not close. Both buyer and seller have made conflicting claims for the earnest money.

 4. DEPOSIT WITH COURT. At the time of filing of this complaint, plaintiff has deposited the earnest money with the clerk of the court pursuant to RCW 4.08.170 and superior court civil rule 22.

 5. PLAINTIFF'S CLAIM. Plaintiff disclaims any interest in the earnest money, except for reimbursement of its reasonable attorneys' fees and costs. Pursuant to RCW 4.08.170, plaintiff asks that this complaint be accepted without payment of a filing fee or other cost to plaintiff.

 6. The defendants' names and addresses last known to plaintiff are:

Defendant Buyer:

Address:

Defendant Seller:

Address:

WHEREFORE, Plaintiff having interplead the earnest money, respectfully requests:

 1. That the court adjudicate who is entitled to the earnest money.

 2. That the court award plaintiff its reasonable attorneys' fees and costs.

Interpleader Plaintiff

By:

Dated:

Address: