

RULES OF PROFESSIONAL CONDUCT (RPC)

RULE 1.15A SAFEGUARDING PROPERTY

(a) This Rule applies to (1) property of clients or third persons in a lawyer's possession in connection with a representation and (2) escrow and other funds held by a lawyer incidental to the closing of any real estate or personal property transaction. Additionally, for all transactions in which a lawyer has selected, prepared, or completed legal documents for use in the closing of any real estate or personal property transaction, the lawyer must ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction, including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A. The lawyer's duty to ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction are held and maintained as set forth in this rule or LPORPC 1.12A shall not apply to a lawyer when that lawyer's participation in the matter is incidental to the closing and (i) the lawyer or lawyer's law firm has a preexisting client-lawyer relationship with a buyer or seller in the transaction, and (ii) neither the lawyer nor the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or an LPO participating in the closing.

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{Only paragraph (a) and Comments 16 and 17 are included in this document because those are the only portions that relate to LPOs and Closing Firms; for the full text refer to the Washington Court Rules or visit www.courts.wa.gov. }

Washington Comments

[16] The term "Closing Firm" as used in this rule has the same definition as in ELPOC 1.3(g).

[17] The lawyer may satisfy the requirement of paragraph (a), that the lawyer must ensure that all funds received or held by the Closing Firm incidental to the closing of the transaction including advances for costs and expenses, are held and maintained as set forth in this rule or LPORPC 1.12A, by obtaining a certification or other reasonable assurance from the Closing Firm that the funds are being held in accordance with RPC 1.15A and/or LPORPC 1.12A. The lawyer is not required to personally inspect the books and records of the Closing Firm.

The last sentence of Paragraph (a) is intended to relieve a lawyer from the duties of paragraph (a) only if the lawyer or the lawyer's law firm has a previous client-lawyer relationship with one of the parties to the transaction and that party is a buyer or seller. Lawyers may be called on by clients to review deeds prepared during the escrow process, or may be asked to prepare special deeds such as personal representative's deeds for use in the closing. A lawyer may also be asked by a client to review documents such as settlement statements or tax affidavits that have been prepared for the closing. Such activities are limited in scope and are only incidental to the closing. The exception stated in the last sentence of paragraph (a) does not apply if the lawyer or the lawyer's law firm has an existing client-lawyer relationship with the Closing Firm or with a limited practice officer who is participating in the closing.