



DEPARTMENT OF CORPORATIONS  
STATE OF CALIFORNIA

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EDMUND G. BROWN, JR., *Governor*

ROBERT E. LA NOUE, *Acting Commissioner*

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DATE January 4, 1980

RELEASE No. 26-L

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**AMENDMENTS TO RULES UNDER THE ESCROW LAW RELATED  
TO INTEREST-BEARING ACCOUNTS**

The purpose of this release is to discuss the emergency amendments to Rules 1731.3, 1737, 1737.1 and 1741.5 under the Escrow Law. The amendments to the rules, which were noticed November 21, 1979 and became effective December 31, 1979, make specific the amendments to the Escrow Law contained in Chapter 475 of the Statutes of 1979. This statute provides for the deposit of escrowed funds in interest-bearing accounts in banks and savings and loan associations.

The major thrust of the rule changes is to establish requirements and procedures regarding the use of interest-bearing accounts for escrowed funds. Unless a written -waiver or variance is obtained from the commissioner, the amended rules require a separate interest-bearing account for each escrow transaction, prohibit electronic transfers of funds into or from interest-bearing accounts, prohibit the interest paid or payable on escrowed funds from being transferred to the account of or otherwise treated as an asset of the escrow agent, and require various accounting and bookkeeping procedures.

The public comments on the rule changes, as noticed, expressed differing opinions as to the utility of the proposed rules and a desire for more flexible procedures. In response to these comments, the Commissioner added Subsection (j) to Section 1737. This subsection enables an escrow agent proposing to transact business on a basis other than as provided in Section 1737 to request in writing a waiver or variance. Any such request should include a description of the proposed plan of business an applicable procedures and a showing that they are at least as adequate as those required by Section 1737. Among the problems remaining to be solved before an interest-bearing account combining funds deposited in various escrow transactions will be approved by the Commissioner are the manner and responsibility for computing and paying interest allocable to particular escrowed funds upon withdrawal, compliance with tax reporting requirements, and the extent to which escrowed money on deposit in such an account may be insured. Waivers and variances may be subject to terms and conditions and will be granted only in a manner consistent with protecting the funds deposited with the escrow agent, preserving the trust nature of the escrow relationship, and insuring compliance with the Escrow Law an rules.

The use of separate interest-bearing escrow accounts under the rules as amended is consistent with the previous practice in connection with interest-bearing accounts. The Commissioner believes that the rule changes carry out the intent of Chapter 475 and continue to provide adequate protections for principals to an escrow.

By

  
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