



QI Regulation: The Idaho Escrow Act

Recent failures of 1031 exchange facilitators, or Qualified Intermediaries (QIs), have heightened awareness among taxpayers, their advisors, and industry professionals of the importance of selecting a stable and financially prudent QI. Qualified Intermediaries hold sale proceeds in a 1031 exchange, while the investor locates replacement property. These events have also caused some states to enact their own statutes governing QIs who operate in their states. Nevada, California, Colorado, Washington, and Idaho have all enacted or proposed legislation that regulates QIs.

The Idaho Escrow Act, enacted in 2005, requires licensing (§ 30-903) for all entities providing escrow services in Idaho. Policy Statement #2007-4 states that the Act applies to QIs doing business in Idaho, unless the sole contact with Idaho is when the exchange replacement property is located in Idaho. All relinquished property sales in Idaho, and therefore any exchange initiated in Idaho are governed by the Idaho Escrow Act. Section 30-905 lists exemptions to this requirement, one of which includes those licensed or chartered under the laws of any state or of the United States as a bank, savings and loan association, credit union or industrial loan company as well as wholly-owned subsidiaries and affiliates of such organizations.

Furthermore, QIs and any other entity subject to the Idaho Escrow Act must meet the financial responsibility requirements of Idaho Code § 30-909 or the alternative requirements as follows:

- Maintaining a \$1,000,000 fidelity Bond
- Maintaining \$250,000 in errors and omissions coverage

Idaho Code § 30-914(4)(a) states that a separate escrow trust fund account required for entities subject to the Idaho Escrow Act must be maintained “at a financial institution located in Idaho.” A further interpretation of the of that language has led the Department of Finance to modify that requirement so that QIs have to maintain a separate escrow trust fund account in any bank authorized to conduct business in Idaho.

Exchange Services, LLC is in compliance with the Idaho Escrow Act. Specifically, we are exempt per § 30-905, as we are a wholly-owned subsidiary of Zions First National Bank. Nonetheless, our operating procedures and our bonding and errors and omissions coverage well exceeds the regulatory minimums.

The safety of the funds held by us in trust for our customers is of paramount concern to us. And, compliance with these regulations should provide for more protection for Idaho investors. At Exchange Services, LLC, we actively support and comply with these regulations. Please contact us if you have any questions about our policies and procedures. For more information on the Idaho Escrow Act visit <http://finance.idaho.gov/>

Contact us for more information (877) 596-1031

One South Main Street, 8th Floor, Salt Lake City, UT 84133-1109 | Telephone (801) 596-1031 Fax (801) 524-4848
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