

NEW WASHINGTON "QI" LAW

"PROVIDES CONSUMER PROTECTION FOR INVESTORS"



Compliments of

On April 13, 2009, the State of Washington joined other western states enacting legislation to regulate 1031 exchange companies (the QI Act). The new law, which takes effect on July 26, 2009, applies to all qualified intermediaries that hold exchange funds for exchange customers who sell relinquished property in Washington, maintain an office in Washington for the purpose of soliciting business, or act as an exchange accommodation titleholder (EAT) if the property held by the EAT is located in Washington (e.g., to facilitate reverse and/or improvement exchanges).

Where applicable, the Act requires an intermediary to maintain a fidelity bond and errors and omissions insurance meeting standards summarized below. The Act also provides a customer with a private civil action for damages that occur as the result of an intermediary's failure to comply with the Act. Certain specific violations are subject to criminal penalties punishable as a misdemeanor or class B felony. Some specific provisions of the Act are described below:

- **Investment Standards** - Exchange funds must be invested in a manner meeting the "prudent investor standard" described in Revised Code of Washington (RCW) Section 11.100.020. The Act specifies that the intermediary is a custodian of the client's property and funds. Exchange funds are not subject to execution or attachment on any claim against the intermediary.
- **Insurance and Bonding Requirements** – An intermediary must maintain a fidelity bond or bonds in an amount not less than \$1 million and maintain an errors and omissions insurance in an amount not less than \$250,000. The intermediary must provide evidence to each client that these requirements are satisfied before entering into an exchange agreement.
- **Segregated Accounts** - Exchange accounts established for deposits of \$500,000 or more must be segregated and the client must receive all earnings credited to the account. For deposits that are less than \$500,000 a pooled interest-bearing account is permitted if the client consents in writing. If the client does not consent, then the exchange funds must be deposited in a segregated account.
- **Change in Ownership** - An intermediary must notify all existing exchange clients of any change in control of the intermediary within 10 days of any such change. For this purpose, "change in control" means any transfer of more than 50% of the assets or ownership of the intermediary.
- **Prohibited Acts** - The QI must not knowingly, or with criminal negligence, engage in certain acts such as making false, deceptive or misleading material representations or advertising, engage in any unfair or deceptive practice, fail to account for money or property, or fail to return funds to clients.
- The law does not provide for registration or licensing. Visit [WA QI Law](#) to see the full text of this law.

When selecting a Qualified Intermediary, many factors should be taken into consideration. Security of the exchange funds is paramount, but the experience and expertise of the exchange counselors and staff is also critical. We invite you to call us to learn more about The API Advantage™ and Asset Preservation's commitment to the highest level of security for exchange proceeds and customer satisfaction.



ASSET PRESERVATION
INCORPORATED

A National IRC §1031 "Qualified Intermediary"

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