



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF CREDIT UNIONS

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Original Published on October 3, 2008

**Updated** on January 16, 2009

Please see revised Sec. 4

“A”

DCU Interpretive Letter I-08-05

Subject: Horizon Northwest Home Mortgage, a CUSO doing business as a mortgage broker in Washington State

Dear “A”:

You asked several questions about Horizon Northwest Home Mortgage, a credit union subsidiary (wholly owned by Horizon Credit Union), doing business in the state of Washington as a mortgage broker. Horizon Credit Union is a Washington State chartered credit union.

**Washington State Law**

1. Is Horizon Northwest Home Mortgage exempt from the licensing requirements under the Mortgage Broker’s Practices Act in RCW 19.146.020(1)(a)(i)?

Yes. Horizon Northwest Home Mortgage, as wholly owned subsidiary of a Washington State-chartered credit union, is exempt under RCW 19.146.020(1)(a)(i).<sup>1</sup>

2. Is Horizon Northwest Home Mortgage exempt from the licensing requirement under the Consumer Loan Act in RCW 31.04.025?

Yes. A wholly owned, operating subsidiary of a Washington State credit union is subject to the same terms and conditions that apply to the conduct of such activities of the state-chartered credit union. A wholly owned subsidiary of a Washington State chartered credit union will be treated as exempt from the Consumer Loan Act, chapter 31.04 RCW, by reason of the exemption language contained in RCW 31.04.025.<sup>2</sup>

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“A”

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3. Is Horizon Northwest Home Mortgage required to comply with all of Chapter 19.144 RCW, also known as SHB 2770?

Yes. The legislative intent of Chapter 19.144 RCW was to require all mortgage lenders (including credit unions) doing business in the state of Washington to comply with requirements that would provide homeownership security, require responsible mortgage lending, and improve protections for residential mortgage loan consumers. Division of Credit Unions published Bulletin B-08-05 on June 10, 2008 alerting credit unions to the new law. Credit unions are included in the definition of “financial institutions” under RCW 19.144.010 (6).<sup>3</sup> We believe that a wholly owned subsidiary of a Washington State credit union is an operating subsidiary, and is subject to the same terms and conditions that apply to the conduct of such activities by a state-chartered credit union. Therefore, RCW 19.144 is applicable to Horizon Northwest Home Mortgage, in its entirety, not only as regards the disclosure and federal guidance provisions.

In addition to compliance with chapter 19.144 RCW, Horizon Northwest Home Mortgage should continue to monitor the rule-making for the disclosure summary and guidance. Please see <http://www.dfi.wa.gov/cu/rulemaking.htm>.

#### **Federal Law – THIS SECTION UPDATED JANUARY 2009**

4. Are the loan officers who work for Horizon Northwest Home Mortgage required to be **registered** in accordance with Title V, the S.A.F.E. Act? (The Secure and Fair Enforcement for Mortgage Licensing Act of 2008).

**No**, They are not required to be **registered**. They are required to be **licensed**.

Residential mortgage loan originators who work for credit union service organizations (CUSOs) are subject to the licensing requirements in the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (“SAFE Licensing Act”), which was enacted as Title V of Subdivision A of the Housing and Economic Recovery Act of 2008. Public Law No.110-289, 122 Stat. 2659 (July 30, 2008).

Due to a recent determination by the National Credit Union Administration (NCUA), **loan originators working in credit union service organizations (CUSOs) must be licensed, not registered**. The NCUA has interpreted the SAFE Licensing Act, to apply the requirement for national licensure of loan originators, **specifically to those in CUSOs**.

Because the NCUA does not have direct regulatory oversight or enforcement authority over CUSOs, it does not historically view CUSO employees as exempt from state licensing regimes. NCUA’s position is that “individuals employed by CUSOs that engage in loan origination activities, whether the CUSO is owned by a state or federal credit union, would need to be licensed in accordance with applicable state requirements.”

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“A”

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To become a licensed loan originators in a CUSO, please go to the DFI website : <http://dfi.wa.gov/cs/originator.htm>. The website provides more information and the application forms.

**Disclaimer**

The information in this interpretive letter is based on the verbal and written facts and questions as you represented them. The Department of Financial Institutions does not provide legal advice. Horizon Northwest Home Mortgage should seek independent legal counsel as to any other Washington state laws related to doing business as a mortgage broker. In addition, if Horizon Northwest Home Mortgage does business in the state of Idaho, it should seek legal advice on Idaho State laws related to doing business as a mortgage broker.

Sincerely,

Linda Jekel  
Director of Credit Unions

Cc:

“B”

“C”

“D”

“A”

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Addendum

Footnotes for letter to Horizon Northwest Home Mortgage

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<sup>1</sup> RCW 19.146.020:

(1) Except as provided under subsections (2) through (4) of this section, the following are exempt from all provisions of this chapter:

(a)(i) Any person doing business under the laws of the state of Washington or the United States, and any federally insured depository institution doing business under the laws of any other state, relating to commercial banks, bank holding companies, savings banks, trust companies, savings and loan associations, credit unions, insurance companies, or real estate investment trusts as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service corporations thereof;...

<sup>2</sup> RCW 31.04.025

Each loan made to a resident of this state by a licensee is subject to the authority and restrictions of this chapter, unless such loan is made under the authority of chapter [63.14](#) RCW. This chapter shall not apply to any person doing business under and as permitted by any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions, nor to any pawnbroking business lawfully transacted under and as permitted by any law of this state regulating pawnbrokers, nor to any loan of credit made pursuant to a credit card plan.

<sup>3</sup> *RCW 19.144.010*

Definitions.

(6) "Financial institution" means commercial banks and alien banks subject to regulation under Title [30](#) RCW, savings banks subject to regulation under Title [32](#) RCW, savings associations subject to regulation under Title [33](#) RCW, credit unions subject to regulation under chapter [31.12](#) RCW, consumer loan companies subject to regulation under chapter [31.04](#) RCW, and mortgage brokers and lenders subject to regulation under chapter [19.146](#) RCW.