

SHB 2770 Rulemaking - Subprime Statement and Non-Trad Loan Products

Washington State Human Rights Commission

Date: September 19, 2008

Comments:

The following comments address the proposed rulemaking implementing the federal guidance required under RCW 19.144.030 (SHB 2770, Section 4):

The Washington State Human Rights Commission (WSHRC) has jurisdiction over complaints of discrimination in the areas of credit and lending, as well as housing and real estate transactions. As the only statewide civil rights enforcement agency, the WSHRC investigates many cases of alleged housing discrimination on the basis of race and national origin.

As we understand, the guidance is intended to assist mortgage lenders with implementing policies and procedures to comply with the new guidelines on nontraditional mortgage loan product risks and statement on subprime lending. In reviewing the proposed guidance, we would like to point out two sections where mortgage lenders would benefit from additional guidance that would help them comply not only with the guidelines at issue, but also with fair housing and fair credit/lending laws.

The guidance contains two sections where fair housing and/or fair credit/lending are implicated:

In Section (b) "Risk Management", the guidance states:

"The scope of the risk management activities must be determined by the volume of nontraditional mortgages originated or used as investment. Licensees that target subprime borrowers through tailored marketing, underwriting standards, and risk selection must ensure that such programs do not feature terms that could become predatory or abusive."

Our recommendation is that this section include additional instructions to lenders that target subprime borrowers to implement policies and procedures that will help ensure that these programs do not become discriminatory. As you may know, there is considerable concern in the fair housing community about subprime loan products being specifically marketed to persons of color and Limited English Proficient (LEP) communities.

In Section (c) "Consumer Protection", the guidance states:

"(i) Communication with borrowers. Providers must focus on information important to consumer decision making; highlight key information so that it will be noticed; employ a user-friendly and readily navigable format for presenting the information; and use plain language, with concrete and realistic examples. Comparative tables and information describing key features of available loan products, including reduced documentation programs, also may be useful for consumers."

This section should include guidance requiring the provider to provide information and materials important to consumer decision making to Limited English Proficient persons in the borrower's primary or home language, with information translated into plain-language terms that are reasonably understandable to the average person.

I hope this information is useful. Please let us know if you have any questions. The WSHRC is available to assist DFI in developing best practice models and other resources.

Christina Higgins
Civil Rights Specialist
Washington State Human Rights Commission
1511 Third Avenue, Suite 921
Seattle, WA 98101

Direct: (206) 462-6985
Fax: (206) 464-7463