



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

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November 18, 2013

Concise Explanatory Statement
Pursuant to RCW 34.05.325(6)

Rule Amendments to the Mortgage Broker Practices Act (MBPA), chapter 19.146 RCW and chapter 208-660 WAC

Agency reasons for adopting the rules. (RCW 34.05.325(6)(a)(i))

The proposed amendments are necessary to implement changes to the law, to protect consumers from financial harm, to reduce the regulatory burden on licensees by having consistent rules, and to make technical changes for clarity.

Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences. (RCW 34.05.325(6)(a)(ii))

See Attachment 1.

Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments. (RCW 34.05.325(6)(a)(iii))

DFI began soliciting comments on the rule amendments with the filing of the CR-101 on July 23, 2013. The comment period was open until October 25, 2013.

I. Written comments received. See Attachment 2.

II. Oral comments received during the public hearing held October 22, 2013, at the Department's location in Tumwater, Washington:

1. Jeffrey Lorsch, Evergreen State Mortgage and Washington Association of Mortgage Professionals.

WAC 208-660-006. Revise the definition of application to be consistent with RESPA.
WAC 208-660-350. Clarify the circumstances in which the MLO must use their license number.
WAC 208-660-430. Reconsider requiring the broker to provide the name of the company providing the rate lock.
WAC 208-660-430. Clarify that when a rate has not been locked the rate lock agreement is not required.
WAC 208-660-500. Clarify when it would be appropriate for documents to contain blanks.
WAC 208-660-510. Publish in the rules annually the department's requirements for loan level information. Confirm that once the requirements for any given year are set, that data compilation will not change.
WAC 208-660-700. If the Commission cannot be recreated statutorily, establish another forum to accomplish the same activities.

Mr. Lorsch provided his comments in writing. Those comments are available on the rulemaking website.

2. Ruby Grynberg, Salmon Bay Community Lending.

Ms. Grynberg concurred with Mr. Lorsch's testimony.

CONCLUSION

DFI made the proposed rule amendments available to all interested parties and published the proposed amendments to the department website along with all rulemaking notices, documents, and the audio of the public meeting. The final proposed rule is the product of an open, deliberative process.

Attachment 1 to Concise Explanatory Statement
Pursuant to RCW 34.05.325(6)

Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences. (RCW 34.05.325(6)(a) (ii))

1. 208-660-350(23). Proposed language amended to clarify when mortgage loan originators must use their license number.
2. 208-660-350(25). Proposed language amended to clarify and provide exceptions as to how mortgage loan originators must use their license name.
3. 208-660-446(3). Proposed language amended to clarify that a mortgage loan originator's license number must closely follow their name.
4. 208-660-500(h). Proposed language amended to clarify how to treat documents with blanks.
5. 208-660-510(4)(d). Proposed language amended to clarify that if an examiner requests documents during an examination, the licensee must provide the requested documents.

Attachment 2 to Concise Explanatory Statement
Pursuant to RCW 34.05.325(6)

Summary of written comments received by DFI during the rulemaking process, and DFI's responses to the comments. (RCW 34.05.325(6)(a) (iii))

Date of Comment	Commenter	Applicable WAC/ General Topic of Comment	DFI Response
10/17/2013	Jon Pitrucelle, Company Licensing	Process for rule implementation	As this comment was not specific to any rule being proposed for amendment, the proposed rules were not changed based on this comment
10/18/2013	Pat Naselow, PLN Mortgage Services	WAC 208-660-006 Definition of independent contractor	DFI is not the state authority on complying with independent contractor employment law. Removal of the definition removes confusion in the industry as to which state agency regulates the proper designation of an employee as a W2 employee or as an independent contractor. Removal of the definition is not a statement by DFI that independent contractors are prohibited under the MBPA. The proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments

		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/21/2013	Kate Knappert, Salmon Bay Lending	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/21/02013	Jeff Lorsch Evergreen State Mortgage	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock	The proposed rule was changed based on this and similar comments

		agreement	
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/24/02013	Ruby Grynberg, Salmon Bay Mortgage, WAMP Board Member	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/24/02013	Jeanne Neal, Salmon Bay Community Lending	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator	The proposed rule was changed based on this and similar comments

		license number	
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/24/2013	Steve Klemaier	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as

			resources allow.
10/24/2013	Jennifer Marshall, Salmon Bay Community Lending	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/24/2013	Nancy Chapin, Real Estate	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b)	The proposed rule was changed

		Exam protocols	based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/24/2013	Tami Champagne, Clear Choice Mortgage	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/25/2013	Lisa Goldsmith, President Elect, WAMP	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d)	The proposed rule was changed

		Use of rate lock agreement	based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
		WAC 208-660-510(4)(b) Exam protocols	The proposed rule was changed based on this and similar comments
		WAC 208-660-700 Mortgage Broker Commission	This rule was not proposed for amendment. The mortgage broker commission was deactivated statutorily by ESBH 2617, effective June 30, 2010. DFI communicates with industry via webinars as resources allow.
10/25/2013	Dave Chapman, Washington Discount Mortgage, LLC	WAC 208-660-006 Definition of application	DFI considered this comment; the proposed rule was not changed based on this comment
		WAC 208-660-350(23) Use of loan originator license number	The proposed rule was changed based on this and similar comments
		WAC 208-660-430(3)(c) Disclosure of entity providing rate lock	DFI considered this and similar comments; the proposed rule was not changed based on this comment
		WAC 208-660-430(3)(d) Use of rate lock agreement	The proposed rule was changed based on this and similar comments
		WAC 208-660-500(3)(h) Leaving blanks on documents	The proposed rule was changed based on this and similar comments
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