

Chapter 208-600 WAC

MORTGAGE LENDING AND HOME OWNERSHIP

NEW SECTION

WAC 208-600-100 Reserved.

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WAC 208-600-200 Residential mortgage loan one page disclosure summary. (1) **Purpose and scope of rule.** This rule is the result of legislation recommended by the Washington state task force on homeowner security. The legislation was enacted by the Washington state legislature, at chapter 108, Laws of 2008, and codified in chapter 19.144 RCW. The stated intent of the law is to enhance responsible mortgage lending, protect borrowers, and preserve access to credit in the residential real estate market. The law requires disclosure of certain material terms of residential mortgage loans. The law also provides the department of financial institutions (DFI) with the discretionary regulatory authority to require disclosure of additional information, to clarify material terms, and to otherwise protect borrowers as needed in the residential mortgage loan market. The law mandates the one page disclosure summary in RCW 19.144.020(2), and authorizes DFI, under RCW 19.144.020(3), to require additional disclosures for the purpose of protecting borrowers.

(2) **Definitions.** For the purposes of this section, the following definitions apply:

(a) "Application" means the same as in the Real Estate Settlement Procedures Act (RESPA), Regulation X, 24 C.F.R. Sec. 3500.2(b).

(b) "Business day" means any day of the week except Sunday and federally recognized bank holidays.

(c) "Closing" means the process of signing the loan documents and disbursing the loan funds under the following two scenarios:

(i) Where the borrower is provided a right of rescission under the Truth in Lending Act, closing occurs at the expiration of the rescission period; or

(ii) Where the borrower is not provided a right of rescission under the Truth in Lending Act, closing occurs at the time the loan documents are signed.

(d) "Discount points" or "points" refer to a fee paid by the borrower to the lender to reduce the interest rate. The points are expressed as a percent of the loan amount. The higher the points paid, the lower the interest rate.

(e) "Finance charge" means the same as in the Truth in Lending Act, Regulation Z, 12 C.F.R. Sec. 226.4 excluding prepaid finance charges.

(f) The "fully indexed rate" is:

(i) The current value of the rate index used by a particular adjustable rate mortgage (ARM) at the time a residential mortgage loan is made; plus

(ii) A margin applied to that ARM which may vary from one transaction to another but stays the same throughout the life of that particular ARM.

(g) The "maximum interest rate" is the highest interest rate allowed under the loan agreement. It is not the default rate.

(h) "Reduced documentation" or "stated income" loan means a loan for which the lender may charge more because the borrower does not provide full documentation of income or assets.

(i) "Residential mortgage loan" means an extension of credit secured by residential real property located in this state upon which is constructed or intended to be constructed, a single-family dwelling or multiple-family dwelling of four or less units. It does not include a reverse mortgage or a borrower credit transaction that is secured by rental property. It does not include a bridge loan. It does not include loans to individuals making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment. For purposes of this subsection, a "bridge loan" is any temporary loan, having a maturity of one year or less, for the purpose of acquisition or construction of a dwelling intended to become the borrower's principal dwelling.

For purposes of this definition, residential mortgage loan means a loan used to purchase an owner-occupied, primary residence, or second home.

For purposes of this definition, a residential mortgage loan does not include an extension of credit secured by residential real property located in this state for business, commercial, or agricultural purposes, or an extension of credit secured by residential real property located in this state for the primary purpose of financing income or investment property.

For purposes of this definition, a residential mortgage loan does not include an extension of credit secured by residential real property located in this state for an open or closed-end home equity line of credit (HELOC).

(3) Do I have to provide borrowers with a disclosure summary in addition to all other required disclosures at loan application? Yes. State law now requires a clear, brief one page summary to help borrowers understand their loan terms. See RCW 19.144.020.

(4) **What information must be provided in the disclosure summary?** The disclosure summary must provide at a minimum the following material terms:

(a) Loan fees that are charged and retained by the broker or lender (for example, processing, underwriting, or document preparation fees). These fees go on the form under "Other Fees."

(b) Discount points the borrower will pay to reduce the interest rate.

(c) Interest rates (initial, fully indexed, maximum).

(d) Broker fee or lender's origination fee.

(e) Broker yield spread premium, expressed as a dollar amount.

(f) Whether the loan contains a prepayment penalty.

(g) Whether the loan contains a balloon payment.

(h) Whether the property taxes and property insurance are included (escrowed) in the loan payment.

(i) Amount of the initial loan payment.

(j) Amount of the fully indexed loan payment.

(k) Amount of the maximum loan payment.

(l) Whether the loan cost or rate is based on reduced documentation.

(m) Principal amount of the loan.

(n) The date the loan resets to a higher interest rate.

(o) Whether the interest rate is locked.

(5) **How must I provide the disclosure summary to the borrower?**

The disclosure summary must be provided on one page separate from any other documents and must use clear, simple, plain language terms that are reasonably understandable to the average person.

(6) **When must I provide the disclosure summary?**

(a) You must provide the initial disclosure summary to the borrower within three business days following your receipt of a complete loan application.

(b) You must redisclose material loan terms within three days of a significant change, or at least three days before closing, whichever is earlier.

(c) For purposes of this disclosure, "provide" includes sending the disclosure to the borrower's address via the United States Postal Service or other common carrier within the statutory time frames.

(7) **Can I provide the disclosure summary electronically?** Yes. You may provide the disclosure summary in electronic form, in a manner consistent with the procedure for delivery of electronic disclosure under Regulation Z of the Truth in Lending Act, 12 C.F.R. Part 226, currently in effect, which implements the E-Sign Act of 2000, 15 U.S.C. Sec. 7001 et seq.

(8) **What type of change in a material term triggers redisclosure?** You must redisclose any significant change in a material term. A "significant change" is any change which results in an increase in the borrower's loan amount or fees as follows:

(a) Any increase in the principal loan amount by five percent or more from the most recently disclosed loan amount;

(b) Any increase in the interest rate greater than one-eighth of one percent;

(c) A change in the loan type (fixed to adjustable or adjustable to fixed);

(d) Any increase in the broker's yield spread premium, the loan origination fee, discount point fees, or any other fees considered finance charges under the Truth in Lending Act, by five hundred dollars or more;

(e) A "significant change" also means any change in the following:

(i) Whether the loan contains a prepayment penalty;

(ii) Whether the loan contains a balloon payment;

(iii) Whether the property taxes and property insurance are included (escrowed) in the loan payment;

(iv) Whether the loan cost or rate is based on reduced documentation.

(9) **Will the department create a form I can use?** Yes. The department of financial institutions will make a model form available to you. However, you may choose to use a form that you design, as long as it is clear, accurate, contains all of the material terms, uses simple language, and fits on one page.

(10) **Do I have to provide borrowers with the disclosure summary if their loan application is denied within three days of being taken?** No. If the borrower's loan application is canceled, withdrawn, or denied within three days of being taken, you do not have to provide the disclosure summary.

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