

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-232 Can I make a small number of residential mortgage loans without being licensed at the company level? Yes. Pursuant to RCW 31.04.025(3) you may be eligible to make five or fewer residential mortgage loans during a calendar year without holding a company level license (~~(if you are not subject to licensing as a mortgage loan originator. See WAC 208-620-105)~~). You must apply for and obtain the license waiver for each transaction. If you are eligible for and receive the license waiver, you must comply with certain conditions including the following:

(1) If you do not provide the borrower with a compliant federal disclosure of the loan terms and conditions and cost of financing, you must provide the buyer with a disclosure prescribed by the director.

(2) You must comply with the state's usury rate limit. See chapter 19.52 RCW.

(3) You must follow Washington law if you pursue a foreclosure.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-301 If I make residential mortgage loans and employ managers, must they license individually as mortgage loan originators? Your managers, including branch managers, must license individually as mortgage loan originators if they conduct any one of the following activities:

(1) Take residential mortgage loan applications, negotiate the terms or conditions of residential mortgage loans, or hold themselves out as being able to conduct these activities;

(2) Supervise your loan processor or underwriting employees; or

(3) Supervise your licensed mortgage loan originators.

(4) Specifically:

(a) Any manager or any person who takes a residential mortgage loan application in Washington, negotiates the terms or conditions of a residential mortgage loan on Washington property, or holds themselves out as being able to conduct those activities, must have a Washington mortgage loan originator license. Washington licensed loan originators must work from a licensed location.

(b) Any manager who directly supervises loan processor or underwriting employees must hold a mortgage loan originator license. The loan originator license can be from any state. Washington licensed loan originators must work from a licensed location.

(c) Any manager who directly supervises Washington licensed mortgage loan originators must themselves hold a Washington loan originator license. Washington licensed loan originators must work from a licensed location.

(5) As to subsections (2) and (3) of this section licensure is for the day-to-day operational supervisors.

(6) Each licensed manager must prepare and maintain written supervisory plan(~~s must be written~~) for the employees they supervise. The details of the plan (~~and how it is implemented~~) must include (~~consideration of the location of the supervisor and employees super-~~

vised,) the number of employees supervised and their physical location, how the supervisor will adequately supervise the employees if an employee is not in the same location as the supervisor, and the type and volume of work performed by the supervised employees. Supervisory plans must be maintained as part of the business books and records.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-442 How do I calculate the annual assessment for my student education loan servicing activity in Washington? Pursuant to RCW 31.04.400, your annual assessment is an amount sufficient to cover the costs of the department's administration of the program, and to fund the student achievement council's student loan advocate. For purposes of this section, "portfolio" means all student education loan servicing accounts, including those held for investment.

(1) **Calculation of the annual assessment for student education loans serviced.** The amount of the annual assessment is determined by multiplying the adjusted total loan volume of the loans in the year being assessed by .0000384616.

(2) **All loans counted in assessment calculation.** The "adjusted total loan volume" is the sum of:

(a) The principal loan balance of Washington student education loans in your portfolio on December 31st of the prior year; plus

(b) The total principal loan balance of Washington student education loans added to your portfolio during the assessment year.

(3) A licensee servicing student education loans for Washington state borrowers may apply to the director to waive or adjust the annual assessment amount.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-490 What are my reporting responsibilities when something of significance happens to my business? (1) **Prior notification required.** You must amend your NMLS record at least ten days prior to a change of your:

(a) Principal place of business or any of branch offices;

(b) Name or legal status (e.g., from sole proprietor to corporation, etc.);

(c) Legal or trade name; ((~~o~~))

(d) Ownership control of ten percent or more; or

(e) Addition of a control person.

(2) **NMLS update within ten days.** You must amend your NMLS record and upload supporting documents, if applicable, within ten days after an occurrence of any of the following:

(a) A change in mailing address, telephone number, fax number, or email address;

(b) A change in the name and mailing address of your registered agent if you are located outside the state;

(c) A closure of surrender of your license. See WAC 208-620-499;

(d) Termination of sponsorship of a loan originator;

(e) A change in primary company contact or primary consumer complaint contact; (~~(e)~~)

(f) A change in your response to a disclosure question within NMLS (~~(. You must upload the document that is the basis for your changed response)~~) or if your answer does not change but another event has occurred that requires disclosure and uploading of explanatory documentation; or

(g) Any change in the information provided to the director in your original application.

(3) **Written notice to the department within ten days.** You must notify the department in writing within ten days after an occurrence of any of the following:

(a) A cancellation or expiration of your Washington state business license;

(b) A change in standing with the state of Washington secretary of state, including the resignation or change of the registered agent;

(c) Failure to maintain the appropriate unimpaired capital under WAC 208-620-340. See WAC 208-620-360;

(d) Receipt of notification of cancellation of your surety bond;

(e) Receipt of notification of a claim against your bond;

(f) For student education loan servicers servicing for the federal government, the occurrence of any event that alters the condition of the business to the extent it would no longer qualify for a federal contract;

(g) Notification of termination from servicing student education loans for the federal government, if applicable;

(h) Notification from a GSE of a breach of contract, waiver, or nonperformance if the reason for the notification remains unresolved for more than ninety days;

(i) Notification from the federal government of a breach of contract, waiver, nonperformance if the reason for the notification remains unresolved for more than ninety days; or

(j) Your capital falling below the required government sponsored entity (GSE) minimum capital requirements, if applicable.

(4) **NMLS update within twenty days.** You must amend your NMLS record within twenty days after the occurrence of any of the following developments:

(a) Receipt of notification of license revocation procedures against your license in any state;

(b) The filing of a felony indictment or information related to lending or brokering activities against you or any officer, board director, or principal or an indictment or information involving dishonesty against you or any officer, board director, or principal;

(c) Conviction of you or any officer, director, or principal for a felony, or a gross misdemeanor involving lending, brokering or financial misconduct;

(d) See WAC 208-620-499 for the requirements when you close your business.

~~((e) Within forty five days of))~~ (5) **Written notice to the department within thirty days.** You must notify the department in writing within thirty days after an occurrence of any of the following:

(a) A data breach ((you must notify the director in writing)). This notification requirement may change based on directives or recommendations from law enforcement. See also WAC 208-620-573(~~(-~~

~~(5))~~);

(b) Actions by employees discovered, known, or reasonably should have known. This includes illegal, fraudulent, or any other act that could subject the company to a violation described in RCW 31.04.027.

(6) Student education loan servicers. In addition to keeping records in compliance with the act, servicers of student education loans must also collect, maintain, and report to the department specific information about the student education loans in their portfolio. Such information includes, but is not limited to, and as applicable: Loan volume; default, refinance, and modification information; loan type (subsidized or unsubsidized, Stafford or Direct, PLUS, etc.) information; and collection practices.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-510 What are my disclosure obligations to consumers?

Some types of loans may not be covered by the integrated TILA-RESPA rule. Examples include: Reverse mortgages and HELOCS. Creditors originating these types of mortgages must continue to use, as applicable, the federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures. Creditors are not prohibited from using the integrated TILA-RESPA disclosures. However, they cannot replace the required federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures.

(1) **Content requirements.** In addition to complying with the applicable disclosure requirements in the federal and state statutes referred to in WAC 208-620-505 if the loan will be secured by a lien on real property, you must also provide the borrower or potential borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three business days of receipt of a loan application.

(2) **Proof of delivery.** The licensee must be able to prove that the disclosures under subsection (1) of this section were provided within the required time frames. For purposes of determining the timeliness of the required early disclosures, the department may use the date of the credit report or may use the date of an application received from a broker. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an established system of disclosure tracking that includes a disclosure and correspondence log, checklists, and a reasonable system for determining if a borrower did receive the documents, the licensee will be presumed to be in compliance.

(3) **Residential mortgage loans—Rate locks.** Within three business days of receipt of a residential mortgage loan application you must provide the borrower with the following disclosure about the interest rate:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance.

(b) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company other than your company, you

must provide the name of that company, whether and under what conditions any rate lock fees are refundable to the borrower, and:

(i) The number of days in the rate lock period;

(ii) The date of the rate lock and expiration date of the rate lock;

(iii) The rate of interest locked;

(iv) Any other terms and conditions of the rate lock agreement;

and

(v) The date the rate lock agreement was provided to the borrower.

(c) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.

(d) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(e) You may rely on a broker's rate lock agreement if it complies with this subsection.

(4) Residential mortgage loans—Loans brokered to other creditors. Within three business days following receipt of a residential mortgage loan application you must provide to each borrower or potential borrower:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance with this subsection;

(b) An estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty;

(c) A good faith estimate or loan estimate that conforms with RESPA, Regulation X, 12 C.F.R. Part 1024 and TILA, Regulation Z, 12 C.F.R. Part (~~1016~~) 1026;

(d) A rate lock disclosure containing the following:

(i) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, the name of the company providing the guarantee, whether and under what conditions any rate lock fees are refundable to the borrower, and:

(A) The number of days in the rate lock period;

(B) The date of the rate lock and the expiration date of the rate lock;

(C) The rate of interest locked;

(D) The date the rate lock was provided to the borrower; and

(E) Any other terms and conditions of the rate lock agreement.

(ii) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date. The rate lock agreement must include the items from (d) of this subsection.

(e) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(f) You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

(5) **Are there additional disclosure requirements related to interest rate locks?** Yes. You must provide the borrower a new rate lock agreement within three business days of a change in the locked interest rate. The new rate lock agreement must include all the terms required under subsection (3)(b) of this section. Changes to a locked interest rate can occur only if the borrower requests the change or for valid reasons such as changes in loan to value, credit scores, or other loan factors directly affecting pricing. Lock extensions and relocks are also valid reasons for changes to a previously locked interest rate. You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

(6) **Residential mortgage loans—Shared appreciation mortgages (SAM) or mortgages with shared appreciation provisions.** Within three business days following receipt of a loan application for a shared appreciation mortgage, or a mortgage with a shared appreciation provision, in addition to the disclosures required by federal law or by this chapter, you must provide each borrower with a written disclosure containing at a minimum the following:

(a) The percentage of shared equity or shared appreciation you will receive (or a formula for determining it);

(b) The value the borrower will receive for sharing his or her equity or appreciation;

(c) The conditions that will trigger the borrower's duty to pay;

(d) The conditions that may cause the lender to terminate the mortgage or shared appreciation provision early;

(e) The procedure for including qualifying major home improvements in the home's basis (if any);

(f) Whether a prepayment penalty applies or other conditions applicable, if a borrower wishes to repay the loan early, including but not limited to, any date certain after which the borrower can repay the loan by paying back the lender's funds plus accrued equity; and

(g) The date on which the SAM terminates and the equity or appreciation becomes payable if no triggering event occurs.

~~((6))~~ (7) **Residential mortgage loan modifications.** You must immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

~~((7))~~ (8) **Student education loans.**

(a) All loans. In addition to the applicable disclosures required for all consumer loans made by a licensee, the licensee making a loan to a servicer member must disclose to the service members their rights under state and federal service member laws and regulations.

(b) Refinance loans. In addition to the applicable disclosures required for all consumer loans made by a licensee, for all consumer loans made by a licensee that are a refinance of a federal student education loan, the licensee must provide to the borrower a clear and conspicuous disclosure that some repayment and forgiveness options available under federal student education loan programs, including without limitation, income-driven repayment plans, economic hardship deferments, or public service loan forgiveness, will no longer be available to the borrower if he or she chooses to refinance federal student education loans with one or more consumer loans.

~~((8))~~ (9) Each licensee must maintain in its files sufficient information to show compliance with state and federal law.

WAC 208-620-520 What are the records I must maintain and for how long must I maintain them? Unless otherwise indicated in this section, and as applicable, you must maintain the following records for a minimum of three years after making the final entry, or the period of time required by federal law, whichever is longer:

(1) **General records.** Each licensee must maintain electronic or hard copy books, accounts, records, papers, documents, files, and other information relevant to making loans or servicing residential mortgage loans.

(2) **Advertising records.** These records include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any electronic advertising distributed by facsimile computer, or other electronic or wireless network.

(3) **Other specific records.** The records required under subsection (1) of this section include, but are not limited to:

(a) All loan agreements or notes and all addendums, riders, or other documents that supplement the final loan agreements;

(b) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(c) The initial rate sheet or other supporting rate information, if applicable;

(d) The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement, if applicable;

(e) Rate lock agreements and the supporting rate sheets or other rate supporting document, if applicable;

(f) All written disclosures required by the act and federal laws and regulations. Some examples of federal law disclosures include, but are not limited to: The good faith estimate or loan estimate or other Truth in Lending Act disclosures, Equal Credit Opportunity Act disclosures, and affiliated business arrangement and other disclosures under RESPA;

(g) Documents and records of compensation paid to employees and independent contractors;

(h) An accounting of all funds received in connection with loans with supporting data;

(i) Settlement statements (for example, the final HUD-1, HUD-1A or federal closing disclosure);

(j) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, yield spread premium, loan type and terms;

(k) Records of any fees refunded to applicants for loans that did not close;

(l) All file correspondence and logs, including recorded communications with borrowers if communications with borrowers are recorded;

(m) All mortgage broker contracts with lenders and all other correspondence with the lenders;

(n) All documents used to support the underwriting approval, if applicable; and

(o) All documents that evidence a financial commitment made to protect a rate of interest during a rate lock period.

(4) **Residential mortgage loan servicing documents.**

(a) You must maintain servicing agreements as part of your records.

(b) You must maintain all notices from GSEs, if applicable, that relate specifically to your loan servicing activities. This includes, but is not limited to, notices of noncompliance with the servicing agreement.

(c) If you record telephone conversations, you must maintain the recorded telephone conversations with consumers for three years after the date of the call or longer if required by another law.

(5) **Abandoned records.** If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format or proper destruction of the records.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-550 What business practices are prohibited? In addition to RCW 31.04.027, the following constitute an "unfair or deceptive" act or practice:

(1) Failure to provide the exact pay-off amount as of a certain date within seven business days after being requested in writing to do so by a borrower of record or their authorized representative. Student education loan servicers must comply with this subsection or an applicable federal program requirement;

(2) Failure to record a borrower's payment as received on the day it is delivered to any of the licensee's locations during its regular working hours. If you are in compliance with the United States Department of Education contractual requirements, you are not subject to this subsection;

(3) Collecting more than forty-five days of prepaid interest at the time of loan closing;

(4) Soliciting or entering into a contract with a borrower that provides in substance that the licensee may earn a fee or commission through its "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) **Engaging in unfair or deceptive advertising practices.** Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace. See also WAC 208-620-630;

(6) Negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any ((application or any information)) reports filed with the department by a licensee or in connection with any application, examination or investigation conducted by the department;

(7) Making any payment, directly or indirectly, or withholding or threatening to withhold any payment, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(8) Leaving blanks on a loan origination document that is signed by the borrower or providing the borrower with loan origination documents with blanks;

(9) Failing to clearly disclose to a borrower whether the payment advertised or offered for a real estate loan includes amounts for taxes, insurance or other products sold to the borrower;

(10) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower, unless mail has been previously returned as undeliverable from the address, in order to verify that the asset is not otherwise insured;

(11) Willfully filing a lien on property without a legal basis to do so;

(12) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction;

(13) Failing to reconvey title to collateral, if any, within sixty business days when the loan is paid in full;

(14) Failing to timely and completely comply with any directive, subpoena, or order issued by the department;

(15) Negligently delaying the closing of a residential mortgage loan which results in increased interest, costs, fees, or charges payable by the borrower;

(16) Negligently delaying the refinance or modification of a student education loan which results in increased interest, costs, fees, or other charges payable by the borrower or which results in the proposed refinancing or modification becoming unavailable, or both;

(17) Steering a borrower to a residential mortgage loan with less favorable terms than they qualify for in order to increase the compensation paid to the company or mortgage loan originator. An example is counseling, or directing a borrower to accept a residential mortgage loan product with a risk grade less favorable than the risk grade the borrower would qualify for based on the licensee or other regulated person's then current underwriting guidelines, prudently applied, considering the information available to the licensee or other regulated person, including the information provided by the borrower;

(18) Failing to indicate on all residential mortgage loan applications, initial and revised, the company's unique identifier, the loan originator's unique identifier, and the date the application was taken or revised;

(19) Receiving compensation or anything of value from any party for assisting in real estate "flopping." Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter;

(20) Receiving compensation for making the loan and for brokering the loan in the same transaction;

(21) Charging a fee in a residential mortgage loan transaction that is more than the fees allowed by the state or federal agency overseeing the specific type of loan transaction. Examples include, but are not limited to, loans insured or guaranteed by the Veterans Administration, Home Equity Conversion Mortgages insured by HUD, and loans offered through the United States Department of Agriculture Rural Development;

(22) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan. An example is advertising a discounted rate without clearly and conspicuously disclos-

ing in the advertisement the cost of the discount to the borrower and that the rate is discounted;

(23) Servicing a usurious loan;

(24) Misrepresenting a residential mortgage loan as a business purpose loan.

NEW SECTION

WAC 208-620-554 Conducting student education loan servicing activities in the United States or outside the United States. (1) You are prohibited from conducting the following activities from any location outside the United States or its territories:

- (a) Receiving payments and maintaining the payment records;
- (b) Collection activities;
- (c) Any communications with consumers; or
- (d) Receipt of data from or disbursement of data to borrowers.

(2) The following activities may be conducted from a location outside the United States or its territories:

- (a) Data entry;
- (b) Document review;
- (c) Recommendation for action;
- (d) Records searches; or
- (e) Credit dispute analysis.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-555 ~~((What fees are allowed and when can they be collected from the borrower under the Consumer Loan Act?))~~ **Allowable loan fees and timing of collection.** (1) ~~((Residential mortgage loans.))~~ This subsection ~~((does not apply to))~~ applies to junior lien mortgages, and first lien ((residential)) mortgages ((loans)) originated by ~~((lenders who are creditors))~~ noncreditors, as defined in the Truth in Lending Act, 15 U.S.C. 1601 and Regulation Z, 12 C.F.R. 1026.

(a) Origination fees. You may charge a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan.

(b) Brokering fees. When agreed to in writing by the borrower, a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee.

(c) Third-party fees. The only third-party fees you may collect from the borrower before a loan is closed is the actual cost of the credit report and appraisal. You may collect from the borrower reimbursement for fees you actually and properly incurred in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by

the lender or in the absence of borrower selection, selected by the lender. You must provide a copy of the appraisal to the borrower even if you do not receive reimbursement for the cost of the appraisal.

(d) On adjustable rate residential mortgage loans you may include a prepayment penalty or fee as long as the penalty or fee expires at least sixty days prior to the initial reset period.

(2) Nonmortgage loans. You may charge a nonrefundable, prepaid, loan origination fee not to exceed four percent of the first twenty thousand dollars and two percent thereafter of the principal amount of the loan advanced to or for the direct benefit of the borrower, which fee may be included in the principal balance of the loan.

~~(3) ((Third-party fees. This subsection applies to residential and nonresidential lending.))~~ All loans.

(a)(i) Insurance fees. You may include the premiums for credit and noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing and the borrower's confirmation is obtained by signature on the disclosure form.

(ii) You may only sell single premium credit insurance to a borrower at the inception of coverage if the sale is in compliance with chapter 48.18 RCW.

(b) Third-party fees.

(i) When agreed to in writing by the borrower, you may collect from the borrower at closing reimbursement for fees you paid to third-party service providers who provided goods or services in connection with the preparation of the borrower's loan. Such third-party service providers include, but are not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies. The actual cost of such fees may be included in the amount of the loan. The only third-party fees you may collect from the borrower before a loan is closed is the actual cost of the credit report and appraisal.

~~((b))~~ (ii) You must not charge or collect any fee to be paid to a third-party service provider, as defined in WAC 208-620-010, in excess of the actual costs paid or to be paid.

~~((e))~~ (iii) You may use a borrower's credit card information for payment of the credit report or appraisal when paid directly to the third-party service provider.

~~((d))~~ (iv) You may charge a ((nonrefundable)) rate lock fee when agreed to in writing by the borrower. If the borrower breaks the rate agreement, you may keep the fee ((may be retained if the borrower breaks the rate lock agreement and)) if you are making the loan, ((if)) and you have either paid a third party for the interest rate lock ((, or if you)) or can demonstrate you have otherwise made a financial commitment to protect the rate during the lock period. The fee may not be retained if the borrower rescinds the loan under Regulation Z, if the borrower does not qualify for a loan, or if the loan is denied based on the property appraisal. See also WAC 208-620-510(3).

~~((4))~~ (c) Late payment penalties. If the loan terms and conditions agreed to by the borrower do not otherwise dictate, you may ((not charge more than)) charge a maximum of ten percent of ((any)) the installment payment amount on accounts that are delinquent ten days or more.

~~((5))~~ (d) Attorneys' fees. You may charge reasonable attorneys' fees when a debt is referred for collection to an attorney who is not your salaried employee, actual expenses, and costs incurred in connection with the collection of a delinquent debt, a repossession, or a

foreclosure ((when a debt is referred for collection to an attorney who is not your salaried employee.

~~(6) The fees allowed in subsection (3)(d) of this section must be included in the loan origination fee calculations described in subsections (1) and (2) of this section).~~

~~((7))~~ (e) Discount points.

~~((a))~~ (i) You must not collect a fee from the borrower for lowering the interest rate unless the interest rate is actually reduced.

(ii) You must be able to show a definitive mathematical relationship between discount points paid and the interest rate obtained via a rate sheet or pricing engine that was in effect when the interest rate was locked.

~~((b))~~ (iii) Any applicable residential mortgage loan program add-on fees must be disclosed as part of the discount points.

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

WAC 208-620-560 ((What fees are not allowed when making loans under the Consumer Loan Act?)) Restricted or conditional loan fees. This section ~~((does not apply to))~~ applies to nonmortgage loans, junior lien mortgages, and first lien ((residential)) mortgages ((loans)) originated by ~~((lenders who are creditors))~~ noncreditors, as defined in the Truth in Lending Act, 15 U.S.C. 1601 and Regulation Z, 12 C.F.R. 1026.

(1) **Filing fees.** You must not charge or collect any funds from the borrower for the cost of filing, as defined in WAC 208-620-010, or for any other fees paid or to be paid to public officials, unless such charges are paid or are to be paid within one hundred eighty days by the licensee to public officials or other third parties for such filing. Any fee you collect for releasing or reconveying the security for the obligation must be paid to an unrelated third party unless you can demonstrate activities you conducted to facilitate the reconveyance.

(2) **Dishonored check fees.** You may charge or collect twenty-five dollars or the actual amount charged by the financial institution for a check, draft, ACH, or other transfer if returned unpaid or denied by the financial institution drawn upon. Only one fee may be collected with respect to a particular check, draft, ACH, or other transfer even if it has been returned or denied more than once.

~~(3) ((Credit and noncredit insurance.~~

~~(a) Except for the transaction described in (b) of this subsection, you may include the premiums for credit and noncredit insurance in the principal amount of the loan, provided that purchase of the insurance is not required to obtain a loan and that this fact is disclosed to the borrower in writing and the borrower's confirmation is obtained by signature on the disclosure form.~~

~~(b) You must not sell single premium credit insurance to a borrower at the inception of coverage unless the sale is in compliance with chapter 48.18 RCW.~~

~~(4))~~ **Fees on existing loans.** ~~((Unless otherwise preempted under the Depository Institutions Deregulatory and Monetary Control Act,))~~ If you make a new loan or increases a credit line within one hundred twenty days after originating a previous loan or credit line to the

same borrower, the origination fee on the new loan or increased credit line must be limited as follows:

(a) You must only charge an origination fee on that part of the new loan not used to pay the amount due on the previous loan;

(b) You must only charge an origination fee on the difference between the amount of the existing credit line and the increased credit line;

(c) The limits in (a) and (b) of this subsection do not apply if you refund the origination fee on the existing loan or credit line;

(d) The limits in (a) and (b) of this subsection do not apply if you can demonstrate a net tangible benefit to the borrower for the new loan or credit line increase. For purposes of this subsection a net tangible benefit may be demonstrated by a lower monthly payment, or a decrease in the interest rate. Any net tangible benefit analysis must include the fees or charges for the new loan or credit line increase.

~~((5) **Discount points.**~~

~~(a) You must not collect a fee from the borrower for lowering the interest rate unless the interest rate is actually reduced.~~

~~(b) Any applicable program add-on fees must be disclosed as part of the discount points.~~

~~(6))~~ **(4) Administrative fees.** ~~((On nonmortgages, junior lien and first lien mortgages by licensees who are not "creditors" under the Depository Institutions Deregulatory and Monetary Control Act,))~~ You must not collect a document preparation fee, a processing fee, an administrative fee, an application fee, or a courier fee unless paid to an unrelated third party and agreed to in writing in advance by the borrower.

~~((7) **Underwriting fees.** You must not collect an underwriting fee.~~

~~(8) **Prepayment penalty.** You must not collect a prepayment penalty on the following loans:~~

~~(a) Any nonmortgage loan;~~

~~(b) Any adjustable rate residential mortgage loan, except as allowed by RCW 19.144.040;~~

~~(c) Any junior lien mortgage loan; or~~

~~(d) Any loan you made if you are not a "creditor" under DIDMCA.))~~

NEW SECTION

WAC 208-620-563 Prohibited fees on certain loans. This section applies to nonmortgage loans, junior lien mortgages, and first lien mortgages originated by noncreditors, as defined in the Truth in Lending Act, 15 U.S.C. 1601 and Regulation Z, 12 C.F.R. 1026.

(1) **Underwriting fee.** You must not collect an underwriting fee.

(2) **Prepayment penalty or fee.** You must not collect a prepayment penalty unless on an adjustable rate mortgage as long as the prepayment penalty or fee expires at least sixty days prior to the initial reset period.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-620 How do I have to identify my business when I advertise? You must identify the business using your Washington consumer loan name as entered in the NMLS. You may also use an approved DBA name if you include the main office name as entered in the NMLS (~~and~~) or license number. For use of URL addresses and web pages, see WAC 208-620-621 and 208-620-622.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-621 May I advertise over the internet using a URL address that is not my licensed business name? Yes, provided that ~~((any))~~ the URL address ~~((you advertise takes the user directly to your main or home web page. If you want the user to be directed to a different main or home web page, the URL address must contain your name as entered in the NMLS in addition to any other names or words in the URL address))~~ does not misrepresent the identity of your company or contain any misleading, deceptive, or otherwise prohibited language. URL addresses may be used as DBA names upon request to and approval from DFI. See also WAC 208-620-620 and 208-620-622.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-622 When ~~((I advertise))~~ advertising using the internet or any electronic form (including, but not limited to, text messages), is there specific content ~~((my web pages))~~ the advertisements must contain? Yes. ~~((You))~~ Companies, including branches, and loan originators must provide the following language, in addition to any other, on ~~((your))~~ web pages, social media pages the licensee controls, or in any medium where ~~((you hold yourself))~~ the licensee holds themselves out as being able to provide the services:

(1) ~~((Main or home page.~~

~~((a))~~ The company's name as entered in the NMLS ~~((and NMLS unique identifier)), the company's license number, and a link to the company's NMLS consumer access website page~~ must be displayed on the ~~((licensee's main or home web page.~~

~~((b) If mortgage))~~ company's and any loan originator's primary landing page.

(2) If loan originators are named, their license numbers must closely follow the names. An example of closely following is: Your license name followed by your title (if you use one) followed by your license number. See the definition of license number for ways to display your license number. See WAC 208-620-710(26).

~~((c) The main or home page must also contain a link to the NMLS consumer access web site page for the company.~~

~~(2) Branch office web page — No DBA. Comply with subsection (1) of this section.~~

~~(3) Main or branch office web page — DBA. If the company uses a DBA on a web page the web page must also contain the main office name as entered in the NMLS, license number, be in compliance with subsection (1)(b) of this section, and the web page must contain a link to the NMLS consumer access web site page for the company.~~

~~(4) Mortgage loan originator web page. If a loan originator maintains a separate home or main page, the sponsoring licensee's name and license number must also appear on the web page. The web page must also contain the loan originator's name as entered in the NMLS and license number closely following their name and a link to the NMLS consumer access web page for the company. An example of closely following is: Your name as entered in the NMLS followed by your title (if you use one) followed by your license number. See the definition of license number for examples of ways to display your license number. See also WAC 208-620-710(26).~~

~~(5)) (3) If the company uses a DBA, the page must also contain the company's name as entered in the NMLS or license number.~~

~~(4) Compliance with other laws. Website content used to solicit Washington consumers must comply with all relevant Washington state and federal ((statutes)) laws for specific services and products advertised on the website.~~

~~((6)) (5) Oversight. The company is responsible for ((web site)) content displayed on all ((company web pages)) electronic advertisements used to solicit Washington consumers ((including main, branch, and mortgage loan originator web pages)).~~

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-630 What are some of the advertising restrictions I must comply with? (1) Licensees are prohibited from advertising with envelopes or stationery, or using images in an electronic format, that are designed to resemble a government mailing or other method of communication that suggest an affiliation that does not exist. Some examples of emblems or government-like names, language, or nonexistent affiliations that will violate the state and federal advertising laws include, but are not limited to:

(a) Characterizing products as "government loan programs," "government-supported loans," or other words that may mislead a consumer into believing that the government is guaranteeing, endorsing, or supporting the advertised loan product. Using the words "FHA loan," "VA loan," or words for other products that are in fact endorsed or sponsored by a federal, state, or local government entity is allowed.

(b) An official-looking emblem such as an eagle, the Statue of Liberty, or a crest or seal that resembles one used by any state or federal government agency.

(c) Envelopes or electronic communications designed to resemble official government communications, such as IRS or U.S. Treasury envelopes, or other government mailers or electronic communications.

(d) Warnings or notices citing government codes or form numbers not required by the U.S. Postmaster to be shown on the communication.

(e) The use of the term "official business," or similar language implying official or government business, without also including the name of the sender.

(f) Any suggestion or representation that the licensee is, or is affiliated with, a state or federal agency, municipality, bank, savings bank, trust company, savings and loan association, building and loan association, credit union, or other entity that it does not actually represent.

(2) **When I am advertising interest rates, the act requires me to conspicuously disclose the annual percentage rate (APR) implied by the rate of interest. What does it mean to "conspicuously" disclose the APR?** The required disclosures in your advertisement must be reasonably understandable. Consumers must be able to see, read, or hear, and understand the information. Many factors, including the size, duration, and location of the required disclosures, and the background or other information in the advertisement, can affect whether the information is clear and conspicuous. This requirement applies to all mandatory disclosures. The presentation of the disclosure of the APR must be at least equivalent to the presentation of any other rates disclosed in the advertisement.

(3) **The act prohibits me from advertising an interest rate unless that rate is actually available at the time of the advertisement. How may I establish that an advertised interest rate was "actually available" at the time it was advertised?** Whenever a specific interest rate is advertised, the licensee must retain a copy of supporting rate information, and the APR calculation for the advertised interest rate.

(4) **Must I quote the annual percentage rate when discussing rates with a borrower?** Yes. You must quote the annual percentage rate and other terms of the loan if you give an oral quote of an interest rate to the borrower. TILA's Regulation Z, 12 C.F.R., Part 226.26 provides guidance for using the annual percentage rate in oral disclosures.

(5) **May a licensee advertise rates or fees as the "lowest" or "best"?** No. Rates described as "lowest," "best," or other similar words cannot be proven to be actually available at the time they are advertised. (~~Therefore, they are a false or deceptive statement or representation prohibited by RCW 31.04.027.~~)

(6) **May I solicit using advertising that suggests or represents that I am affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, when I am not; or that I am an entity other than who I am?** No. It is an unfair and deceptive act or practice and a violation of the act for you to suggest or represent that you are affiliated with a state or federal agency, municipality, federally insured financial institution, trust company, building and loan association, or other entity you do not actually represent; or to suggest or represent that you are any entity other than who you are.

(7) **If I advertise using a borrower's current loan information, what must I disclose about that information?** When an advertisement includes information about a borrower's current loan that you did not obtain from a solicitation, application, or loan, you must provide the borrower with the name of the source of the information.

(8) **Is it a violation to advertise that ((third-party)) services or items are "free" when the licensee has paid for the services or items?** Yes. Advertising using the term "free," or any other similar term or phrase that implies there is no cost to the applicant is deceptive because you can recover the cost of the purportedly "free" service or item through the negotiation process. (~~This is a violation~~)

~~of RCW 31.04.027 (2), (7), and (12).)~~ See the Federal Trade Commission's *Guide Concerning Use of the Word "Free" and Similar Representations* (16 C.F.R. Sec. 251.1(g) (2003)), available at (~~http://www.ftc.gov/bep/guides/free.htm, 16 C.F.R. Sec. 251.1(g) (2003))~~ <https://www.ftc.gov/enforcement/rules/rulemaking-regulatory-reform-proceedings/guide-concerning-use-word-free-similar>.

(9) **How can I advertise a discounted rate?** You must clearly and conspicuously disclose in the advertisement at a minimum, the cost of the discount to the borrower and that the rate is discounted. (~~Not including that information is a violation of RCW 31.04.027(7).)~~)

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

WAC 208-620-700 Mortgage loan originator—General. (1) **May I work from any location when I am a licensed loan originator?** No. You can only work from a licensed location. The licensed location can be the main office, or any licensed branch.

(2) **May I transfer loan files to another licensed entity?** No. Loan files are the property and responsibility of the company named on the loan application. Only the borrower may submit a written request to the company to transmit the borrower's selected information to another entity. The company must transmit the information within five business days after receiving the borrower's written request.

(3) **May I act as a loan originator and a real estate agent in the same transaction or for the same borrower in different transactions?** Yes, you may be both the loan originator and real estate broker or salesperson in the same transaction, or for the same borrower in different transactions. When either of these occur, you must provide to the borrower the following written disclosure:

"THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO YOU. I AM ALSO A LOAN ORIGINATOR AND WOULD LIKE TO PROVIDE MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO PURCHASE THE PROPERTY.

YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON SHOP AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING."

(4) **As a loan originator, may I be paid directly by the borrower for my services?** No. You may not be paid any compensation or fees directly by the borrower.

(5) **May I charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?** No. You may not charge the borrower a fee, commission, or compensation of any kind in connection with the preparation, negotiation, or brokering of a residential mortgage loan.

(6) **May I bring a lawsuit against a borrower for the collection of compensation?** No. Only the company may bring collection actions against borrowers to collect compensation.

(7) **May I work as a licensed loan originator for a consumer loan company located out of the state?** Yes. You may originate loans for any

company you are sponsored by as long as the out-of-state company licenses a branch in Washington for you to work from. See subsection (1) of this section.

(8) **May I hire employees or independent contractors to assist me?** No. Only the consumer loan company can hire employees or independent contractors to work for the company. This prohibition against loan originators hiring employees or independent contractors includes clerical or administrative personnel and loan processors and underwriters whose work is related to the consumer loan company's activities.

(9) **Do loan processors and underwriters have to be licensed as loan originators?** W-2 employee loan processors and underwriters are not required to have a loan originator license provided they work under the supervision and instruction of an individual licensed or exempt from licensing and do not hold themselves out as able to conduct the activities of a loan originator.

(10) May loan processors and underwriters work on files from an unlicensed location? A loan processor or underwriter may work on loan files from an unlicensed location under the following circumstances:

(a) The loan files are in electronic format and the loan processor or underwriter accesses the files directly from the licensee's main computer system. The loan processor or underwriter may not maintain any electronic files on any computer system other than the system belonging to the licensee;

(b) The loan processor or underwriter does not conduct any of the activities of a licensed loan originator;

(c) The licensee must have safeguards in place for the computer system that safeguards borrower information; and

(d) The loan processor or underwriter is not a licensed mortgage loan originator who supervises other loan processors or underwriters.

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

WAC 208-620-710 Mortgage loan originator—Licensing. (1) **Must I have a license to act as a mortgage loan originator for a consumer loan company?** Yes. You must not engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license under this act. You must register with and maintain a valid unique identifier issued by the NMLS.

(2) **How do I apply for a mortgage loan originator license?** Your application consists of filing an online application through the NMLS and providing Washington specific requirements directly to DFI. You must pay an application fee and filing fee through the NMLS. In addition to supplying the application information, both you and the company intending to sponsor you must be in good standing with the department. See also WAC 208-620-715 Temporary authority to originate loans.

(3) **What are the eligibility requirements to become a licensed mortgage loan originator?**

(a) **Be eighteen years or older.**

(b) **Demonstrate financial responsibility.** For the purposes of this section, an applicant has not demonstrated financial responsibility when the applicant shows disregard in the management of his or her financial condition. A determination that an individual has shown dis-

regard in the management of his or her financial condition may include, but is not limited to, an assessment of: Your credit report, current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or judgments or other government liens or filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years. Specifically, you are not eligible to receive a loan originator license if you have one hundred thousand dollars or more of tax liens against you at the time of application.

~~(c) ((Pass a licensing test. You must take and pass the NMLS test that assesses your knowledge of the mortgage business and related regulations at the federal and state level. See WAC 208-620-725.~~

~~(d-))~~ **Complete prelicensing education.** You must complete prelicensing education before submitting an application. See WAC 208-620-720.

~~((e))~~ **(d) Prove your identity.** You must provide information to prove your identity.

(e) Pass a licensing test. You must take and pass the NMLS test that assesses your knowledge of the mortgage business and related regulations at the federal and state level. See WAC 208-620-725.

(f) **Provide a bond.**

(i) If you are employed by a company that is exempt from licensing, or uses a bond substitute, you must obtain and maintain an individual bond based on the volume of your mortgage loan origination activity. By March 1st of each year, you must determine your required bond amount and provide DFI with proof of having an adequate bond. The bond must be in the following amount:

1. Zero to twenty million in loans originated:	\$20,000
2. Twenty million to thirty million:	\$30,000
3. Thirty million to forty million:	\$40,000
4. Forty million and above:	\$50,000

(ii) If you are employed by a company that is exempt and is a nonprofit housing organization making loans under housing programs that are funded in whole or in part by federal or state programs with the primary purpose of assisting low-income borrowers with purchasing or repairing housing or for the development of housing for low-income Washington state residents, the bond must be in the following amounts:

1. Zero to fifty million in loans originated:	\$10,000
2. Fifty +:	\$20,000

(g) **File a quarterly call report.** Reserved.

(4) In addition to reviewing my application, what else will the department consider to determine if I qualify for a mortgage loan originator license?

(a) **General fitness and prior compliance actions.** The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) **License suspensions or revocations.** You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked.

(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or has not been convicted of, or pled guilty or nolo contendere to a felony in a domestic, foreign, or military court:

(i) During the seven-year period preceding the date of the application for licensing and registration; or

(ii) At any time preceding the date of application, if the felony involved an act of fraud, dishonesty, breach of trust, or money laundering.

(5) **What will happen if my loan originator license application is incomplete?** After submitting your online application through the NMLS and filing the required information and documentation with the department, the department will notify you of any application deficiencies.

(6) **How do I withdraw my application for a loan originator license?**

(a) Once you have submitted the online application through NMLS you may withdraw the application through NMLS. You will not receive a refund of the NMLS filing fee or the amount the department uses to investigate your license application.

(b) The withdrawal of your license application will not affect any license suspension or revocation proceedings in progress at the time you withdraw your application through the NMLS.

(7) **When will the department consider my loan originator license application to be abandoned?** If you do not respond within fifteen days and as directed by the department, your loan originator license application is considered abandoned and you forfeit all fees paid. Failure to provide the requested information will not affect new applications filed after the abandonment. You may reapply by submitting a new application package and new application fee.

(8) **What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?** See WAC 208-620-615.

(9) **May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

(10) **How do I change information on my loan originator license?** You must submit an amendment to your license through the NMLS. You may be charged a fee.

(11) **What is an inactive loan originator license?** When a licensed loan originator is not sponsored by a licensed or exempt entity, the license is inactive. When a person holds an inactive license, they may not conduct any of the activities of a loan originator, or hold themselves out as a licensed loan originator.

(12) **When my loan originator license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

(13) **When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?**

Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

(14) **May I originate loans from a website when my license is inactive?** No. You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive.

(15) **How do I activate my loan originator license?** The sponsoring company must submit a sponsorship request for your license through the NMLS. The department will notify you and the sponsoring company if approved.

(16) **When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must meet the minimum requirements to obtain a license under the S.A.F.E. Act to receive an interim license.

(17) **When does my loan originator license expire?** The loan originator license expires annually on December 31st. If the license is an interim license, it may expire in less than one year.

(18) **How do I renew my loan originator license?**

(a) Before the license expiration date you must renew your license through the NMLS. Renewal consists of:

(i) Paying the annual assessment fee; and

(ii) Meeting the continuing education requirement. You will not have a continuing education requirement in the year in which you complete the core twenty hours of prelicensing education. See WAC 208-620-730.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

(19) **If I let my loan originator license expire, must I apply to get a new license?** If you complete all the requirements for renewal on or before the last day of February each year, you may renew an existing license. However, if you renew your license during this two-month period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (17) of this section for the license renewal requirements.

During this two-month period, your license is expired and you must not conduct any business under the act that requires a license.

~~((Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp by March 1st.))~~ If you fail to comply with the renewal request requirements, you must apply for a new license.

(20) **If I let my loan originator license expire and then apply for a new loan originator license must I comply with the continuing education requirements from the prior license period?** Yes. Before the department will consider your new loan originator application complete, you must provide proof of satisfying the continuing education requirements from the prior license period.

(21) **May I still originate loans if my loan originator license has expired?** No. Once your license has expired you may no longer conduct the business of a loan originator, or hold yourself out as a licensed loan originator, as defined in the act and these rules.

(22) **May I surrender my loan originator's license?** Yes. Only you may surrender your license before the license expires through the NMLS.

Surrendering your loan originator license does not change your civil or criminal liability, or your liability for any administrative

actions arising from acts or omissions occurring before the license surrender.

(23) **Must I display my loan originator license where I work as a loan originator?** No. Neither you nor the company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

(24) **Must I include my loan originator license number on any documents?** You must include your license number closely following your name as entered in the NMLS on (a) through (d) of this subsection. An example of closely following is: Your name as entered in the NMLS followed by your title (if you use one) followed by your license number.

(a) Solicitations. This includes correspondence in any form. Correspondence that this not a solicitation does not have to include your license number.

(b) Business cards.

(c) All advertisements and marketing that contain your name as entered in the NMLS.

(d) Any state or federal form that requires your license number. See WAC 208-620-710(26).

(25) **When must I disclose my loan originator license number?** In the following situations you must disclose your loan originator license number and the name and license number of the company you are associated with:

(a) When asked by any party to a loan transaction, including third-party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

(26) **May I conduct business and advertise under a name other than the name on my loan originator license?** You must use the name on your license when you are conducting business and in your advertisements with the following exceptions:

Except, use of your middle name is not required. Except, you may use only your middle and last name. Except, you may use a nickname as your first name if it is registered in NMLS on your MU4 as an "other" name.

(27) **As a licensed mortgage loan originator, what are my reporting responsibilities?** You must notify the director through amendment to the NMLS and upload supporting documents, if applicable, within ten business days to a change of:

(a) Answers to the NMLS generated disclosure questions or if your answer does not change but another event has occurred that requires disclosure and uploading of explanatory documentation;

(b) Sponsorship status;

(c) Residence address;

(d) Any change in the information supplied to the director in your original application; or

(e) A change to your response to a disclosure question within NMLS. You must upload any document that is the basis for your changed response.

NEW SECTION

WAC 208-620-715 Temporary authority to originate loans. (1) **What is temporary authority to originate loans?** Temporary authority to act as a loan originator permits qualified MLOs who are changing employment from a depository institution to a state-licensed mortgage company and qualified state-licensed MLOs seeking licensure in another state, to originate loans while completing any state-specific requirements for licensure. See WAC 208-620-730.

(2) **Who is eligible for temporary authority?** An MLO that is: (a) Employed and sponsored through NMLS by a state-licensed mortgage company; and (b) either: (i) Registered in NMLS as an MLO during the one year preceding the application submission; or (ii) licensed as an MLO during the thirty-day period preceding the date of application.

(3) **How do I receive temporary authority?**

(a) You must be employed and sponsored by a company licensed in Washington;

(b) You must file a license application pursuant to WAC 208-660-350 (1)(a) through (d); and

(c) You must not have any disqualifying criminal history, been subject to or served with a cease and desist order, or had an MLO license denied, revoked, or suspended in any jurisdiction.

(4) **How long can I operate under temporary authority?** Temporary authority begins on the date an eligible MLO submits a license application. It ends when the earliest of the following occurs: (a) The MLO withdraws the application; (b) the state denies or issues a notice of intent to deny the application; (c) the state grants the license; or (d) one hundred twenty days after the application submission if the application is listed on NMLS as incomplete.

(5) **Can my license application be denied during the period of temporary authority?** Yes. Your application can be denied at any time during the application review process.

AMENDATORY SECTION (Amending WSR 09-24-090, filed 12/1/09, effective 1/1/10)

WAC 208-620-850 What is the process I must follow to obtain the department's approval of my proprietary reverse mortgage product? ((Reserved.)) Contact the department for the specific process you must follow to obtain approval.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-950 Servicing student education loans—General requirements. (1) Other applicable laws, regulations, and programs. A violation of an applicable state or federal law, regulation, or program is a violation of this act. In addition to complying with all

other provisions of this act and rules, you must comply with the following: All applicable federal program requirements.

(2) Communications. If the student education loan borrower did not provide authorization for electronic communications during the origination process, you must provide the borrower with a specific, separate document seeking the borrower's authorization to receive all communications electronically. If the borrower responds affirmatively (agreeing), you must retain the borrower's agreement to receive electronic communications.

(3) Payment processing and fees.

(a) You must assess any incurred fees to a borrower's account within forty-five days of the date on which the fee was incurred. You must clearly and conspicuously explain the fee in a statement mailed to the borrower at the borrower's last known address no more than thirty days after assessing the fee. If you provide monthly or more frequent statements that include this information, you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(b) You must accept and credit, or treat as credited, all amounts received within one business day of receipt when the borrower has made the payment to the address where instructed, provided that the borrower has provided sufficient information to credit the account. If you use the scheduled method of accounting, any regularly scheduled payment made prior to the scheduled due date must be credited no later than the due date. You must apply the payment as specified in the loan documents. If you are in compliance with an applicable federal program, you are deemed in compliance with this subsection.

(c) You must notify the borrower if a payment is received but not credited, or treated as credited. You must mail the notification to the borrower within ten business days by mail at the borrower's last known address. The notification must identify the reason the payment was not credited or treated as credited to the account, as well as any actions the borrower must take to make the student education loan current. If you provide monthly or more frequent statements that include this information, you are not required to provide the information in a notice in addition to the monthly or more frequent statement. You may also provide the information via email if the borrower has assented to receive electronic communications.

(4) You must provide, free of charge on your website, information or links to information regarding repayment and loan forgiveness options that may be available to borrowers, as well as the availability of a student loan advocate to provide assistance. The requirement to provide information on the availability of a student loan advocate may be satisfied by language referring the student education loan borrower to their state's relevant authority. This information or these links shall be prominently placed and provided via written correspondence or email with the borrower at least once per calendar year. Alternatively, you may provide a toll-free telephone number where a student education loan borrower may speak to a single point of contact about loan repayment and loan forgiveness options.

(5) You must review all borrowers against the United States Department of Defense database monthly and apply the borrower entitlements based on that matching. You must keep a written policy and procedure for this practice as part of your books and records. If you are

in compliance with an applicable federal requirement, you are deemed in compliance with this subsection.

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

WAC 208-620-960 Servicing student education loans—Requests for information. (1) You must make a reasonable attempt to comply with a borrower's request for information about the student education loan account and to respond to any dispute initiated by the borrower about the loan account. A reasonable attempt includes, but is not limited to:

(a) Maintaining written or electronic records of each written request for information involving the borrower's account until the student education loan is paid in full, sold, or otherwise satisfied;

(b) Providing a written statement to the borrower within fifteen business days of receipt of a written request from the borrower. The borrower's request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and sufficient detail regarding the information sought by the borrower to permit the servicer to comply. If you are in compliance with an applicable federal requirement, you are deemed in compliance with this subsection.

(2) You must provide, at a minimum, the following information to a borrower's request described in this section:

(a) Whether the account is current or, if the account is not current, an explanation of why the account is not current and the date the account became past due;

(b) The current balance due on the student education loan, including the principal due, the amount of funds, if any, held in a suspense account, if any, and whether there are any shortages known to the servicer;

(c) The identity, address, and other relevant information about the current holder, owner, or assignee of the student education loan; and

(d) The telephone number and mailing address of the servicer's business unit where the borrower will reach an individual with the information and authority to answer questions and resolve disputes.

(3) You must promptly correct any errors and refund any fees assessed to the borrower resulting from an error you made.

(4) If the borrower applies for or attempts to certify progress toward a discharge or refund of amounts paid on their federal student education loans with the United States Department of Education, you must provide explanations to the borrower on any decision made with respect to their application.

(5) Unless you are complying with an applicable federal requirement, in addition to the statement described in subsection (2) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower to the servicer at the address the servicer has provided to the borrower for such requests for information. The request must include the name and account number, if any, of the borrower, a statement that the account

is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower, this statement must also include:

(a) A copy of the original note, or if unavailable, an affidavit of lost note, with all endorsements; and

(b) A statement that identifies and itemizes all fees and charges assessed under the loan servicing transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the student education loan including suspense account activity, if any.

(c) The period of the account history shall cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the student education loan for the entire two-year time period, the servicer must provide the information going back to the date on which the servicer began servicing the loan and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the loan prior to the two-year period or the period during which the servicer has serviced the student education loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums that are owed on the student education loan up to the date of the request for the information.

(d) If the borrower requests this statement, you must provide it free of charge; but the borrower is only entitled to one free statement annually. If the borrower requests more than one statement annually, you may charge thirty dollars for the second and subsequent statements.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 208-620-240 Once I am licensed, does the act apply
to all loans I broker or make?