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Sent: Monday, July 12, 2021 8:34 AM
To: Fazio, Lucinda M (DFI) <Lucinda.Fazio@dfi.wa.gov>
Cc: Mele, Catherine (DFI) <catherine.mele@dfi.wa.gov>; Bouton, Drew W (DFI) <drew.bouton@dfi.wa.gov>; Rose Marie David <RoseMarie.David@homebridge.com>; lgoldsmith@franklinamerican.com
Subject: WMBA Comments on Draft Proposed Rulemaking: SB 5077

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Good morning, Ms. Fazio;

On June 16, the Department of Financial Institutions (DFI) hosted a work session in to consider stakeholder feedback relating to upcoming rulemaking for the recent passage of SB 5077, *Providing authority to licensees companies to allow mortgage loan originators to work from their residences without the company licensing the residence as a branch office of the company*, which passed the Legislature in 2021.

On behalf of the Washington Mortgage Bankers Association (WMBA), we thank DFI for their continued partnership and endeavors to modernize Washington’s regulations relating to consumer loans and technology. WMBA recognizes our mutual interests in making Washington state a welcoming place to do business, and appreciate the time DFI takes to understand and support our sector.

The WMBA is an organization that has represented residential and income property mortgage lenders in Washington state since 1920, and members include independent mortgage bankers, commercial banks, savings banks, savings and loans associations, credit unions and financial institution-affiliated mortgage companies.

Based on the discussion on 6/16, we would like to provide preliminary feedback as DFI considers a draft rule for implementation:

1. Definition of “residence”— WMBA supports the DFI proposal.

Under the new law provisions of SB 5077, the term “residence” is used to provide:

*It is not a violation for a licensed mortgage loan originator to originate loans from an unlicensed location **if that location is the licensed mortgage loan originator’s residence** and the licensed mortgage loan originator and licensed sponsoring company comply with RCW 31.04.075. (emphasis added)*

WMBA appreciates that DFI is considering various mechanisms to further define residence under these new provisions, and supports the proposed use of permanent or temporary residence. As we know, COVID-19 has highlighted the world’s ability, and sometimes need, to work from home and be more fluid. Today’s technology has enabled many workforces, including mortgage loan originators, to work from any physical location so long as specific security protocols have been met. WMBA members have been meeting this need seamlessly during the pandemic, and believe our sector is ready to make these changes permanently.

The flexibility to work from another residence or location provides our workforce the flexibility needed to meet the needs of our customers and today's market, while providing protections necessary to ensure security of data and personally identifiable information as a top priority.

2. Proposal to require company-issued mobile devices— WMBA asks that DFI reconsider this approach.

During the discussion on 6/16, a significant new requirement was discussed for consideration. WMBA has substantial concerns with this new proposal to require company-issued devices to conduct business in a temporary or permanent residence.

In recent years, mortgage bankers have invested millions of dollars to enhance privacy protections and security, specifically supporting remote and mobile applications. Requiring companies to supply devices in order to conduct business would be a significant deviation from our current business practices, and a significant burden on businesses large and small.

The experience of WMBA members is that most MLO's use one device for personal and business purposes. Companies require secure applications to be placed on these devices so that companies can monitor, regulate, and control consumer information from the corporate standpoint. These secure applications have multiple passcode protections and the corporations have ultimate control, and liability, over these personal/business devices.

Given the current business practices, the WMBA believes that this new approach will not address the underlying concerns aimed at protecting borrowers, but instead would have impacts on the consumer's seamless interactions with MLOs, and will have far-reaching impacts on the ability to do business in Washington state. WMBA is concerned this policy change could ultimately disincentivize operating in the state for some companies, and we are unaware of any other state that has this requirement.

Overall, the proposal to require company-issued devices will create unintended consequences and will inadvertently limit mortgage lending activity because it is a significant variation from current practice. Ultimately, we are concerned this will lead to a negative impact on Washington's housing market, which is currently on the path to recovery in a post-COVID-19 world.

We respectfully request that you please consider both of these comments moving forward with the rulemaking to SB 5077, and WMBA members are always at the ready to continue these discussion with you.

Best regards,

A handwritten signature in cursive script that reads "Jessica Fortescue". The signature is written in black ink and is positioned below the text "Best regards,".

Jessica Fortescue