



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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March 28, 2016

Concise Explanatory Statement Pursuant to RCW 34.05.325(6)

RE: Rule Amendments to the Consumer Loan Act (chapter 31.04 RCW), chapter 208-620 WAC

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

The rules must be amended to implement changes to the law, to aid the regulated industries by having consistent rules, and to make technical changes for clarity and consistency.

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

See Attachment 1.

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

I. Summary of written comments received:

1. March 15, 2016 – Tom Echols for Washington State Financial Services Association:

WAC 208-620-572 is not clear in describing an exception that is available under the Federal statute but not the implementing regulation, Regulation P. Some members' privacy policy practices fall within the new exception but because the proposed WAC only references the regulation, the members may be deemed in violation. Please make changes to clarify this.

DFI RESPONSE: DFI amended the proposed WAC to clarify the exception that occurs in the statute not the implementing regulation.

2. March 22, 2016 – Jon Galloway for Veterans United Home Loans
3. March 22, 2016 – Jay N. Varon on behalf of “advertiser clients”
4. March 22, 2016 – Sarah Gay for Dominion Enterprises

The comments were identical and the following summary applies to them all:

The definition of mortgage loan originator is different from the definition in the SAFE Act. The Washington definition uses “or” instead of “and” when describing the two activities that are activities requiring licensure. Also, the definition is broadened to include clarification of what it means to “offer or negotiate terms...”. These two things combined appear to say that licensure would be required for additional individuals who are minimally involved, creating an unnecessary and costly burden of licensing.

DFI RESPONSE: The following response is the same to all comments:

While maintaining the necessary language for compliance with the federal SAFE Act, DFI amended the proposed language to narrow the scope to make it less likely the language would capture unintended individuals conducting activities not intended for licensure.

II. Summary of oral comments received during the public hearing held March 22, 2015, at the DFI office in Tumwater, Washington: None.

The comment period was open from the filing of the CR-101 on July 27, 2015, until March 25, 2016.

The written comments in their entirety are available on our website:
<http://dfi.wa.gov/rulemaking/2015-consumer-loan-act-rulemaking>

The complete audio of the hearing is available on our website.

CONCLUSION

DFI made the proposed rules available to all interested parties and published the proposed amendments on the department website along with all rulemaking notices and audio of public meetings. The final proposed rules are the product of an open, deliberative process.

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

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

1. WAC 208-620-010 “NMLS”. Proposed language amended to make the definition of NMLS consistent with its use across various industries.
2. WAC 208-620-010 “Mortgage loan originator”. Proposed language amended to avoid capturing individuals and activities not intended for licensure.
3. WAC 208-620-510. Proposed language amended to clarify that certain loans are not covered by the integrated TILA-RESPA disclosures. (3)(d) and (4)(e) proposed language was amended to clarify placement of the payment of a rate lock on the new federal disclosures.
4. WAC 208-620-555(1)(c). Proposed language amended to clarify that a credit report fee may be collected from a borrower before closing. (3)(a) proposed language amended to clarify that the lender can collect third-party fees paid to an appraiser before closing when agreed to in writing by a borrower. (7) proposed language amended to clarify the situations when and how a lender may charge discount points.
5. WAC 208-620-572. Proposed language amended to clarify that a licensee may not need to re-disclose a compliant privacy policy when no changes to that policy have occurred – pursuant to an exception in GLBA.

