



**SARAH GAY**

ENTERPRISE ASSET SPECIALIST

March 22, 2016

Sara Rietcheck  
Washington Department of Financial Institutions  
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**Re: 208-620-010 WAC**

Dear Ms. Rietcheck,

Thank you for the opportunity to comment on the amendment to the definition of "mortgage loan originator" or "loan originator" in the proposed rulemaking amending 208-620-010 WAC.

Dominion Enterprises and its subsidiaries and affiliates offer critical business services, including classified advertising and publishing across a variety of industries, including real estate. As an advertising company, we accept advertising on behalf of lenders. We are concerned that the proposed changes to the definition of "mortgage loan originator" or "loan originator" would classify the mere acceptance and placement of advertising as "loan origination" under the amended definition.

The federal Model SAFE Act (12 CFR § 1008.103(b) (1)) defines a "mortgage loan originator" (or "MLO") as an individual who (i) takes a residential mortgage loan application and (ii) offers or negotiates terms of a residential mortgage loan for compensation or gain. The federal code further defines how an individual takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain. The use of the word "and" to separate subparts (i) and (ii) in the federal code denotes that an individual must take a residential mortgage loan application in addition to offering or negotiating the terms of a residential mortgage loan in order to be subject to the requirements for an MLO as subsequently detailed in sections (c)(1) and (c)(2)(i) and (ii).

The Washington Code would define a "Mortgage loan originator" or "loan originator" as "an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain . . . (2) offers or negotiates terms of a residential mortgage loan, including short sale transactions." (Because of the use of the "or," the taking of an application would not be required.)

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Parsing the new language of subsection (2) in the Washington code, it would appear that merely accepting advertising would cause a business to be defined as an MLO: "An individual 'offers or negotiates terms of a residential mortgage loan for compensation or gain' if the individual . . . (c) . . . refers . . . a prospective borrower to a particular lender . . . in accordance with . . . incentive from [the lender] . . . and; (d) Receives or expects to receive a payment of money."

As written, the advertiser/lender, by paying us for a "click," arguably makes us a mortgage loan originator. Industries not directly related with residential mortgages could fall under licensure requirements, including lead aggregators and websites simply selling advertising. We do not believe this was the intent of the amended rulemaking, and we respectfully request that the language in the proposed new rule be revised so that it is consistent with the intent of the SAFE Act.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Sarah Gay', written over the typed name.

Sarah Gay

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