



March 23, 2016

Department of Financial Institutions
150 Israel Road SW
Tumwater, WA 98501

Subject: DFI Rulemaking on Mortgage Brokers Practices Act

I am pleased to submit the following comments –

1. WAC 208-660-155 Mortgage brokers – General

(10) With the implementation of TRID, many lenders now prepare and issue the GFE or LE to the borrower directly, not the MB. Furthermore, the LE can be issued with or without a signature block, and when issued by the lender such version is dictated by them. Federal regulations require these disclosures, initial and revised, be delivered. Signature of receipt is not mandated.

Requested Action: With the broker often being substantially removed from this process, we feel the signature requirement should no longer be required, provided the broker retains documentation showing the GFE/LE's have been delivered.

2. WAC 208-660-300 Loan originators – General

(13) When LO licensing was first being implemented, it was determined by the MB Commission that (i) self-employed LP's need to be licensed just as a MB/DB, and (ii) W-2 unlicensed LP's should be under the control and direction of the DB/MB. These changes reduce the knowledge base of the self-employed LP and place the W2 LP under the direction of the LO, not the MB/DB.

Requested Action: Retain existing language and hierarchy.

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3. WAC 208-660-410 Trust accounting

(20) (ii) and (iii) With TRID transactions utilizing a Closing Disclosure, as opposed to the HUD-1 Settlement Statement, we have not been able to identify a place for "deposit paid by broker" and "reimbursement to broker for funds advances" to be listed. While page 1 of the HUD-1 allowed for the listing of these trust account items, discussion with lenders and escrow companies have not had the same results when speaking of the CD.

Though it's not a charge to the borrower, some escrow companies envision both of these entries be included under Section B. Services Borrower Did Not Shop For on the CD, one as a positive number the other as a negative number to offset one another. However, without any determination as to how these would be addressed from a tolerance issue (LE to LE and LE to CD) no certainty of how lenders will handle them has been determined.

Should DFI wish that "deposit paid by broker" be listed as a credit, the CD does not permit that. All credits are either applied against the charge or aggregated under one "credit" line item in Section J of the CD.

Requested Action: Remove the requirement that these offsetting items be listed on the settlement statement, provided, they are properly labelled in the MB's trust sub-account.

4. WAC 208-660-410 Trust accounting

(25) (a) and (b) Without the CD clearly stating "deposit paid by broker" and "reimbursement to broker for funds advances" the part of these sections dealing with "borrower credit" is no longer documentable.

Requested Action: Remove the portion dealing with "loan closing documents" and "applicable settlement statement" showing that credit has been received.

5. WAC 208-660-430 Disclosure requirements.

Requested Action: (2) insert the words "or loan estimate" between "estimate" and "of a fee."

6. WAC 208-660-430 Disclosure requirements.

Requested Action: (3) (b) insert the words "or loan estimate" between "estimates" and "of settlement services."

7. WAC 208-660-430 Disclosure requirements.

(3) (e) Our history is that lender's don't always charge a lock-in fee at closing, but treat the upfront non-refundable deposit as a borrower paid credit at closing. In other words, it generally is only a fee if the loan doesn't close. If closed, it would either be listed as a Borrower-Paid Before Closing item (if listed as a charge under Section A), or listed as a credit under Section J.

(9) Again, our history is that lender's don't charge for a lock-in fee but treat it as a non-refundable deposit towards their origination fees.

Requested Action: Additional clarification is required.

8. WAC 208-660-440 Advertising.

(11) Without changing the definition of Advertising this new section changes the historical manner in which DBA's have been used. The use of DBA's is a proven method of conducting business throughout all aspects of America and Washington State. To ensure disclosure and clarification for the borrower, it was decided years ago to require the addition of the NMLS number when using a DBA approved by DFI, which continues to meet borrower and MB/LO needs.

Requiring the use of the company's legal name when using the DBA, is really stating that the legal name and NMLS number are now required on all documents (point of sale literature), advertising materials, signs and other media.

1. Adding this requirement will be costly to existing MB's; and
2. Addition this requirement will cause confusion to borrowers, now wondering if the company has changed or closed; and
3. Under WAC 208-660-350 (22) the MB is no longer required to display the license, hence there must not be a history of borrower confusion or lack of their ability to locate the actual company; and
4. The addition of this requirement runs counter to WAC 208-660-180 (9) where it clearly states that the MB may use the DBA along with either the license name or [NMLS] broker license number; and
5. WAC 208-660-446 includes ample situations where the company's legal name is listed.

Requested Action: Please remove this new sub-paragraph in its entirety.

9. **WAC 208-660-700 Mortgage broker commission.**

More than ever, improved communication between the department, licensees and the public should be promoted.

Requested Action: If the Mortgage Broker Commission cannot be resurrected, let's establish another forum at lower or no cost to the department that conducts the same activities as the Commission.

Thank you for working with industry when developing changes to the rules.

With best regards,

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