



Minutes

Mortgage Brokerage Commission Meeting

Tuesday May 13, 2008

Start Time - 9:00 am

Bellevue City Hall

Council Chambers

450 110th Ave NE

Bellevue, WA 98009

Attendees:	Deb Bortner, DFI Adam Stein, Commission Chair Jeffrey Lorsch, Commissioner Stephen Bozick, Commissioner Jason Bloom, Commissioner Gary Bracht, Commissioner Don Burton, Commissioner Guests: 81
Note taker:	Elizabeth Stancil, Administrative Assistant
Resource persons:	Deb Bortner, DFI, Division Director Berri Leslie, DFI, Program Manager James Brusselback, DFI, Program Manager Cindy Fazio, DFI, Financial Legal Examiner Rick St. Onge, Financial Examiner Supervisor
Abbreviations:	DFI = Department of Financial Institutions and/or Division of Consumer Services MB = Mortgage Broker (subject to DFI's authority under the MBPA) DB = Designated Broker at the licensed Mortgage Broker WAMB = Washington Association of Mortgage Brokers RCW = Revised Code of Washington (here, specifically chapter 19.146 known as "The Mortgage Broker Practices Act") <i>also referred to as "the Act" or "MBPA"</i> WAC = Washington Administrative Code (here, specifically chapter 208-660, promulgated under "The Mortgage Broker Practices Act") <i>also referred to as "the rules"</i> AARMR = American Association of Residential Mortgage Regulators HUD = the Office of Housing and Urban Development (a federal agency) CRO = Code Reviser's Office CE = Continuing Education (for Designated Brokers and Loan Originators) NMLS = Nationwide Mortgage Licensing System
Future Agenda Topics:	

----- Agenda Topics -----

1. Approval of Minutes from February 13th Meeting		Jeffery Lorsch	9:05 a.m.
Discussion:			
<p>Jeffery Lorsch had one change to the minutes.</p> <p>Stephen Bozick move to approve the minutes as amended.</p> <p>Don Burton seconded and the motion was passed.</p>			
Action items:		Person responsible:	Deadline:
<p>Copies of the minutes will be available upon request from DFI.</p> <p>You are able to listen to this pod cast (recording) from the following address on DFI's website: http://dfi.wa.gov/cs/mortgage.htm</p>		Elizabeth Stancil	Now
2. Changes in the Law		Deb Bortner	
Discussion:			
<p>A special Mortgage Broker Commission meeting was held on May 7, 2008 to discuss the recent law changes as a result of SB 6471. These changes affected both the Mortgage Broker Practices Act (MBPA) and the Consumer Loan Act (CLA).</p> <p>In the MBPA, the phrase "make a loan" was removed from the definition of mortgage broker which means that a mortgage broker can only assist someone in getting a loan; they can not actually do the lending. DFI is struggling with defining "make a loan" in that context. The General Counsel for the agency, Joe Vincent, has opined that we have sufficient authority to define that term a bit differently than it's defined in the CLA. In the CLA, "make a loan" is, for example, table funding and correspondent lending. The intent of SB 6471 was to make sure that everyone in this industry is licensed in some way. In researching this issue, Deb Bortner has found that you're either a true broker, table funder, correspondent lender without delegated authority to underwrite, correspondent lender with authority to underwrite, or you're a lender.</p> <p>At the special Mortgage Broker Commission last week, input on this issue was provided by a number of mortgage brokers. DFI will review WAMBs definition of "make a loan" prior to making a final decision. The decision will be made by Friday, May 16. The memo will be placed on DFI's website and sent out to interested parties via the ListServ.</p> <p>If you are interested in receiving rulemaking and hearing information, visit our website at www.dfi.wa.gov and sign up for our ListServes. We distribute all industry announcements, and rulemaking information this way.</p> <p>DFI is considering allowing mortgage brokers who have to change to a consumer loan company to transition onto the NMLS without a fee from DFI. You will still have to pay the fees that the NMLS requires.</p> <p>Cal Peterson asked about lending for commercial purposes.</p> <p>Deb said we intend to at the same time or sooner define out commercial lending, business lending, and agricultural lending. If a business loan is secured by residential property and used for personal use, it is not a business loan. Owner occupied or a second home not used for rental purposes then it is residential. Investment property is not included.</p>			
Action items:		Person responsible:	Deadline:

3. Rule Making Update	Cindy Fazio	
Discussion:		
<p>DFI plans to do rulemaking under the CLA to implement the new law.</p> <p>There is a rulemaking project leftover from last year, and we will be doing rulemaking under the MBA to implement the new law. We are unable to start this process until the law becomes effective on June 12th. A series of CR 101s will be filed right around June 18th. All of the rulemaking notices and draft language will go out via the listserv so it is important for interested parties to sign up.</p> <p>Jeffery Lorsch commented that he has been a commission member for three years and in his first year there was a huge effort for rulemaking done. The Commission worked closely with DFI to co-author the Loan Originator licensing rules. Last year, there was rulemaking going into effect that the industry resisted and he thinks part of the issue was that the commission wasn't really involved in that rulemaking process. He recommended that the commission be more involved in order to maintain a better relationship with the industry.</p> <p>Deb Bortner said that DFI plans to bring the future rulemaking decisions to the Commission. If necessary, we will hold more public meetings as we've done in the past.</p> <p>When SB 6471 passed and when the legislature ended and it had in fact become law, Cindy Fazio did an expedited rulemaking under the MBPA to remove the definition of mortgage broker from our rules that was at that point contradictory to the law.</p> <p>The passing of I-960 has required us to clean up a piece of the fees language in the MBPA. Another expedited rule process was done to remove "fiscal growth" language from the fees. When we file the CR101 on or around June 18th, that will be the clean up rulemaking from SB 6471. There will be some necessary technical changes as well.</p> <p>SHB 2770 becomes effective June 12th. This piece of legislation affects every licensed entity at DFI. This is the piece of legislation that is the Governor's Omnibus bill on the work of the Task Force from last fall. The Omnibus Bill contains the requirement on a disclosure summary, negative amortization, and implementation of the federal guidance on non-traditional mortgage loan products and the statement on subprime loan characteristics. SHB 2770 also contains language about mortgage fraud; no rulemaking will be done on that. The bill also included a prohibition on "steering"; some members of the industry have asked to see rulemaking on this.</p> <p>SB 6381 Fiduciary Duty Bill has one section, section 1(a) that isn't clear and we may do rulemaking just on that provision to make it more understandable.</p>		
Action items:	Person responsible:	Deadline:

4. Nationwide Mortgage Licensing System (NMLS) Update		Berri Leslie	
Discussion:			
<p>Berri Leslie is the new Program Manager for the Consumer Services, Administration and Licensing Program. She comes from the Oregon version of DFI.</p> <p>At the February Commission meeting, Kae McDonnell, gave an in depth presentation on the NMLS and how to navigate through it.</p> <p>Consumer Loan licensees are the first to transfer to the NMLS so when the mortgage brokers and loan originators, join all the bells and whistles should be worked out. As of July 1, mortgage brokers and loan originators can begin transitioning their licenses onto the NMLS. They will all need to be on the NMLS system by October 1.</p> <p>In June, there are two webinars available for training on using the NMLS system.</p> <p>DFI is committed to making this transition a positive experience for licensees. We really want each licensee to feel like they are our primary customers. Feel free to call with any challenges or questions you run into.</p>			
Action items:		Person responsible:	Deadline:
5. Licensing Update		Berri Leslie	
Discussion:			
<p>Currently there are:</p> <p>1500 Brokers</p> <p>1700 Branch Offices</p> <p>About 7500 Loan Originators – dramatic decrease since February</p> <p>The licensing staff at DFI is very committed to their customer service and meeting turnaround time. The longest outstanding mortgage broker application is from May 2, and the longest outstanding loan originator application is from May 5. We are sticking to our two-week turnaround time.</p>			
Action items:		Person responsible:	Deadline:

6. Enforcement Update	James Brusselback	
Discussion:		
<p>James Brusselback provided an overview of the Enforcement Unit's activity over the past few months.</p> <p>The total number of complaints received (all industries) from January 1 - April 30, 2008 was 685.</p> <p>290 of the complaints were against mortgage brokers and 46 were loan originator referrals. Most of the loan originator referrals are sent over due to incomplete or denied applications or fingerprint card errors.</p> <p>In the middle of a project to change the complaint form so there is a required set of questions the complainant has to answer to ensure they are sent to the correct agency or division to make their complaint. Increase customer service and decrease delay in processing complaints that fall within our purview.</p> <p>In 2007, under MBPA, there were just fewer than 300 Enforcement Actions or Orders. 242 were loan originator matters and 57 dealt with mortgage brokers or non-loan originator application matters.</p> <p>In 2008, of the 83, 82 deal with loan originators.</p> <p>The Enforcement Unit is generally closing the same number of complaints they're receiving.</p> <p>As of last week, there were close to 900 open complaints. Enforcement staff has had a reprieve from the loan originator issues they've been working on and they can now focus on more of the other complaints. They are gearing up for the next wave that might involve CLA and the lenders.</p> <p>If you're interested in viewing Statement of Charges and Orders, they will be posted on the website once entities are served.</p>		
Action items:	Person responsible:	Deadline:
7. Examinations Update	Rick St. Onge	
Discussion:		
<p>Rick St. Onge, a Financial Examiner Supervisor in the Examinations U nit, report that there were 36 examinations conducted from February to April 2008. 13 in February, 11 in March and 12 in April.</p> <p>There ratings were (1 being the best and 5 being the worst):</p> <ul style="list-style-type: none"> 1 – 1 company 2 – 13 companies 3 – 15 companies 4 – 6 companies 5 – 1 company <p>One examination was conducted for cause and the other 35 were routine examinations.</p> <p>A total of six examinations were referred to the Enforcement Unit. The violations found included equity skimming, occupancy fraud, loan originator forging borrower's signatures, unlicensed loan officers, stated income fraud, and deceptive advertising. In one case, there were more than 15 unlicensed loan originators at one company.</p> <p>Common violations are disclosing mortgage broker fees on line 801 of the Good Faith Estimate, no written explanation of an increase of fees from the Good Faith Estimate to the HUD 1 Settlement Statement, failing to display loan originator license numbers, failure to re-disclose a change in loan terms, and failing to establish a branch written supervisory plan, which in a new requirement in the statute as of March 24, 2008. Examiners were out looking to see if companies were complying with the new regulation.</p> <p>Mortgage Broker Annual Reports were due by March 31, 2008, and as of this time there are 1,167 mortgage brokers that have not complied.</p>		

	Action items:	Person responsible:	Deadline:
8. Public Comment			
	Discussion:		
	<p>John Long, compliance attorney, asked about the written supervisory plan in WAC 195 (3). Is that section written more toward branches and not the main offices?</p> <p>Rick St. Onge did not interpret the WAC.</p> <p>Deb Bortner said that the main focus was the net branch. The net branch organizations didn't have a supervisory plan. If you have branches you need to have a better written supervisory plan.</p> <p>John also asked about the three day disclosure and if it needs to be sent or received by the department in three days. What is the department's position?</p> <p>It needs to be mailed or provided within 3 days. Deb suggested that you keep a log of when it was sent.</p>		
	<p>Deb Bortner welcomed Gary Bracht and Don Burton to the Mortgage Broker Commission. Gary Bracht is a Mortgage Broker and Don Burton has a Consumer Loan Company. She expressed her appreciation to the whole Commission for the effort they put in. She relies heavily on commission members to help her better understand the industry and to be there to bounce questions off of.</p>		
	Action items:	Person responsible:	Deadline:

Called to Order: 9:05 a.m.

Adjourned: 10:36 a.m.