



# Minutes

## Mortgage Broker Commission Meeting

Thursday, February 26, 2009

9:00 am - 12:00 pm

Bellevue City Hall

Council Chambers

450 110th Ave NE

Bellevue, WA 98009

### Attendees:

Deb Bortner, DFI  
Jason Bloom, Commission Chair  
Gary Bracht, Commissioner  
Jeffrey Lorsch, Commissioner  
Stephen Bozick, Commissioner  
Don Burton, Commissioner  
Guests:

### Note taker:

Meeting was recorded. Podcast is available on the DFI website.

### Resource persons:

Deb Bortner, DFI, Division Director  
Levi Clemmens, DFI, Program Manager  
James Brusselback, DFI, Program Manager  
Kwadwo Boateng, DFI, Program Manager

### 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  
**WAMP** = Washington Association of Mortgage Professionals  
**RCW** = Revised Code of Washington (here, specifically chapter 19.146 known as “The Mortgage Broker Practices Act”) *also referred to as “the Act” or “MBPA”*  
**WAC** = Washington Administrative Code (here, specifically chapter 208-660, promulgated under “The Mortgage Broker Practices Act”) *also referred to as “the rules”*  
**AARMR** = American Association of Residential Mortgage Regulators  
**HUD** = the Office of Housing and Urban Development (a federal agency)  
**CRO** = Code Revisers Office  
**CE** = Continuing Education (for Designated Brokers and Loan Originators)  
**S.A.F.E.** = Secure And Fair Enforcement Mortgage Licensing Act of 2009

### Future Agenda Topics:

**----- Agenda Topics -----**

<b>1. Approval of Minutes from Nov. 6<sup>th</sup> Meeting</b>		<b>Jason Bloom</b>	
<b>Discussion:</b>			
Stephen Bozick move to approve the November 6 <sup>th</sup> meeting minutes as written. Jeffrey Lorsch seconded and the motion was passed by a unanimous vote.			
<b>Conclusions:</b>			
<b>Action items:</b>		<b>Person responsible:</b>	<b>Deadline:</b>
You are able to listen to this pod cast (recording) and review the transcribed minutes from the following address on DFI's website: <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a>		Elizabeth Stancil	Now

<b>2. Legislative Update</b>	<b>Deb Bortner</b>	
<b>Discussion:</b>		
<p>MB and CL S.A.F.E. Bills</p> <p>Both bills passed out of their original committee. Yesterday there was a hearing in the General Government Appropriations in the House side and it passed on to Rules. On the Senate side, it went from the Senate Financial Institutions Committee straight to Rules. In Rules, it has to be pulled by a several members of the committee and then it can go out to the floor. On both sides, those rules are currently in the Rules Committee. A couple weeks in there and then they go to the other side and there's an opportunity to testify about the policy again. The legislators are working these bills and unless an issue arises they will likely go through. The consumer loan version of the S.A.F.E. Act is flying through.</p> <p>Mitigating Circumstances Bill</p> <p>There's a Mitigating Circumstances Bill that started on House and Senate side. This bill is intended to give mortgage brokers credit for coming forward to DFI when they know of an LO that is doing bad things. This bill didn't get anywhere on the House side and it is in its second reading on the Senate side. It is still active.</p> <p>There are several bills that members of WAMP proposed.</p> <p>SB 5995 / HB 2087 Eliminate Boards and Commissions</p> <p>The last bill that is still moving is SB 5995 which proposes to Eliminate 150 Boards and Commissions, one of which is the MB commission. This bill is out in the Rules Committee. DFI did not appoint new commissioners because we are waiting to see if we will have a mortgage broker commission in the future. DFI is committed to the relationship that we have with the MB community. Deb Bortner will attend meetings with the industry and may hold occasional meetings in Olympia to continue our dialog with the mortgage brokers.</p> <p>SB 5858 was brought up. Deb said it's not out of its committee of origin and has not had any testimonies on it. Deb will check on this when she gets back.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
<b>Conclusions:</b>		
<b>Action items:</b>	<b>Person responsible:</b>	<b>Deadline:</b>

<b>3. Rulemaking Update</b>	<b>Deb Bortner</b>		
	<b>Discussion:</b>		
	<p>DFI has a Brief Adjudicative Proceeding and we are going to open it up, which means we look at a case within the agency instead of going through the administrative law process. It is in the rulemaking process right now. We've issued a CR-101 and will be issuing a CR-102.</p> <p>DFI has committed to do rulemaking in regard to following federal law for FHA and VA Loans. If an MB becomes a non-supervised lender under FHA they can get discount points. Discount points, as we understand them, must always discount the rate. MBs that are non-supervised lenders can get discount points as long as they reduce the rate.</p> <p>If and when the S.A.F.E. Bill passes we will have additional rulemaking activity. Rulemaking will not occur until July 2009 if it does pass.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
	<b>Conclusions:</b>		
	<b>Action items:</b>	<b>Person responsible:</b>	<b>Deadline:</b>

**Discussion:**

**LICENSEE COUNTS**

License Type	Licensed as of 12/31/07	Renewed for 2008	Renewed for 2009
MB	1,911	1,524	922
LO	13,722	7,863	4,597

**NMLS**

Renewals

- Reinstatement period ends on February 28, 2009
  - Licensees that fail to complete the renewal process by February 28, 2009, will have to reapply for a license
- Pending renewals will be abandoned unless continuing education information is delivered by the February 28, 2009, deadline
  - Delivery of continuing education information after February 28, 2009, deadline will result in a gap in licensure

**NEW APPLICATIONS**

App Type	Oldest App	# in Queue
MB	2/4/09	3
LO	2/12/09	34

**OTHER ITEMS**

- 2008 MB Annual Report form is available on the DFI website.
  - Must be delivered to DFI by March 31, 2009

Jason Bloom asked how many MBs have transitioned to CL. In 2008, there were 29 that transferred and in 2009 there have been two so far.

Does the 922 MB include branches? No it does not. Year end 2008 there were approximately 1305.

Deb Bortner reported that DFI would not be requesting an affidavit of activity to those that renewed late by February 28<sup>th</sup>. This is due to the new process. If you renew after March 1<sup>st</sup> you will receive an affidavit of activity and will need to report any activity you had during your gap in licensure. That will apply to this year's renewal only.

You may listen to our podcast at <http://dfi.wa.gov/cs/mortgage.htm> under Commission Meetings.

**Conclusions:**

**Action items:**

**Person responsible:**

**Deadline:**

5. Examinations Update	Kwadwo Boateng	Handout	
<b>Discussion:</b>			
<p>There were 11 exams completed from November 2008 to January 2009. DFI is currently focusing their attention on for-cause exams.</p> <p>There ratings were (1 being the best and 5 being the worst):</p> <p>1 – 0 licensees  2 – 1 licensees  3 – 8 licensees  4 – 2 licensees  5 – 0 licensees</p> <p>These 11 exams resulted in \$18,710.23 requested in Borrower Refunds due to violations with consumer harm. Violations that may result in borrower refunds are failure to disclose broker fee, failure to disclose YSP, and no written explanation of increase in fees.</p> <p>A total of four examinations were referred to the Enforcement Unit for occupancy fraud, stated income fraud, co-brokering loans with unlicensed loan officers, and having unlicensed main and branch offices.</p> <p>Common violations:</p> <ul style="list-style-type: none"> <li>• No written Explanation of increased fees from the GFE to HUD-1</li> <li>• Failing to correctly disclose the Yield Spread Premium on the GFE</li> <li>• Failing to deposit borrower funds for payment of third party fees into a trust account</li> <li>• Failing to include LO's license number on mortgage applications and solicitations.</li> <li>• Charging unearned underwriting fees</li> <li>• Failing to implement a branch office written supervisory plan.</li> </ul> <p>You may listen to this discussion on our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>			
<b>Conclusions:</b>			
<b>Action items:</b>	<b>Person responsible:</b>	<b>Deadline:</b>	

6. Enforcement Update	James Brusselback	Handout
<b>Discussion:</b>		
The following reports activity through December 31, 2008.		
<u>Complaints received by Industry for 2008:</u>		
Mortgage Broker Internal Complaints	855 (referrals from Licensing, Examinations or from other divisions in DFI)	
MBPA Loan Originators	27	
MBPA Loan Originator Applications	84 (these are referrals from the Licensing Unit about an LO application)	
MBPA Loan Originator Internal	18 (issues other than application – non-renewal, unlicensed activity, etc.)	
Consumer Loan	590	
Check Cashier/Seller/Payday	134	
Escrow Agents	127	
Money Servicers	35	
RAL	1	
Other	332	
<u>Closed Complaints in 2008:</u>		
MBPA – Brokers	1024	
Loan Originators Referrals	81	
Consumer Loan	568	
Check Cashier/Seller/Payday	162	
Escrow Agents	112	
Money Services	32	
Enforcement Actions (Cease and Desist Orders, Statements of Charges, Resolution by Final Order or Consent Order, etc.)		
MBPA – Brokers	81	
MBPA – Loan Originators	156 (100 involved Final Orders)	
Consumer Loan	33	
Check Cashier/Seller/Payday	9	
Escrow Agents	16	
Money Services	3	
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<b>Conclusions:</b>		
<b>Action items:</b>	<b>Person responsible:</b>	<b>Deadline:</b>

<b>7. Cross-Industry Compliance Guidelines</b>	<b>Jeffrey Lorsch</b>		
	<b>Discussion:</b>		
	<p>This is an appeal to try and help other industries understand when they are assisting in fraud. Jeffrey Lorsch hears from many insurance companies that complain they're being asked from MBs to issue an insurance binder on a property to show it as owner occupied when in fact they already have insurance as a primary residence. The concept is to pass information through DFI to other agency directors so their agents realize they are actually helping to perpetuate insurance fraud if they issue an insurance binder for a second property that is owner occupied.</p> <p>On the advertising side, when one hears about credit unions "credit union solely for the benefit of it's member" it really implies that the consumer is the only one to benefit when in reality there are many other members that derive benefits.</p> <p>Deb Bortner reported that we do have a meeting once a year between DFI, DOL and the OIC to discuss these types of issues.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
	<b>Conclusions:</b>		
	<b>Action items:</b>	<b>Person responsible:</b>	<b>Deadline:</b>

<b>8. Mortgage Broker Commission</b>	<b>Deb Bortner</b>	
<b>Discussion:</b>		
<p><b>Mission Statement/Purpose</b></p> <p>The purpose of the commission is to offer advice to the department and it works really well.</p> <p><b>2009 Objectives</b></p> <p>We'll have a lot of work to do with S.A.F.E. and rules regarding what we'll adopt for S.A.F.E. Jeffrey Lorsch will work on the national SAFE test committee – Deb has been asked to have industry input on the state test,</p> <p><b>Governor's Proposal</b></p> <p>The Governor is proposing to eliminate 150 boards and commissions through SB 5995/HB 2087. This is the Governor's proposal to save money and she is asking everyone to do their part. The Escrow Commission is also included in this proposal.</p> <p><b>Thank you to retiring commissioners</b></p> <p>Deb Bortner presented Adam Stein with a plaque in appreciation for all of his hard work and the countless hours he put in as a mortgage broker commissioner. Adam served two terms on the commission.</p> <p>Anne Pulitano was also recognized for her hard work on the commission. Anne served one term on the commission.</p> <p>DFI has received several applications for the Mortgage Broker Commission; however, they will wait to make an appointment until they know whether the Governor's Proposal will pass or fail.</p> <p>Jeffrey Lorsch suggested conducting commission meetings via the web. Deb Bortner said this is a great idea and she is committed to maintaining the relationship that DFI has with the commission and the industry.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
<b>Conclusions:</b>		

<b>9. State S.A.F.E. Test - Volunteers</b>	<b>Deb Bortner</b>	
	<b>Discussion:</b>	
	<p>There will be a national test and a state test per the S.A.F.E. Act. Don Burton and Jeffrey Lorsch are working on the national test. DFI is seeking volunteers from the industry to work on the state test. The group will start meeting in about a week and would like three or four people from the industry to work with three DFI staff members on this. There will be three, four-hour virtual meetings. Each person will need to sign a letter of confidentiality. Those involved will still need to take the test. To qualify for the committee you must have been licensed for at least five years.</p> <p>As of July 30, 2009, DFI will no longer be giving the state exam. Everyone will need to take the national exam. If you become licensed by the end of July 2009, you will be able to wait until January of 2011 to take the test.</p> <p>Jason Bloom clarified that everyone in Washington that is licensed under the MBPA has already taken an exam and if they passed they are working in the industry. Under the S.A.F.E. Act, there is a national exam that everyone has to take. You cannot sit for the exam until you have had 20 hours of CE. Those that have already taken the test and are operating will not have to take the test until 2011 but will need to continue to accumulate CE. By mid 2010, you will already have accumulated the 20 hours and will just need to sit for the exam. Under the S.A.F.E. Act, you will be required to have 8 hours of CE each year.</p> <p>DFI requires one hour of CE per year and if you attend one MB commission meeting that can count for your one hour. Starting in 2010, all other hours will need to be certified by the NMLS. They will approve all CE from then on except the one credit for the state requirements.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>	
	<b>Conclusions:</b>	

<b>10. Loan Modifications</b>	<b>Stephen Bozick</b>	
	<b>Discussion:</b>	
	<p>Stephen Bozick wanted to add loan modifications to the agenda because he believes they are starting to become a more legitimate revenue source for a lot of businesses, especially those in our industry. Under the administrations latest proposal under the stimulus package there may be some standardization for loan modifications. We really need to address this issue. He thanked Deb Bortner for creating an interpretive statement which he hopes is just a start to the discussion and not the department's policy. He has been receiving calls from MBs, LOs, attorneys and several others regarding this issue. Negotiating loan modifications is something different than originating a mortgage. There is a difference in our role as MBs and loan modifiers. We need to revisit when fees are earned if we're helping a borrower get a loan modification. He wants to be sure that when MBs assist in a loan modification they are compensated for their time.</p> <p>The draft policy from DFI has been posted to the website at <a href="http://www.dfi.wa.gov">www.dfi.wa.gov</a> .</p> <p>Jason Bloom added that the FTC is actually looking at the activity of those doing loan modifications. They are actively going after companies that are operating even slightly outside of the law.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>	
	<b>Conclusions:</b>	

<b>11. New Business</b>			
	<b>Discussion:</b>		
	<p>Gary Bracht asked about having the rule hearing podcasts posted to the website. He could not find the last rule hearing on the website. Deb Bortner explained that we had one meeting that was not properly recorded. Hopefully, this will not happen again and DFI will post the rule hearing podcasts to the website.</p> <p>Jeffrey Lorsch found that under the Disclosure Summary there is something in the rules that says it is only applicable to purchase transactions. He asked for clarification on this. Deb Bortner explained that it is correct for now. DFI decided that they would only require it for purchase for six month so everyone could get use to using the form and then it will be applicable for all transactions.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
	<b>Conclusions:</b>		

<b>12. Old Business</b>			
	<b>Discussion:</b>		
	<p>No old business.</p> <p>You may listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>		
	<b>Conclusions:</b>		

<b>13. Public Comments</b>		
	<b>Discussion:</b>	
	<p>Comments were received from John Long regarding loan modification companies and changes in the new WACs or rules. Marvin Rosete, LBC Mortgage, commented on loan modifications and requested guidance. Mr. Rosete also asked about the requirements for CE content.</p> <p>Ivan Jensen, Prestige Mortgage Services, had a question regarding when DFI charges companies for audits. He also volunteered to serve on the state S.A.F.E. Test committee.</p> <p>George Pressly, Integrity First Mortgage, had comments and questions regarding which fees are required to be re-disclosed on the GFE, loan modification e-mails, the national exam, and YSP clarification. He also volunteered for the state S.A.F.E. Test committee.</p> <p>Joe Prevost, Pioneer Financial LLC, expressed concern regarding the possible elimination of the commission. The meetings are important for communication with the industry. He also volunteered to be on the state S.A.F.E. Test committee.</p> <p>Mike (last name not clear), Mortgage Lending Store, had questions regarding target interest rates and how to disclose it on the GFE.</p> <p>Randy Lowell, Mortgage Loan Center LLC, concern about the number of mortgage brokers dropping and funding for DFI's program. He also volunteered to be on the state S.A.F.E. Test Committee.</p> <p>Comments were also received from a mortgage broker that did not state her name.</p> <p>To hear the complete comments and discussions, please listen to our podcast at <a href="http://dfi.wa.gov/cs/mortgage.htm">http://dfi.wa.gov/cs/mortgage.htm</a> under Commission Meetings.</p>	
	<b>Conclusions:</b>	

**Called to Order:** 9:00 a.m.

**Adjourned:** 11:50 a.m.