

Escrow Commission Meeting Minutes

July 10, 2007

Attendees:

Commissioners: Robert Golden (Chair), Stan Pilon, Susan Kinyon, Laurie LeMay, and Chariese Adams

Consumer Services Division Representation: Deb Bortner, Division Director; Levi Clemmens, Program Manager; James Brusselback, Program Manager; Lana Monfort, Financial Examiner Supervisor; Cindy Fazio, Financial Legal Examiner; and Jeannette Terry, Administrative Assistant

Additional Guests: Adeen Sells (Reconveyance Services), Tammie Warnke (Escrow Association of Washington), Jonelle Wheeler (ACS NW), Dennis Daus (SeaTac Escrow), Dan Camerod (Trustee Services), and Evonne Noble (Professional Escrow).

Approve Minutes from April 10, 2007, Meeting - Handout

Susan Kinyon moved to approve the minutes from the April 10, 2007, Escrow Commission meeting. Robert Golden seconded the motion. All were in favor and the minutes were approved.

Exam Report – Lana Monfort

The examiners did 12 exams last quarter. One was referred to enforcement, and there was one follow-up exam. DFI is still receiving late quarterly reports, which we take seriously. We are requiring refunds for reconveyance fees if there is no performance.

Deb said larger violations or repeat violations are referred to enforcement.

There was a discussion about non-DFI regulated industries. DFI tries to share information on bad actors with other regulated entities. Some other regulators (Office of the Insurance Commissioner, Bar Association, etc.) share information with us too. We have to make sure the information has been proven and is not hear-say.

James Brusselback said we do meet with other regulators periodically in Seattle. Attendees include the Department of Licensing, Office of the Insurance Commissioner, Mortgage Fraud Task Force, King County Prosecutors, Attorney General's Office, and federal agencies. We are trying to start a group in Vancouver, WA, also. We attend Multi-State Regulators meetings, which includes Idaho, Wyoming, Montana, Utah, California, Oregon, and Washington. We also participate in national sub-prime conference calls weekly.

Licensing Update – Levi Clemmens

In addition to doing background checks on our licensees, we also receive correspondence from other states if they have taken actions against someone, we monitor websites, and check industry newsletters.

We now use Listservs to disseminate information to our licensees. Listservs are automatic, self-service distribution lists. They are a one-way correspondence mechanism from DFI; you can't reply or correspond with each other. The Listservs have been populated with all the email addresses from our lists. You may have multiple email addresses if you wish. Learn more about Listservs from our website – <http://dfi.wa.gov/cs/default.htm>. We will send Escrow Commission meeting notices, newsletters, alerts, etc. through the Listservs. We will send out a “welcome” message shortly. These Listservs will allow us to stop sending paper correspondence for mass mailings.

Licensee counts – July 2007

April 2007

| | | |
|-----------------|-----|---------------|
| Main offices | 178 | increase of 7 |
| Branches | 24 | decrease of 2 |
| Escrow officers | 272 | increase of 7 |
| Escrow agents | 224 | increase of 5 |

We are still maintaining a two-week turnaround on all applications. We currently have nine applications for main offices, two applications for branches, and eight applications for escrow officers. Amendments are being tabled until loan originator licenses are caught up. There are 26 escrow officer amendments and three escrow agent amendments pending.

Update on loan originator process as of July 1, 2007:

- 8,713 loan originator licenses have been issued so far.
- 14,500 applications have been received.
- 3,500 have deficiencies or are duplicates.

The Licensing unit now has 30 people.

We have done 172 referrals to enforcement. Just under 10% of the applications have criminal backgrounds. Some of those are outside the seven years. Having sexual predators work out of their homes is a problem. We will take that issue to the legislature in the next couple of years.

We issued 2,000 licenses in June 2007. Historically we issue 1,000 licenses per month.

Test – The loan originators have one year to pass the test. They must pass prior to their renewal date. After January 1, 2008, they need to pass the test prior to licensure. DFI hired an outside vendor, Promissor, to write and provide the test.

Bob said the EAW provides continuing education on mortgage broker fraud, RESPA, etc. Deb said if a course was approved, then mortgage brokers could take it also. Bob will contact Levi and the Washington Association of Mortgage Brokers (WAMB). Designated brokers must take three – three-hour courses, and loan originators must take two – three-hour courses.

Enforcement Update – James Brusselback

From July 1, 2006 - June 30, 2007:

Complaints:

| | |
|--------------------|--|
| Received in period | 77 |
| Closed in period | 48 (referred, declined, or came to resolution) |
| Open as of 6/30/07 | 32 (8 from 2006, 9 potential unlicensed allegations) |

We normally receive 1,000 complaints per year. To date, we have already exceeded 1,000.

Investigations:

| | |
|-----------------------------------|----|
| Formal investigations – Pending | 18 |
| Investigations – Closed in Period | 3 |

There are 250 total investigations pending.

Full Time Equivalents (FTEs) in the Enforcement Unit:

| | |
|---------------|----|
| Two years ago | 5 |
| Today | 17 |
| Future | +3 |

The loan originator program is in large part responsible for this increase in FTEs. The legislature understands the need. We have had 50 loan originator denials since January 2007.

Mandatory Filing Online – Discussion – Deb Bortner

We have been using the online filing for five years now. Only a small percentage are renewing online. Deb said you can use a one-time debit card or pre-paid Visa card to pay online. Escrow officer renewal is available online now. We will go through the rulemaking process to make filing online mandatory. We will give the industry notice.

Reconveyance Services – Discussion – Deb Bortner and Cindy Fazio - Handouts

The first handout is the original policy statement for third party service providers, not reconveyance services. The second handout is tailored to reconveyance services.

RESPA, part 8B, shows why we are so insistent on why you can not take fees until they are earned.

Handout – Excerpt from HUD statement of Policy 2001-1 (emphasis added). Part (3) should be underlined, not (2) on our handout. DFI is setting the tracking fees at a maximum of \$35. RESPA says fees must be reasonable.

Stan said reconveyance/trustee services (prepares and signs full reconveyance) and tracking services (everything else is tracking) need to be differentiated. Some are confused about where tracking ends and reconveyance starts.

There are forced reconveyance statutes in other states.

Deb said the problem is that federal law says in settlement services, you may not collect a fee that is not earned.

Some were concerned that \$35 was not enough. Title companies can charge \$195.

Deb said DFI is working with the Office of the Insurance Commissioner on a document that explains title companies and escrow companies and the differences. We are trying to make sure that there is a more level playing field.

Lana said to list the fees separately on the HUD statement.

The problem isn't with the two line items; the problem is having money remain in the trust account.

Chariese said they received a letter from DFI in April. Is that still in effect? Deb said we will take the draft policy statements brought to the meeting today off the table for now. We will discuss this issue again at the October meeting.

Rule Proposals – Cindy Fazio

We have filed a CR-101, Preposal Statement of Inquiry, rulemaking form to increase the fees in line with the I-601 fiscal growth factor. Fees haven't been increased for a number of years. The fiscal growth factor is a formula set by legislature under I-601 to protect licensees from agencies getting carried away with fee increases. The fiscal growth factor is based on the average growth in population over the past 10 years. We will also include investigation fees in the rules. This will only apply to people under investigation. We don't have any proposed language yet. There will be amendments to the quarterly report language, and there may be a significant development reporting requirement.

Cindy Fazio said we will send the proposed language out via the Listserv. We will file a CR-102, Proposed Rule Making form, which includes a period of time for public comments. We will then do the final adoption of the rules. You can track the rulemaking process on DFI's website. There will be a public hearing in September, and these new rules will become effective in January 2008.

Old Business

None.

New Business

1. Deb said the Commissioners wrote new test questions a while ago, and Andrew Ledbetter from the Securities Division was going to finalize those. We are unsure if those new questions are being used or not. Does the Commission want to incorporate those questions into the test? Yes.

DFI has hired Promissor to work on the escrow test also. They will rotate the questions, so you get different questions if you take the test twice.

Dennis asked what about extra testing for the designated escrow officer (designated brokers vs. loan originators, tiered licensing).

Levi said that Promissor could remedy that.

Lana said an escrow officer could step up to be a designated escrow officer now. It is currently the same test. The new test prepares you to be a designated escrow officer, which includes trust accounting, reconciliation, exceptions, etc.

Someone from the audience said we should hold all accountable to higher standards. The designated escrow officer test should be tougher. Maybe there could be more continuing education required.

2. Deb said we have a new exam supervisor for escrow, Rick St. Onge. He has been a lead in the mortgage broker program for some time now. Rick will come to the next Escrow Commission meeting. Lana will move to the mortgage broker program.

3. We will meet with the Office of the Insurance Commissioner (OIC) on July 12. They regulate title companies. We will create a fact sheet about title companies and escrow. Lana said DFI and the OIC did a joint escrow exam.

4. DFI is working on a lender law for the next legislative session. We want to regulate all non-depository lenders (non-bank, non-credit union, can't get a checking account there).

5. Stan said it is nice to engage with six DFI staff and everyone around the table. There are some contentious issues, and we have had an excellent dialogue today.

Deb thanked everyone and said she learned a lot more about reconveyance issues also.

Meeting adjourned at 12:20 p.m.

The next quarterly Escrow Commission meeting will occur on October 23, at 9:00 a.m. at Highline Community College. The meeting has been changed from October 9 to October 23.