

Forms, Forms, Forms The MU- 4 – It's New!

Legislation requires licensees to file the new MU-4 form with DFI. The form provides the department with information creating, modifying, or ending relationships between mortgage brokers and loan originators. This includes address changes, or reporting when a business relationship is terminated.

Why is it important to notify DFI of business relationship changes?

If you fail to notify DFI of changes, your mortgage company may be at risk for the activity of a loan originator with which you no longer are doing business. Be sure to use the new MU-4 form posted on [DFI's website](#) to report modifications to your business relationships.

Commission Meeting

Just a reminder that the next mortgage broker commission meeting will take place August 8, 2007 at Spokane Community College from 9 - 11 am.

Minutes and audio from previous meetings can be found online at: http://www.df.wa.gov/cs/mortgage_commission.htm

Examination Findings – Avoiding Compliance Problems



DFI examiners began conducting compliance reviews early this year. In the course of examining the books and records of licensees, the examiners found an average of 12 violations at each company. To avoid enforcement actions, you are encouraged to develop procedures to assure compliance with state and federal regulation requirements. Compliance will save you time and expense in the long run.

The examinations uncovered common issues and mistakes that are being made by licensees. Following, is a list of 11 repeated compliance problems.

1. DISCLOSURES - RCW 19.146.030(1) and WAC 208-660-430(1):

- Failing to disclose Good Faith Estimate within three days of application
- Failing to disclose Truth in Lending Statements within three days of application

2. DISCLOSURES - RCW 19.146.030(2) (c) (d) (e)

- Failure to disclose that the rate and terms are subject to change
- Failing to have borrowers execute (sign) a lock-in agreement when it is offered at the beginning of the loan transaction
- Failing to provide subsequent rate lock-in agreement when one was not required or offered at the beginning of the transaction. A lock-in rate was not offered by the broker or requested when the consumer initially applied for the loan

3. DISCLOSURES - RCW 19.146.030(4)(a) and (b):

- Failing to re-disclose Good Faith Estimates (GFEs) after costs to the borrower increase
- Failing to provide the written explanation with the re-disclosure

4. FEDERAL DISCLOSURES - Regulation X, 24 CFR Section 3500 Appendix A, and WAC 208-660-430(4) and (12):

- Disclosing Mortgage Broker Fees on line 801 of Good Faith Estimate instead of on lines 808-811 where they belong

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5. FEDERAL DISCLOSURES- Regulation B, Equal Credit Opportunity Act (15 U.S.C. §1691), 202.9 Notifications and Fair Credit Reporting Act (15 U.S.C. § 1681):

- Failing to provide the borrower with a timely written notice in the event of loan approval, counter offer, or denial

6. DISCLOSURES – RCW 19.146.030(2)(d):

- Failing to provide copies of the appraisal report, title report, or credit report paid for by the borrower. This must be done within five days of a written request from the borrower

7. DISCLOSURES - RCW 19.146.030(2)(f):

- Failing to provide borrowers with a written notice that 3rd Party funds are held in a trust account

8. FEDERAL PROHIBITED PRACTICES – Regulation X, (RESPA) section 3500.7 and Part 3500, Appendix B, fact situation 13:

- Failure to disclose that the Yield Spread Premium (YSP) on the Good Faith Estimate. This should have been disclosed as a dollar amount or a reasonable dollar range.

9. PROHIBITIVE PRACTICES - RCW 19.146.0201(14)(a)(b) and WAC 208-660-300(3):

- Failure to provide proper disclosures when acting as both loan originator and real estate agent

The loan originator must use the following written disclosure:

“This is to give you notice that I or one of my associates have/has acted as a real estate broker or sales person representing the buyer/seller in the sale of this property to you. I am also a loan originator and would like to provide mortgage services to you in connection with your loan to purchase the property. You are not required to use me as a loan originator in connection with this transaction. You are free to comparison shop with other mortgage brokers and lenders and select any mortgage broker or lender of your choice.”

10. PROHIBITIVE PRACTICES - WAC 208-660-155(10) & WAC 208-660-155(9):

- Failure to provide DFI with a copy of an independent contractor agreement for activity prior to January 1, 2007
- Failure to confirm the licensing status of a loan originator after January 1, 2007 and employing loan originators without a Washington license.

11. CLASS C FELONY - RCW 19.146.050(1):

- Collecting fees for third party services without a trust account

When Should You Use Your License Number?

Knowing when to use your license, mortgage company license, or file number is simple.

Here is the key:

- Use your loan originator license number on documents where your name appears. (The 1003 is an example of a document where you must use your loan originator license number.)
- Use your license number on your business cards.
- Mortgage companies: use your license number (510-MB-12345) to identify the company when you make a change with DFI. (These changes may include address changes or adding a branch.)
- Branches: use your company number when paying annual assessments for a mortgage company. (510-MB-1234-12345 is the pattern for branch license numbers.)
- Branches: use your company number when the assessment check is for the branch.

Loan Originators—Independent Contractors (from the Washington State Department of Revenue)

An independent contractor (loan originator or loan officer) that works in the mortgage broker business is not considered an employee. Independent contractors are subject to the B&O tax (and other business taxes) while employees are not. Various factors determine whether a person is an independent contractor or employee.

Independent contractors generally:

- Do not have payroll taxes withheld from their earnings.
- Receive federal 1099 non-employee compensation (NEC) forms from the broker documenting their commissions/fees.
- File a statement of business income and expenses (Schedule C) for income tax purposes.

Independent contractors working with mortgage broker firms are taxable under the Service and Other Activities B&O tax classification on their gross commissions.

No deductions are allowed for costs of doing business or for amounts withheld from commissions.

Examples of amounts commonly withheld from commissions that are not deductible include:

- B&O tax
- desk rental
- telephone
- advertising
- office supplies



Independent contractors must register with the Department of Revenue unless they:

- Make less than \$12,000 a year before expenses
- Do not make retail sales
- Are not required to pay or collect any taxes administered by the Department of Revenue

To register your business with the Department of Revenue, complete a Master Application at: <http://www.dor.wa.gov/forms/700028.html>.

An online guide for mortgage brokers and loan originators is available at: <http://dor.wa.gov/Content/DoingBusiness/BusinessTypes/Industry/MortgageBrokers/default.aspx>.

Licensees: Include License Number on Checks Sent to DFI

DFI receives thousands of checks each year from licensees for a variety of licensing requirements. To make sure your assessment is credited to the correct account, be sure to write your license number on all checks you send to the department for payments.

If you are paying an annual assessment or opening a branch, the transaction will go more smoothly if your license or the branch office number is written on your check. If you are adding a new branch number, or a license number has yet to be issued, note this information on the check, as well.

To find your license or branch number, visit [DFI's website](#). All numbers are listed under the "look up a licensee" section.

Don't Forget Your Calculator!

The new mortgage broker and loan originator tests will include basic mortgage calculations. Don't forget to bring your calculator. Cell phone calculators will not be allowed.

Licensing Update

New Regulations Double the Number of Professionals Licensed by DFI

Since January 2007, loan originators doing business in Washington have been required to be licensed with DFI.

This new group of licensee resulted in a significant workload increase at DFI. In December 2006, 6,000 applications flooded the Division of Consumer Services. On average, the department receives 30 applications a day. To date, the number of license applications is over 13,000.

So far, the department has processed over 5,500 loan originator applications. We are trying to accomplish this massive license application review without creating hardships for loan originators and mortgage brokers. Here are a few of the steps we've taken:

- Allow those who completed a loan originator application to work while we process the application.

A complete application means the loan originator seeking licensure has:

1. Submitted a notarized and signed MU-4 form
 2. Provided DFI with a set of fingerprint cards
 3. Filled out the online license application
 4. Paid the application fee with a credit card
- Hired additional support staff to pre-screen and process files; freeing the licensing staff to focus on reviewing completed applications
 - Quickly denying applicants who do not meet the qualification for a license in Washington



Free CD-ROMs Available to Educate Consumers Order Online at DFI.WA.GOV

What is APR? What is a conventional mortgage? What are points?

Time and time again, potential buyers ask complex questions about home mortgages. Taking time to teach "Home Loans 101" pulls you away from building your business. A new resource is now available to help your customers find answers to a variety of difficult topics.

DFI created a free CD-ROM entitled, "DFI's Guide to Home Loans." CDs are available to realtors, mortgage brokers, and loan officers – anyone interacting with consumers in search of a new home, loan refinance, or second mortgage.

The CD offers an invaluable list of resources, checklists, mortgage calculators, and samples of forms. The CD highlights such topics as: understanding disclosure documents; avoiding predatory loans; and includes a glossary of mortgage terms.

Over 50,000 CDs have been distributed throughout the state. A Spanish version will be released in July 2007.

DFI's Guide to Home Loans can be ordered on the department's website (www.df.wa.gov) or by calling 1-877-RING DFI. To learn more about DFI's mortgage fraud presentations and PSA campaigns, contact DFI's Director of Communications, Scott Kinney at: skinney@df.wa.gov.