



State of Washington

DEPARTMENT OF FINANCIAL INSTITUTIONS

DIVISION OF CONSUMER SERVICES

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October 5, 2011

Concise Explanatory Statement

Pursuant to RCW 34.05.325(6)

Rule Amendments to the Mortgage Broker Practices Act (MBPA), chapter 19.146 RCW and chapter 208-660 WAC

Agency reasons for adopting the rules. (RCW 34.05.325(6)(a)(i))

The proposed amendment is necessary to require that renewal candidates continue to meet the same standards as those required at the initial licensing. This will lead to consistency with loan originator licensing requirements under the Consumer Loan Act, chapter 31.04 RCW and with the federal SAFE Act.

Describe differences between the text of the proposed rules as published in the Washington State Register and the text of the rules as adopted, other than editing changes, stating the reasons for differences. (RCW 34.05.325(6)(a) (ii))

No difference.

Summary of comments received by DFI during the rulemaking process, and DFI's responses to the comments. (RCW 34.05.325(6)(a) (iii))

DFI began soliciting comments on the amendments to the laws very early in the rulemaking process. The comment period was open until September 30, 2011.

I. Written comments received. The department received three comments.

1. This makes sense but the testing requirements are discriminatory against non-academic people and NMLS is practicing law when they are not allowed to by not allowing reference material in while taking any test that is singled out for only mortgage people. It clearly does not prohibit reference material while taking the test. This has nothing to do with any type of ADA

issue either. Now that HUD is no longer oversees the NMLS and the CFBI does not have anyone who knows anything where does one go to for justice with test taking?

Response: DFI considered this comment but did not change the proposed rule based on the comment.

2. I did not see a section on the cost of a license renewal fee. I really believe the Department needs to set a reasonable license renewal fee. \$50.00 or less. The federal government has restricted the compensation of loan originators with the new Frank/ Dodd rule and the u/w and guidelines have contracted so much that it is VERY difficult to get loans funded. There are now fewer loans and the loans we produce make much less. An example is a \$125k loan. If you have agreements with our lenders to charge the borrowers 1.5 pts. That means the broker makes \$1,875.00. Then s/he must pay the processor \$400.00 his or her overhead and profit \$700.00 leaving very little for the loan officer. Thus I believe the renewal fees should be small as we've already had to pay for our continuing education and initial NMLS fee.

Secondly I believe the agency must be very careful with the requirements on credit. These tough economic times have hit everybody. Thus forcing individuals to have less then stellar credit. Why should we place restrictions on loan officers credit when other industries don't require it. There is no credit standards to be a Senator or Congressmen but if you want to be a loan officer you are held to a higher standard.

Response: DFI considered this comment. The section on license fees is not being amended. The proposed rule was not amended based on this comment.

3. I carefully read the 5 page document last night and have just a few comments. The proposed changes are congruent with the industry changes as a whole toward the independent mortgage broker and I think it is good that mortgage brokers and the loan officers that work for us are held to the highest standard in the entire mortgage business.

Most of the language in the proposed change is very clear and direct that makes for easy compliance.

The financial background section is the only section where I believe it is not so defined.

There are many jobs that are salary based that require people to maintain a good credit profile to pass the background investigation in order to obtain and keep that paid position but I know of no other self employed career where the license holder to stay self employed needs to maintain their personal credit in order to stay compliant. The personal credit on any individual can change through time because of many extraneous events. Death, Divorce, illness, Loss of job or income really can put strains on the personal credit of anyone.

I understand and agree with the spirit of the rule that someone arranging the financing of credit for the general public needs to demonstrate financial responsibility. We hope the department

continues to exercise restraint in banning any loan officer or mortgage broker that has a track record of doing good business in the community but might have suffered some life setbacks that affected their personal credit profile.

All the other proposed changes can do nothing more than lift the level of compliance and ensure the independent loan professionals are the best in the business.

Response: DFI considered this comment. The existing rule on financial background is not being amended. The proposed rule was not amended based on this comment.

II. Oral comments received during the public hearing held September 16, 2010, on the Capitol Campus, Olympia, Washington: None.

CONCLUSION

The proposed amendment is necessary to address a public safety concern over the continued licensure of residential mortgage loan originators. Without the amendment the renewal of a license could occur under lesser standards than were necessary to initially obtain the license. The proposed amendment also provides consistency with the mortgage loan originator renewal requirements in the Consumer Loan Act, chapter 31.04 RCW, and the federal SAFE Act. DFI made the proposed rule amendment available to all interested parties and published the proposed amendment the department website along with all rulemaking notices and the audio of the public meeting. The final proposed rule is the product of an open, deliberative process.