

March 22, 2016

Sara Rietcheck
Washington DFI
150 Israel Rd. SW, POB 41200
Olympia, WA 98504-1200

Dear Ms. Rietcheck,

This comment from Mortgage Research Center, LLC d/b/a Veterans United Home Loans is in regards to the amendment to the definition of “mortgage loan originator” or “loan originator” (hereinafter “MLO/LO”) in the proposed rulemaking amending 208-620-010 WAC.

The proposed definition for “offers or negotiates terms of a residential mortgage loan for compensation or gain” broadens the scope of the Washington Consumer Loan Act creating ambiguity by potentially including more individuals into the definition of MLO/LO than necessary or intended.

Washington uses a different version of the definition for MLO/LO than the SAFE Act by making “taking an application” *or* “offering or negotiating terms” enough activity to make an individual an MLO/LO instead of both activities. When this is combined with the broadened scope of the proposed “offers or negotiates terms...” language many more individuals would fall under the definition for MLO/LO than intended by the SAFE Act. Individuals who are minimally involved before recommending a lender that would not otherwise fall under the SAFE Act requirements would fall under Washington’s MLO/LO definition creating the unnecessary and costly burden of licensing for lending activity that will not really be performed.

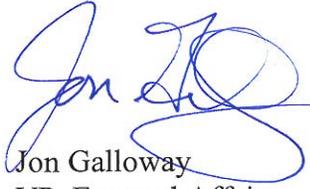
As written it is unclear what activity would be viewed by the department as meeting the minimum threshold requiring licensure. This potentially broadens the scope of the Consumer Loan Act beyond that of what most other states and the SAFE Act require.

As a mortgage lender licensed in 50 states and the District of Columbia, we would hope this definition could be tailored to be consistent with other states by excluding certain individuals and groups that are only minimally involved in the loan process. As written other industries not directly related with residential mortgages could fall under licensure requirements. A minimum threshold should be established to provide a proper framework and clarify the rule to allow individuals to comply with the law.

We respectfully suggest the proposed rule be modified to track with the SAFE Act. In completing our analysis we created Exhibit A below for reference.

Thank you for the opportunity to comment, and please let us know if you have any questions.

Sincerely,



Jon Galloway
VP, External Affairs
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Exhibit A

12 CFR § 1008.103	WA Current Code with Proposed Changes
<p>(a) Except as provided in paragraph (e) of this section, in order to operate a S.A.F.E.-compliant program, a state must prohibit an individual from engaging in the business of a loan originator with respect to any dwelling or residential real estate in the state, unless the individual first:</p> <ul style="list-style-type: none">(1) Registers as a loan originator through and obtains a unique identifier from the NMLSR, and(2) Obtains and maintains a valid loan originator license from the state. <p>(b) An individual engages in the business of a loan originator if the individual, in a commercial context and habitually or repeatedly:</p> <ul style="list-style-type: none">(1)<ul style="list-style-type: none">(i) Takes a residential mortgage loan application; and(ii) Offers or negotiates terms of a residential mortgage loan for compensation or gain; or(2) Represents to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform the activities described in paragraph (b)(1) of this section. <p>(c)</p> <ul style="list-style-type: none">(1) An individual "takes a residential mortgage loan	<p>WAC 208-620-010. Definitions</p> <p>"Mortgage loan originator" or "loan originator" means an individual who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain</p> <ul style="list-style-type: none">(1) takes a residential mortgage loan application; or(2) offers or negotiates terms of a residential mortgage loan, including short sale transactions. <p>(*NOTE: The black text above is already code in WA; the purple text in the Federal code on the left is not mirrored in this specific part of WA code. The text highlighted above in yellow is the current "disjunctive" that broadens the definition. The text highlighted in gray below is the proposed new definition to be added to WA code, and as a whole creates an entirely different meaning than the SAFE Act</p>

application" if the individual receives a residential mortgage loan application for the purpose of facilitating a decision whether to extend an offer of residential mortgage loan terms to a borrower or prospective borrower (or to accept the terms offered by a borrower or prospective borrower in response to a solicitation), whether the application is received directly or indirectly from the borrower or prospective borrower.

(2) An individual "offers or negotiates terms of a residential mortgage loan for compensation or gain" if the individual:

(i)

(A) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;

(B) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or
(C) Recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower; and

(ii) Receives or expects to receive payment of money or anything of value in connection with the activities described in paragraph (c)(2)(i) of this section or as a result of any residential mortgage loan terms entered into as a result of such activities.

language.)

An individual "offers or negotiates terms of a residential mortgage loan for compensation or gain" if the individual:

(a) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;

(b) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or

(c) Recommends, refers, or steers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms, in accordance with a duty to or incentive from any person other than the borrower or prospective borrower; and

(d) Receives or expects to receive payment of money or anything of value in connection with the activities described under the definitions of "mortgage loan originator" or "loan originator" of this section or as a result of any residential mortgage loan terms entered into as a result of such activities.

