Comments Received April 22 – May 5, 2006

Comment:
Here are some comments to the purposed rule for Mortgage Brokers Practices Act. When will there be meetings on this side of the state especially in the Tri-Cities area? Below are some questions with potential solutions or recommendations, please consider them in the rulemaking process.

Questions and recommended actions submitted for comments to House Bill 2340:

Background: As of January 1, 2006; the State of Oregon requires that anyone originating a residential mortgage have taken and pass an examination after completing entry level education.

This entry education consisted of Oregon 20-Hour course contains the following modules:

Oregon State Law comprehensive coverage of the Oregon State Law, with a section-by-section breakdown that offers both seasoned and novice mortgage brokers a plainly written companion to the Oregon State Code.

Real Estate Settlement Procedures Act (RESPA) defines the parameters set forth by this federal law regarding fees and compensations, required disclosures, escrow accounts, violation penalties, as well as an expansive section covering Affiliated Business Arrangements.

Truth-in-Lending Act (TIL or TILA) lays out disclosure and advertising requirements, rights of recession, and penalties for violation, as stated in this federal statute, as well as a detailed APR explanation.

Equal Credit Opportunity Act (ECOA) addresses discrimination, enforcement, civil liability, and annual reports as defined by this federal law.

Fair Housing Law defines prohibitions, discriminations, religious and private club exemptions, enforcements, and penalties, as outlined in this federal law.

Fair Credit Reporting Act (FCRA) contains a summary of consumer rights, as well as uses for consumer reports for both lenders and employers.

Federal Law Update outlines Gramm-Leach Bliley privacy policies, required disclosures, and government monitoring information, as well as covering the Flood Disaster Protection Act, the National Flood Insurance Act and the Home Mortgage Disclosure Act.

Ethics examines ethical practice through theories and case studies, along with definitions of predatory lending practices.

Mortgage Basics expansive module that offers a mortgage glossary, information on loan processes and life cycles, mortgage math, income verification and calculation, credit bureaus, private mortgage insurance, and underwriting guidelines, as well as a number of other practical insights into time management, listening skills, and resolutions and goal setting.

Question: If a loan originator is licensed in another state where there is an education requirement and an examination required such Oregon, can that satisfy the license requirements for Washington?

Solution: Advantage of this supports the basis of the new rule, which is to specify a minimum level of education and establish a continuing education requirement. The knowledge of the Federal Requirements for the Mortgage Industry would more then satisfy this requirement.

Question: Can continuing education classes taken under the requirements of one state satisfy the requirements for continuing education in Washington?

Solution: All loan originators are required to take 20 hours of continuing education every two-year period. Courses must be approved by the Oregon Mortgage Lender Education Board (MLEB) and are listed on their web site at Approved Courses, Entry-Level and Continuing Ed.

Question: When will the courses be available for study prior to taking a test that is due before January 2007?

Solution: Allowances for other states licensing requirements would satisfy this potential short fall.

Final Comment: For those of us who hold licenses in multiple states, would appreciate being able to get credit for having taken tests to meet those States initial requirements seeing how the information is applicable in more then one state. Secondly, consideration for the time and cost to satisfy the continuing education requirements for multiple states all at one time to maintain our proficiency.

Continuation of first comment:
What will it take to get a meeting scheduled for the eastern side of the state?

I was just thinking you might get more comments or interaction from folks who don't have to travel to Renton to attend the meeting. The other thing I would like to add to my comments is the ability to take the exam in the Tri-Cities vice driving to the other side of the state or to Spokane to the Compusa store.

Comment:
(1) If exam preparation and training is given exclusively to WAMB, what assurance do we have that WAMB will not exploit the advantageous position this puts them in?
Doesn't this have the appearance of im-propriety?

(2) If only national associations are allowed to train, where are the educational standards used by them? If a local provider meets or exceeds the standards are they also approved. Where are the Learning Objectives, Topics Covered, Method, Student Activity,\ etc. routinely used in training or are these associations free to instruct as they see fit?

(3) What assurance is there that providers with current approved classes may continue teaching those classes. Are they now disqualified to teach as of 1-1-07?

(4) How can a state agency unapproved educational providers with a stroke of the \\ pen?

(5) Does teaching R.E. finance nationally for more than twenty years qualify me as a national association? What is the legal definition of national association?

(6) Current providers are full time instructors. What assurance do we have that WAMB or any other organization will have professional instructor? Or will the instructors be part-time; brokers who also work at another job? What instructor standards have been required?

(7) For the record, does DFI believe that the treatment existing education providers is fair under this program?

Does it give everyone a fair chance at the business? Is fairness important to DFI and the commission?

Comment:
One thing that I often run into with realtors that recommend other mortgage brokers or loan officers is, they give their customers false/bad advise on mortgages. For example, I've asked why customers why they are going with other brokers and they have told me that their realtors have told them that there is no possible way that I could honor a certain rate/program or close the loan in time etc… Or they tell them that I would probably bait and switch them at the end and it would be too late for them to switch, so they say to just go with "the mortgage broker I recommend" so I can insure it closes on time… Also, some realtors explain the loan programs totally wrong, they don't understand PMI or conforming vs. non conforming and just give their clients BAD advise. It would be nice to see a law come into effect that says that realtors could not give mortgage advise or direct clients on particular programs, unless they were licensed brokers. Similar to how we cannot give real estate advise to our customers, unless we are real estate agents.

Comment:
Problem: One of the reasonable concerns for DFI will be the possibility of unlicensed loan originators taking applications after January 1.

Solution: Either create a new form (WA Supplement to the 1003?) or, in the interest of reducing paperwork, combine into a new form, the following information:

- The name and license number of the broker
- The name and license number of the originator
- Signature of the loan originator and borrowers (this could be done at closing)
- Basic information about the loan
- The lender must have this form (faxed copy is OK) in its possession and have verified its contents before funding

Under this scenario, it would be difficult for a non-licensed originator to close a loan.

Comment:
We are beginning to update and automate our web-site to keep up with the times. Of concern is how to properly disclose and proof of disclosures. Borrowers are eager to use on line applications but fail to see the need to sign or even pay attention to disclosure. One option could be to force all disclosures to pop up before any application could be printed or completed. There could also be some sort of form that also listed all the disclosures with verbiage that each required disclosure had been made available. Any input would be helpful. It is difficult enough to get applicants to sign these items when mailed and highlighted. On line most will surely try to skip the process unless forced to at least have the opportunity to review. On line compliance will be very difficult for even those brokers who try to maintain compliance. I have seen some govt. sites who provide disclosure info that you must check the box I agree to read and accept before the next step is allowed. This seems to be a simple solution but is it enough? I am sure a common complaint is that the consumer when a problem occurs states that they either did not understand a form they signed or it was improperly explained. Will they even read a disclosure on-line? I am open to discussing this with you and look forward to other insights and solutions.

Comment:
Testing requirements question: If someone has previously passed the broker exam but is not currently a designated broker will they be required to take the loan originator exam? If not, does the DFI keep a record of all those who have passed the broker exam?

Continuing education: The current three-four hours of education is woefully inadequate. I suggest that more hours be required for brokers and originators. At a minimum I would like to see 8 hours a year. Attending 3 of the 4 mortgage commission meetings could count as four hours of the 8 required.

Cost of multiple licenses: If an originator is licensed with more than one broker the second or additional licenses should charged a fee for the actual cost of issuing the additional license. The fee should not be charged as some sort of punitive cost for having more than one license. All along we have discussed that the DFI would and should only be charging for the cost to implement the changes to the mortgage brokers practices act. Additionally as a self funded department overcharging for services is NOT authorized through the MBPA.

Comment:
As a new loan originator, I currently work part-time out of two mortgage broker offices. For the following reasons:

1)One is licensed only for Washington State and gives me a higher commission split, but is not FHA licensed.

2)The other gives me a lower commission split, but has additional licensing for California and will be FHA licensed soon. Therefore I have specific loans that I will send to each, so my loyalty to either is not in question.

Which brings me to the purpose of this e-mail. If there is an additional license for each office. I propose that it is not at the full licensing amount, as this is cost-prohibitive and seemingly discouraging the practice of working at more than one mortgage broker office. As an independent contractor, I want the option to continue to do this without any penalty.

Also, will there be any protection for us as loan originators under this new regulation, for mortgage brokers that might be vindictive because of this practice and withhold commission?

Comment:
The revisions to the Mortgage Broker Practices Act include language that a mortgage broker and a mortgage originator must comply with the regulations of each state, as well as federal regulation, conducting licensed mortgage origination within the State of Washington. I have a concern that there are restrictions that aren't yet well defined that apply to the ability of a mortgage originator to originate, in certain specific cases, mortgage loans for more than one licensed or exempted mortgage broker or lender.

1. During the April 27th, 2006 meeting in Renton, the panel openly discussed reasons that a mortgage originator would want to have the ability to originate loans for more than one licensed mortgage brokerage. An example of the motivation for a mortgage originator to wish to be affiliated with more than one brokerage was to allow the mortgage originator to originate loans that their main brokerage was not approved to originate, such as HUD insured (FHA) loans. However, HUD specifically states within their Mortgagee Approval Handbook than in fact a person must work for only one mortgage originating entity when originating HUD insured loans. In their handbook (4060.1, chapter 2-14) it reads as follows:

2-14 CONDUCTING MORTGAGEE BUSINESS. All employees of the mortgagee except receptionists, whether full time or part-time, must be employed exclusively by the mortgagee at all times, and conduct only the business affairs of the mortgagee during normal business hours. Branch managers must be located at the branch office they manage and cannot operate or be the manager of more than one branch office at the same time.

This would therefore preclude a mortgage originator from representing more than one brokerage (or exempted institution) for purposes of originating HUD insured loans. In fact, it would preclude any HUD approved mortgagee from employing the services of any person who represented another mortgage originating entity.

It would also seem to indicate that HUD approved mortgagees must 'employ' their originators. Therefore independent contractors, those that are compensated on a 1099 basis, would not be allowed to originate HUD insured loans in the first place.

2. Another reason given during the panel's discussion on the motivation for a mortgage originator to perform services for more than one mortgage brokerage was to allow for flexibility to originate loans in states that the mortgage originator's 'main' brokerage was not licensed to do business within. I have offices in Oregon, Washington and Idaho. In Oregon, state regulations require that every mortgage originator represent only one mortgage brokerage (as do most states I understand across the country - I believe that this is actually a federal requirement). Therefore, it is reasonable to state that a mortgage originator from the State of Washington doing business

in most other states, including the State of Oregon, as an example, could not represent (or have the potential to represent) more than one licensed Washington mortgage brokerage during the time that they were actively originating loans in the State of Oregon. Because most states don't allow a mortgage originator to perform services for more than one mortgage brokerage, the State of Washington being one of the exceptions, I believe that there needs to be a mechanism in place to allow for positive confirmation that indeed a mortgage originator is only representing a single mortgage brokerage (for those states requiring this) when performing mortgage origination outside of the State of Washington.

Additionally, the State of Oregon (I am guessing Oregon is not alone, so I only bring up Oregon by way of example) does not allow mortgage originators to be compensated on a 1099 basis as they cannot meet the state's mortgage originator requirements that they only represent one originating firm and that they are supervised by the management of that firm (meaning they cannot be 'independent'). This being the case, no State of Washington mortgage originator that is compensated on a 1099 basis would be allowed to perform origination services for the financing of a residential property located within the State of Oregon and many other states across the U.S.

Comment:
I want to find out about the licensing that is required for someone who is a loan originator. Is the same license as a mortgage broker? If not how do I go about getting a loan originator's license and can I get a mortgage broker license and work at another mortgage broker license kinda like an associate real estate broker's license? Please advise. Thank you.

Comment:
I was wondering if you could clarify something for us. We are currently exempt under WA mortgage lending licensing by virtue of our approvals with FannieMae and FreddieMac. Under the revised rules that take effect 1/1/07, I understand that we will still be exempt, but will our employees (loan originators) also still be exempt?

We have had it interpreted many different ways, and are now thoroughly confused.

Comment:
I have a question regarding the Mortgage Broker Exam for the new requirements coming up. I took the Mortgage Brokers Exam in 1998. I am wondering if I need to retake that test or if it is just my Loan Officers that will need to take the test. My company is a Net Branch and I am the Branch Manager.

Comment:
It would be great to have something in place so that a real estate sales agent that was not licensed as a loan originator could not order, review or comment upon a GFE. I recognize there is often no major harm but feel as though we as licensed loan originators we should be the ones reviewing our GFE with our customers without the limited and unknowledgeable scrutiny of a real estate sales agent. Often these agents have no real details about either the customer's

financial file or specifics, credit score....etc or other data that impacts the lending scenario, nor do they have any information about the myriad of loan products available in the marketplace today and how those products work. They are often "ill-informed" and because of a lack of knowledge often make poor or misguided recommendations. As I understand it, real estate agents are free from "shopping" once they have a signed purchase and sale agreement, meaning as a loan originator I can't recommend another real estate agent to my customer (not that I would). However, it seems a real estate agent can recommend another Mortgage Broker or Loan Originator at any time and pull the rug out from underneath us without any opportunity to compete, and we end up loosing good customers to the real estate agents "preferred" broker. It seems as if this playing field is not level."

Comment:
I cannot locate any information on the new educational requirements for loan officers in the State of Washington. where is this info being hidden?

Comment:
Just a simple question concerning the Licensing of Loan Officers.

I am going into Semi-Retirement and therefore plan to hand off the Designated Broker role to one of my staff who has already taken and passed the Mortgage Broker Exam.

I am presuming Designated Brokers will not sit for the Loan Officer Licensing Exam.

But, is there any provision for former Designated Brokers who have completed their Annual Clock-Hour Training, to be excluded from the Loan Officer Licensing exam. While I do not anticipated much Loan Origination Activity in my Retirement, it could be that former clients will contact me for this service and I would like to know if I must take the Loan Officer Licensing exam as a former Designated Broker.