

**WSR 22-20-106**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
(Division of Consumer Services)  
[Filed October 4, 2022, 4:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-10-055.

Title of Rule and Other Identifying Information: Amending the rules (chapter 208-620 WAC) under the Consumer Loan Act (chapter 31.04 RCW).

Hearing Location(s): On November 16, 2022, at 10 a.m., at Department of Financial Institutions, 150 Israel Road S.W., Tumwater, WA 98501, Room 319, or via phone at 360-725-7839.

Date of Intended Adoption: November 31, 2022.

Submit Written Comments to: Ashley Sutherland, P.O. Box 41200, Olympia, WA 98504-1200, email Ashley.Sutherland@dfi.wa.gov, www.dfi.wa.gov, by October 30, 2022.

Assistance for Persons with Disabilities: Contact Ashley Sutherland, phone 360-664-7866, TTY 1-800-833-6384, by October 30, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amending the rules (chapter 208-620 WAC) under the Consumer Loan Act (chapter 31.04 RCW) to implement amendments (SB 5077, chapter 15, Laws of 2021) which provide authority, under certain circumstances, for licensed companies to allow licensed mortgage loan originators to work from their residences without the company licensing the residence as a branch office. Additionally, technical changes will be made for clarity and consistency.

Reasons Supporting Proposal: The statutory change acknowledged the fact that technology advancements have greatly changed the way in which mortgage loan originators engage in business, with most work being completed digitally and through secure origination systems.

Statutory Authority for Adoption: RCW 43.320.040 and 31.04.165.

Statute Being Implemented: Chapter 31.04 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Department of financial institutions, division of consumer services, governmental.

Name of Agency Personnel Responsible for Drafting: Devon Phelps, 150 Israel Road S.W., Tumwater, WA 98501, 360-664-7894; Implementation and Enforcement: Lucinda Fazio, 150 Israel Road S.W., Tumwater, WA 98501, 360-902-8800.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Not applicable to these rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemption: RCW 34.05.310 (4)(d) applies to one portion of the rule that makes only a technical change to correct language. RCW 34.05.310 (4)(e) applies to some portions of the rules as

the statute was amended in 2021 to no longer require a branch location for mortgage loan originators working from home.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

	<b>Proposed WAC Sections and Title</b>	<b>This proposed rule section is <i>not exempt</i> - Analysis is required</b>	<b>This proposed rule section is <i>exempt</i>. Provide RCW to support this exemption.</b>
1.	WAC 208-620-010 definitions.	X	
2.	WAC 208-620-250(2) out-of-state company.	X	
3.	WAC 208-620-251(1) requirements for out-of-state licensees.	X	
4.	WAC 208-620-300 operating from more than one location.	X	
5.	WAC 208-620-301 manager licensing requirements.	<input type="checkbox"/>	RCW 34.05.310 (4)(d), renumbered sections to fix confusion about requirements.
6.	WAC 208-620-310 locations providing underwriting and other back-office services.	X	
7.	WAC 208-620-510(8) disclosure requirements for student education loans.	<input type="checkbox"/>	RCW 34.05.310 (4)(d), fix a typo (from "servicer member" to "service member").
8.	WAC 208-620-660 requirements for loan originators working from home without licensing the location.	X	
9.	WAC 208-620-700(1) location where mortgage loan originator can work.	<input type="checkbox"/>	RCW 34.05.310 (4)(e), deleted statement that the loan originator may only work from a main or branch office.
10.	WAC 208-620-700(7) working for a company located out of the state.	<input type="checkbox"/>	RCW 34.05.310 (4)(e), deleted statement that the company must license a branch in Washington for the loan originator to work from.
11.	WAC 208-620-700(11) physical location requirement.	X	

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The majority of changes in the rule actually save licensees money, as it removes the requirement for companies to pay \$106.71 yearly to license or renew a branch office for each mortgage loan originator that worked from the loan originator's residence. The new section that was added to the rules does not impose any new requirements on licensees and therefore did not impose any costs. Licensees were already required to have certain policies and procedures and comply with specific federal laws. Lastly, all other changes did not impose a cost on licensees.

October 4, 2022  
 Charles Clark  
 Director

OTS-4123.1

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

**WAC 208-620-010 Definitions.** The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

(1) "Act" means the Consumer Loan Act, chapter 31.04 RCW.

(2) "Advertise, advertising, and advertising material" means any form of sales or promotional materials used in connection with the business. Advertising material includes, but is not limited to, newspapers, magazines, leaflets, flyers, direct mail, indoor or outdoor signs or displays, point-of-sale literature or educational materials, other printed materials; radio, television, public address system, or other audio broadcasts; internet pages, social media, instant messages, or electronic bulletin boards.

(3) "Annual percentage rate" has the same meaning as defined in Regulation Z, 12 C.F.R. Part 1026, implementing the Truth in Lending Act.

(4) "Application" means the submission of a borrower's financial information in anticipation of a credit decision relating to a residential mortgage loan, which includes the borrower's name, monthly income, Social Security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought. An application may be submitted in writing or electronically and includes a written record of an oral application. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a residential mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a residential mortgage loan.

(5) "Bank Secrecy Act" means the Bank Secrecy Act (BSA), 31 U.S.C. 1051 et seq. and 31 C.F.R. Part 103.

(6) "Bond substitute" means unimpaired capital, surplus and qualified long-term subordinated debt.

(7) "Business day" means Monday through Friday excluding federally recognized bank holidays.

(8) "Commercial context" or "commercial purpose" means actions taken for the purpose of obtaining anything of value for oneself, or for an entity or individual for which the individual acts, rather than exclusively for public, charitable, or family purposes.

(9) "Common ownership" exists if an entity or entities possess an ownership or equity interest of five percent or more in another entity.

(10) "Creditor" has the same meaning as in the Truth in Lending Act, 15 U.S.C. 1602(f) and Regulation Z, 12 C.F.R. Part 1026.

(11) "Depository Institutions Deregulatory and Monetary Control Act" means the Depository Institutions Deregulatory and Monetary Control Act of 1980 (DIDMCA), 12 U.S.C. Sec. 1735f-7a.

(12) "Dwelling" means the same as in Regulation Z implementing the Truth in Lending Act which is a residential structure that contains one to four units, whether or not that structure is attached to real property. The term includes an individual condominium unit, cooperative unit, mobile or manufactured home, and trailer, if it is used as a residence. See 12 C.F.R. Sec. 1026.2.

(13) "Equal Credit Opportunity Act" means the Equal Credit Opportunity Act (ECOA), 15 U.S.C. Sec. 1691 and Regulation B, 12 C.F.R. Part 1002.

(14) "Fair Credit Reporting Act" means the Fair Credit Reporting Act (FCRA), 15 U.S.C. Sec. 1681 et seq.

(15) "Fair Debt Collection Practices Act" means the Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692, 12 C.F.R. Part 1006.

(16) "Federal Trade Commission Act" means the Federal Trade Commission Act, 15 U.S.C. Sec. 45(a).

(17) "Filing" means filing, recording, releasing or reconveying mortgages, deeds of trust, security agreements or other documents, or transferring certificates of title to vehicles.

(18) "Gramm-Leach-Bliley Act (GLBA)" means the Financial Modernization Act of 1999, 15 U.S.C. Sec. 6801-6809, and the GLBA-mandated Federal Trade Commission (FTC) privacy rules, at 16 C.F.R. Parts 313-314.

(19) "Higher education institution" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, which is open to residents of the state, which neither restricts entry on racial or religious grounds, which provides programs of education beyond high school leading at least to the baccalaureate degree, and which is accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the council for higher education. RCW 28B.07.020(4).

(20) "Home Mortgage Disclosure Act" means the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. Secs. 2801 through 2810 and 12 C.F.R. Part 1003 (formerly Part 203).

(21) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(22) "Lender" means any person that extends money to a borrower with the expectation of being repaid.

(23) "License number" means your NMLS unique identifier displayed as prescribed by the director. Some examples of the way you may display your license number are: NMLS ID 12345, NMLS 12345, NMLS #12345, MB-12345, or MLO-12345.

(24) "Licensed location" means a main office or branch office, including an individual loan originator's residence, where the licensee conducts business under the act with Washington residents or Washington residential real estate and the licensee has obtained a main or branch license through NMLS for that location.

(25) "Live check" means a loan solicited through the mail in the form of a check, which, when endorsed by the payee, binds the payee to the terms of the loan agreement contained on the check.

(26) "Loan originator" means the same as mortgage loan originator.

(27) "Loan originator's residence" means a loan originator's primary or secondary residence located in the United States.

(28) "Long-term subordinated debt" means for the purposes required in RCW 31.04.045 outstanding promissory notes or other evidence of debt with initial maturity of at least seven years and remaining maturity of at least two years.

(29) "Material litigation" means proceedings that differ from the ordinary routine litigation incidental to the business. Litigation is ordinary routine litigation if it ordinarily results from the business and does not deviate from the normal business litigation. Litigation involving five percent of the licensee's assets or litigation involving the government would constitute material litigation.

(30) "NMLS" means the Nationwide Multistate Licensing System and Registry, Nationwide Mortgage Licensing System, NMLSR, or such other

name or acronym as may be assigned to the multistate system developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators and owned and operated by the state regulatory registry, LLC, or any successor or affiliated entity, for the licensing and registration of persons in the mortgage and other financial services industries.

(31) "Out-of-state licensee" means a licensee that does not maintain a physical presence within the state, or a licensee that maintains headquarters or books and records outside Washington.

(32) "Principal amount" means the loan amount advanced to or for the direct benefit of the borrower.

(33) "Principal balance" means the principal amount plus any allowable origination fee.

(34) "RCW" means the *Revised Code of Washington*.

(35) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including ~~((+1))~~ (a) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property; ~~((+2))~~ (b) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property; ~~((+3))~~ (c) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction; ~~((+4))~~ (d) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and ~~((+5))~~ (e) offering to engage in any activity, or act in any capacity, described in ~~((+1))~~ (a) through ~~((+4))~~ (d) of this ~~((definition))~~ subsection.

(36) "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. Secs. 2601 et seq., and Regulation X, 12 C.F.R. Part 1024.

(37) "Records" mean books, accounts, papers, records and files, no matter in what format they are kept, which are used in conducting business under the act.

(38) "Referring a delinquent loan to foreclosure" means taking any step in furtherance of foreclosure. Examples include, but are not limited to: Sending a referral to a foreclosure trustee or attorney inside or outside of the servicing entity requesting they begin the foreclosure process; making a record in written or electronic form that flags, comments, blocks, suspends or in any way indicates in the electronic record of a mortgage loan that foreclosure has begun; any such marking of an electronic record that impairs the record in a way that payments will not be applied or will be routed into a suspense account.

(39) "State" means the state of Washington.

(40) "Student education loan borrower" means:

(a) Any resident of this state who has received or agreed to pay a student education loan; or

(b) Any person who shares responsibility with such resident for repaying the student education loan.

(41) "Student education loan servicing" or "service a student education loan" means:

(a) Receiving any scheduled periodic payments from a student education loan borrower pursuant to the terms of a student education loan;

(b) Applying the payments of principal and interest and such other payments with respect to the amounts received from a student education loan borrower, as may be required pursuant to the terms of a student education loan;

(c) Working with the student education loan borrower to collect data, or collecting data, to make decisions to modify the loan; or

(d) Performing other administrative services with respect to a student education loan including collection activities. "Student education loan servicing" does not include third-party student education loan modification services.

(42) "Subsidiary" means a person that is controlled by another.

(43) "Table funding" means a settlement at which a mortgage loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.

(44) "Telemarketing and Consumer Fraud and Abuse Act" means the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. Sec. 6101 to 6108.

(45) "Telemarketing Sales Rule" means the rules promulgated in 16 C.F.R. Part 310.

(46) "Truth in Lending Act" means the Truth in Lending Act (TILA), 15 U.S.C. Secs. 1601 et seq., and Regulation Z, 12 C.F.R. Part 1026.

[Statutory Authority: RCW 43.320.040, and 31.04.165. WSR 18-24-013, § 208-620-010, filed 11/27/18, effective 1/1/19; WSR 18-16-024, § 208-620-010, filed 7/24/18, effective 9/1/18. Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-010, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-010, filed 11/22/13, effective 1/1/14; WSR 12-18-047, § 208-620-010, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-010, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-010, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 43.320.040, 19.144.070, 2008 c 78. WSR 09-01-159, § 208-620-010, filed 12/23/08, effective 1/23/09. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102, 31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, § 208-620-010, filed 1/27/06, effective 2/27/06. Statutory Authority: RCW 43.320.040, 31.04.045, [31.04].105, [31.04].145, [31.04].155 and [31.04].165. WSR 96-04-013, § 208-620-010, filed 1/26/96, effective 2/26/96.]

AMENDATORY SECTION (Amending WSR 13-24-024, filed 11/22/13, effective 1/1/14)

**WAC 208-620-250 ((If my out-of-state company applies for a license under the Consumer Loan Act do we have)) Is my company required to have a ((branch)) licensed location in the state of Washington?**

(1) No. You are not required to maintain a physical presence in this state to hold a license but any location doing business under the act, wherever located, must be licensed, except those locations consistent with subsection (2) of this section. Your company's main office (headquarters), wherever located, must have a license.

(2) If you employ mortgage loan originators, those licensed ((employees)) loan originators must work from a licensed location ~~((. A licensed location is a main or branch office and an individual loan originator's home can be licensed as a branch office))~~ or from the loan originator's residence pursuant to WAC 208-620-660.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-250, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-250, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102, 31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, § 208-620-250, filed 1/27/06, effective 2/27/06.]

AMENDATORY SECTION (Amending WSR 18-16-024, filed 7/24/18, effective 9/1/18)

**WAC 208-620-251 Are there any additional requirements for out-of-state licensees?** (1) ~~((All locations must be licensed. Any person that conducts business under the act with Washington residents or Washington residential real estate must obtain a license for all locations from which such business is conducted, including out-of-state locations, with the exception of those office locations providing only underwriting and back office services under WAC 208-620-310. The main office (headquarters), wherever located, must be licensed.~~

~~((2))~~ **Keeping records out-of-state.** You must keep your books and records location information updated in the NMLS and provide the director with access to the books and records.

~~((3))~~ **(2) Service on out-of-state licensee.** An out-of-state licensee's registered agent in Washington is the licensee's agent for service of process, notice, or demand.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 18-16-024, § 208-620-251, filed 7/24/18, effective 9/1/18; WSR 13-24-024, § 208-620-251, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-251, filed 10/5/10, effective 11/5/10.]

AMENDATORY SECTION (Amending WSR 18-24-013, filed 11/27/18, effective 1/1/19)

**WAC 208-620-300 If I want to operate my business from more than one ((office)) location, do I have to license each location?** Yes. You must submit a branch office application through the NMLS for each branch office, residential mortgage loan servicing location, student education loan servicing location, or direct solicitation location. You may not operate from a location until a license is granted for that location. However, a branch license is not required for a loan originator to conduct activities under the act from the loan originator's residence pursuant to WAC 208-620-660.

[Statutory Authority: RCW 43.320.040, and 31.04.165. WSR 18-24-013, § 208-620-300, filed 11/27/18, effective 1/1/19. Statutory Authority:

Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-300, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-300, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-300, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102, 31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, § 208-620-300, filed 1/27/06, effective 2/27/06.]

AMENDATORY SECTION (Amending WSR 19-21-157, filed 10/22/19, effective 11/24/19)

**WAC 208-620-301 If I make residential mortgage loans and employ managers, must they license individually as mortgage loan originators?**

(1) Your managers, including branch managers, must license individually as mortgage loan originators if they conduct any one of the following activities:

~~((1))~~ (a) Take residential mortgage loan applications, negotiate the terms or conditions of residential mortgage loans, or hold themselves out as being able to conduct these activities;

~~((2))~~ (b) Supervise your loan processor or underwriting employees; or

~~((3))~~ (c) Supervise your licensed mortgage loan originators.

~~((4))~~ (2) Specifically:

(a) Any manager or any person who takes a residential mortgage loan application in Washington, negotiates the terms or conditions of a residential mortgage loan on Washington property, or holds themselves out as being able to conduct those activities, must have a Washington mortgage loan originator license. Washington licensed loan originators must work from a licensed location or the loan originator's residence pursuant to WAC 208-620-660.

(b) Any manager who directly supervises loan processor or underwriting employees must hold a mortgage loan originator license. The loan originator license can be from any state. Washington licensed loan originators must work from a licensed location or the loan originator's residence pursuant to WAC 208-620-660.

(c) Any manager who directly supervises Washington licensed mortgage loan originators must themselves hold a Washington loan originator license. Washington licensed loan originators must work from a licensed location or the loan originator's residence pursuant to WAC 208-620-660.

~~((5))~~ (3) As to ~~((subsections (2) and (3) of this section))~~ subsection (1)(a) and (b) of this section, licensure is for the day-to-day operational supervisors.

~~((6))~~ (4) Each licensed manager must prepare and maintain written supervisory plan for the employees they supervise. The details of the plan must include the number of employees supervised and their physical location, how the supervisor will adequately supervise the employees if an employee is not in the same location as the supervisor, and the type and volume of work performed by the supervised employees. Supervisory plans must be maintained as part of the business books and records.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 19-21-157, § 208-620-301, filed 10/22/19, effective 11/24/19. Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-301, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-301, filed 11/22/13, effective 1/1/14.]

AMENDATORY SECTION (Amending WSR 16-08-026, filed 3/30/16, effective 4/30/16)

**WAC 208-620-310 Is it necessary to license an office that is only providing underwriting and other back-office services?** A location that is solely providing loan processing or underwriting or other back-office services on Washington loans and has only incidental contact with the borrower after an application has been taken, is not required to be licensed. Back office services do not include loan servicing. (~~However, any location where a licensed mortgage loan originator works must be licensed. Also, your company's main office (headquarters), wherever located, must be licensed.~~)

[Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-310, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-310, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-310, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102, 31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, § 208-620-310, filed 1/27/06, effective 2/27/06.]

AMENDATORY SECTION (Amending WSR 19-21-157, filed 10/22/19, effective 11/24/19)

**WAC 208-620-510 What are my disclosure obligations to consumers?** Some types of loans may not be covered by the integrated TILA-RESPA rule. Examples include: Reverse mortgages and (~~HELOCs~~) HELOCs. Creditors originating these types of mortgages must continue to use, as applicable, the federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures. Creditors are not prohibited from using the integrated TILA-RESPA disclosures. However, they cannot replace the required federal Good Faith Estimate, HUD-1, and Truth in Lending disclosures.

(1) **Content requirements.** In addition to complying with the applicable disclosure requirements in the federal and state statutes referred to in WAC 208-620-505 if the loan will be secured by a lien on real property, you must also provide the borrower or potential borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three business days of receipt of a loan application.

(2) **Proof of delivery.** The licensee must be able to prove that the disclosures under subsection (1) of this section were provided within the required time frames. For purposes of determining the timeliness of the required early disclosures, the department may use the

date of the credit report or may use the date of an application received from a broker. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an established system of disclosure tracking that includes a disclosure and correspondence log, checklists, and a reasonable system for determining if a borrower did receive the documents, the licensee will be presumed to be in compliance.

(3) **Residential mortgage loans—Rate locks.** Within three business days of receipt of a residential mortgage loan application you must provide the borrower with the following disclosure about the interest rate:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance.

(b) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, if guaranteed by a company other than your company, you must provide the name of that company, whether and under what conditions any rate lock fees are refundable to the borrower, and:

(i) The number of days in the rate lock period;

(ii) The date of the rate lock and expiration date of the rate lock;

(iii) The rate of interest locked;

(iv) Any other terms and conditions of the rate lock agreement; and

(v) The date the rate lock agreement was provided to the borrower.

(c) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date that includes the items from (b) of this subsection.

(d) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(e) You may rely on a broker's rate lock agreement if it complies with this subsection.

(4) **Residential mortgage loans—Loans brokered to other creditors.** Within three business days following receipt of a residential mortgage loan application you must provide to each borrower or potential borrower:

(a) If a rate lock agreement has not been entered into, you must disclose to the borrower that the disclosed interest rate and terms are subject to change. Compliance with the federal good faith estimate or loan estimate is considered compliance with this subsection;

(b) An estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty;

(c) A good faith estimate or loan estimate that conforms with RE-SPA, Regulation X, 12 C.F.R. Part 1024 and TILA, Regulation Z, 12 C.F.R. Part 1026;

(d) A rate lock disclosure containing the following:

(i) If a rate lock agreement has been entered into, you must disclose to the borrower whether the rate lock agreement is guaranteed and if so, the name of the company providing the guarantee, whether

and under what conditions any rate lock fees are refundable to the borrower, and:

(A) The number of days in the rate lock period;  
 (B) The date of the rate lock and the expiration date of the rate lock;

(C) The rate of interest locked;

(D) The date the rate lock was provided to the borrower; and

(E) Any other terms and conditions of the rate lock agreement.

(ii) If the borrower wants to lock the rate after the initial disclosure, you must provide a rate lock agreement within three business days of the rate lock date. The rate lock agreement must include the items from (d) of this subsection.

(e) Prior to closing, you must disclose payment of a rate lock as a cost in Block 2 of the federal good faith estimate or in "Loan Cost" on the loan estimate. At closing, you must disclose payment of a rate lock in section 800 "Items Payable" on a HUD-1 or in "Loan Cost" on the closing disclosure.

(f) You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

(5) **Are there additional disclosure requirements related to interest rate locks?** Yes. You must provide the borrower a new rate lock agreement within three business days of a change in the locked interest rate. The new rate lock agreement must include all the terms required under subsection (3)(b) of this section. Changes to a locked interest rate can occur only if the borrower requests the change or for valid reasons such as changes in loan to value, credit scores, or other loan factors directly affecting pricing. Lock extensions and relocks are also valid reasons for changes to a previously locked interest rate. You may rely on a lender's rate lock agreement if it is in compliance with this subsection.

(6) **Residential mortgage loans—Shared appreciation mortgages (SAM) or mortgages with shared appreciation provisions.** Within three business days following receipt of a loan application for a shared appreciation mortgage, or a mortgage with a shared appreciation provision, in addition to the disclosures required by federal law or by this chapter, you must provide each borrower with a written disclosure containing at a minimum the following:

(a) The percentage of shared equity or shared appreciation you will receive (or a formula for determining it);

(b) The value the borrower will receive for sharing his or her equity or appreciation;

(c) The conditions that will trigger the borrower's duty to pay;

(d) The conditions that may cause the lender to terminate the mortgage or shared appreciation provision early;

(e) The procedure for including qualifying major home improvements in the home's basis (if any);

(f) Whether a prepayment penalty applies or other conditions applicable, if a borrower wishes to repay the loan early, including but not limited to, any date certain after which the borrower can repay the loan by paying back the lender's funds plus accrued equity; and

(g) The date on which the SAM terminates and the equity or appreciation becomes payable if no triggering event occurs.

(7) **Residential mortgage loan modifications.** You must immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

(8) **Student education loans.**

(a) All loans. In addition to the applicable disclosures required for all consumer loans made by a licensee, the licensee making a loan to a (~~servicee~~) service member must disclose to the service members their rights under state and federal service member laws and regulations.

(b) Refinance loans. In addition to the applicable disclosures required for all consumer loans made by a licensee, for all consumer loans made by a licensee that are a refinance of a federal student education loan, the licensee must provide to the borrower a clear and conspicuous disclosure that some repayment and forgiveness options available under federal student education loan programs, including without limitation, income-driven repayment plans, economic hardship deferments, or public service loan forgiveness, will no longer be available to the borrower if he or she chooses to refinance federal student education loans with one or more consumer loans.

(9) Each licensee must maintain in its files sufficient information to show compliance with state and federal law.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 19-21-157, § 208-620-510, filed 10/22/19, effective 11/24/19; WSR 18-24-013, § 208-620-510, filed 11/27/18, effective 1/1/19. Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-510, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-510, filed 11/22/13, effective 1/1/14; WSR 12-18-047, § 208-620-510, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-510, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-510, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102, 31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, § 208-620-510, filed 1/27/06, effective 2/27/06.]

NEW SECTION

**WAC 208-620-660 What is required for a Washington licensed loan originator to work from their residence without licensing the residence as a branch location?** A licensed company may permit a sponsored and licensed loan originator to work from the loan originator's residence without licensing it as a branch location under RCW 31.04.075 and subject to the following conditions:

(1) The company must have written policies and procedures that include appropriate risk-based monitoring and oversight processes for the supervision of loan originators working from their residence without licensing it as a branch location. The loan originator must comply with the licensee's policies and procedures.

(2) Access to the company platforms and customer information must be in accordance with the licensee's comprehensive written information security plan, as required by WAC 208-620-571, which must include safeguards that protect borrower information.

(3) Communications that contain a customer's protected personal information must be in compliance with federal and state information security requirements, including the applicable provisions under the

Gramm-Leach-Bliley Act and the Safeguards Rule. See WAC 208-620-571 and 208-620-572 for more information.

(4) The loan originator's residence may not be held out in any manner, directly or indirectly, as a licensed main or branch location unless it is licensed as a main or branch location. The following is not allowed at the loan originator's residence unless it is licensed as a main or branch location:

- (a) Conducting in-person customer interactions;
- (b) Storing physical records containing customer information;
- (c) Receiving physical records containing customer information;

and

- (d) Advertising the location as a licensed main or branch office.

(5) The NMLS record of the loan originator must designate the licensed main office headquarters or a licensed branch office as their registered location.

(6) The loan originator must use their registered location from NMLS in the "loan originator information" section on residential mortgage loan applications.

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AMENDATORY SECTION (Amending WSR 19-21-157, filed 10/22/19, effective 11/24/19)

**WAC 208-620-700 Mortgage loan originator—General.** (1) **May I work from any location when I am a licensed loan originator?** No. You can only work from a licensed location (~~(. The licensed location can be the main office, or any licensed branch)~~) unless you conduct activity under the act from your residence pursuant to WAC 208-620-660.

(2) **May I transfer loan files to another licensed entity?** No. Loan files are the property and responsibility of the company named on the loan application. Only the borrower may submit a written request to the company to transmit the borrower's selected information to another entity. The company must transmit the information within five business days after receiving the borrower's written request.

(3) **May I act as a loan originator and a real estate agent in the same transaction or for the same borrower in different transactions?** Yes, you may be both the loan originator and real estate broker or salesperson in the same transaction, or for the same borrower in different transactions. When either of these occur, you must provide to the borrower 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 SALESPERSON 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 AND TO SELECT ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING."

(4) **As a loan originator, may I be paid directly by the borrower for my services?** No. You may not be paid any compensation or fees directly by the borrower.

(5) **May I charge the borrower a fee, commission, or other compensation for preparing, negotiating, or brokering a loan for the borrower?** No. You may not charge the borrower a fee, commission, or compensation of any kind in connection with the preparation, negotiation, or brokering of a residential mortgage loan.

(6) **May I bring a lawsuit against a borrower for the collection of compensation?** No. Only the company may bring collection actions against borrowers to collect compensation.

(7) **May I work as a licensed loan originator for a licensed consumer loan company located out of the state?** Yes. You may originate loans for any company you are sponsored by as long as (~~the out-of-state company licenses a branch in Washington for you to~~) you work from a licensed location or your residence pursuant to WAC 208-620-660. See subsection (1) of this section.

(8) **May I hire employees or independent contractors to assist me?** No. Only the consumer loan company can hire employees or independent contractors to work for the company. This prohibition against loan originators hiring employees or independent contractors includes clerical or administrative personnel and loan processors and underwriters whose work is related to the consumer loan company's activities.

(9) **Do loan processors and underwriters have to be licensed as loan originators?** W-2 employee loan processors and underwriters are not required to have a loan originator license provided they work under the supervision and instruction of an individual licensed or exempt from licensing and do not hold themselves out as able to conduct the activities of a loan originator.

(10) **May loan processors and underwriters work on files from an unlicensed location?** A loan processor or underwriter may work on loan files from an unlicensed location under the following circumstances:

(a) The loan files are in electronic format and the loan processor or underwriter accesses the files directly from the licensee's main computer system. The loan processor or underwriter may not maintain any electronic files on any computer system other than the system belonging to the licensee;

(b) The loan processor or underwriter does not conduct any of the activities of a licensed loan originator;

(c) The licensee must have safeguards in place for the computer system that safeguards borrower information; and

(d) The loan processor or underwriter is not a licensed mortgage loan originator who supervises other loan processors or underwriters.

**(11) May I work as a licensed loan originator in Washington if I do not have a physical location in Washington?** Yes. You may originate loans from any licensed location or your residence pursuant to WAC 208-620-660, inside or outside of Washington, as long as the company that sponsors you is licensed to do business in Washington.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 19-21-157, § 208-620-700, filed 10/22/19, effective 11/24/19; WSR 13-24-024, § 208-620-700, filed 11/22/13, effective 1/1/14. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-700, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-700, filed 12/1/09, effective 1/1/10.]