

Chapter 208-04 WAC

GENERAL PROVISIONS

WAC

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WAC 208-04-010 Definitions. For the purposes of this chapter:

(1) "Department" means the department of financial institutions.

(2) "Director" means director of the department.

(3) "Financial institution" means any bank, consumer loan company, credit union, foreign bank branch, savings bank, savings and loan association, trust company or department, securities broker-dealer, investment advisor, or similar lending institution under the department's direct jurisdiction.

[Statutory Authority: RCW 43.19.080. 94-09-010, § 208-04-010, filed 4/11/94, effective 5/12/94.]

WAC 208-04-020 Purpose; effective date. The purpose of this chapter is to implement RCW 43.19.080, which regulates the manner by which the director and employees of the department may lawfully borrow money from financial institutions under the jurisdiction of the department. This chapter applies to loans and material changes to loans made on or after October 1, 1993.

[Statutory Authority: RCW 43.19.080. 94-09-010, § 208-04-020, filed 4/11/94, effective 5/12/94.]

WAC 208-04-030 Requirements for loans to department employees and the director. The following procedures and requirements govern loans from financial institutions to employees and the director:

(1) **Requirements for all employees.** No employee of the department may borrow money from a financial institution under the jurisdiction of the department unless the loan is consistent with RCW 43.19.080. The director shall inform employees of the requirements for loans from financial institutions that are specified in these rules and in RCW 43.19.-080.

(2) **Loan notification and determination of conformance requirements for employees with administrative or regulatory duties and the director.**

(a) Any employee of the department who the director determines has administrative authority or carries out functions of a regulatory or discretionary nature that could affect a financial institution or its officers or employees shall provide notice to the director of a proposed loan by the financial institution to the employee. Upon receipt of the notice, the director or the director's designee shall promptly review the loan and notify the employee in writing whether or not the loan conforms with RCW 43.19.080. In cases where the loan does not conform, the director or the director's designee shall notify the employee in writing of the reason why it fails to

conform and demand that the terms of the loan be modified to conform with the law. If the loan is not modified, the director shall commence appropriate action.

(b) In making a loan conformance determination required by (a) of this subsection, the director or the director's designee may consider:

(i) A written and sworn declaration by the applicant's loan officer or broker that the terms offered and underwriting procedures used are not less stringent than those prevailing at the time for comparable transactions with other persons not employed by either the department or the financial institution;

(ii) Rates and terms readily available in a newspaper of general circulation quoting rates and terms contemporaneous with the applicant's loan; and

(iii) Other relevant information necessary to make a knowledgeable determination that the loan conforms with RCW 43.19.080.

(c) The employee shall provide notice of loans covered by (a) of this subsection on forms prepared by the department. Forms must include all material terms, including but not limited to, the type of loan, the name of the financial institution, the interest rate, the term, the amount financed, the loan fees, and all collateral requirements. Forms must also include the sworn declaration described in (b)(i) of this subsection.

(d) The director shall provide notice to the governor of a proposed loan by a financial institution to the director that is subject to RCW 43.19.080. The governor or the governor's designee shall make a written determination of conformance of the loan in accordance with the same procedures and requirements and using the same forms as are required for other employees of the department, as specified in this section.

(3) **Special loan transactions and circumstances.** The following requirements govern special loan transactions and circumstances:

(a) A material change in terms of outstanding loans or obligations on a loan from a financial institution is subject to the requirements of this section. Material changes include, but are not limited to, changes in amount disbursed on term loans, changes in interest rate, changes in loan fees, and changes in collateral requirements.

(b) All lines of credit, including credit cards, extended to employees and the director from a financial institution are subject to the requirements of this section at the time the line of credit is approved. Subsequent draws on the line of credit are not subject to these requirements unless the terms of the line of credit are materially changed. An increase in the amount of the line of credit is not considered a material change in terms.

(c) An employee whose loan is held by an institution that subsequently comes under the jurisdiction of the department

through merger, conversion, or other business transaction is not subject to the requirements this section. However, a material change in terms of such an outstanding loan or obligation is subject to the requirements.

(d) A loan made to an employee from an institution not under the jurisdiction of the department that is subsequently sold to an institution under the department's jurisdiction, in whole or in part, is not subject to the requirements of this section. However, a material change in terms in such a loan is subject to the requirements.

(e) The director shall adopt conflict of interest standards and procedures, consistent with the purposes of this chapter and RCW 43.19.080, that govern loans made by financial institutions to persons or entities other than the employee when the proceeds of the loan provide a clear financial benefit to the employee. These loans include, but are not limited to, loans to businesses or other enterprises in which the employee has a substantial financial interest, and loans to spouses and other immediate family members of the employee.

(4) **Violation of rules.** A violation of this section may subject the employee to appropriate discipline.

[Statutory Authority: RCW 43.19.080. 94-09-010, § 208-04-030, filed 4/11/94, effective 5/12/94.]