

WAC 208-660-155 Mortgage brokers—General. (1) **May I originate residential mortgage loans in Washington without a license?** No. Mortgage brokers must have a valid Washington license, or be exempt from licensing pursuant to RCW 19.146.020, and must maintain a sponsored loan originator who is approved by the director, in order to originate residential mortgage loans or conduct residential mortgage loan modification services. There is no "one-time, one loan" exception.

(2) **May I originate a Washington residential mortgage loan using the license of an already licensed or exempt Washington mortgage broker and then split the proceeds with that mortgage broker?** No. Mortgage broker licenses may only be used by the person named on the license. Mortgage broker licenses may not be transferred, sold, traded, assigned, loaned, shared, or given to any other person. Two individually licensed mortgage brokers may originate a loan. Each licensee is itemized in the disclosures and is paid their proportionate share of fees in relation to the work provided at the loan closing. Federal laws may prohibit this cobrokering.

(3) **Do I need a license to assist a borrower with a residential mortgage loan modification?** Yes. Persons providing loan modification services for compensation or gain must be licensed under this chapter, or under chapter 31.04 RCW. See also WAC 208-660-430(23), 208-660-500(4), 208-660-550 (3)(c) and (4).

(4) **As a licensed mortgage broker, am I responsible for the actions of my employees and independent contractors?** Yes. You are responsible for any conduct violating the act or these rules by any person you employ, or engage as an independent contractor, to work in the business covered by your license.

(5) **Who at the licensed mortgage broker company is responsible for the licensee's compliance with the act and these rules?** The designated broker, principals, and owners with supervisory authority are responsible for the licensee's compliance with the act and these rules.

(6) **What is the nature of my relationship with the borrower?** You have a fiduciary relationship with the borrower. See RCW 19.146.095.

(7) **May I charge upfront broker fees when assisting the borrower in applying for a loan?** No. You may only charge the borrower a fee, commission, or other compensation for the preparation, negotiation, and brokering of a residential mortgage loan when the loan is closed on the terms and conditions agreed upon by you and the borrower.

(8) **May I charge fees when the loan does not close, or does not close on the terms and conditions agreed upon by me and the borrower?** You may charge a fee, and may bring a suit for collection of the fee, not to exceed three hundred dollars, for services rendered, for the preparation of documents, or for the transfer of documents in the borrower's file which were prepared for, or paid for by, the borrower if:

(a) You have obtained a written commitment from a lender on the same terms and conditions agreed upon by you and the borrower; and

(b) The borrower fails to close on a loan through no fault of yours; and

(c) The fee is not otherwise prohibited by the Truth in Lending Act.

(9) **As a mortgage broker, may I solicit or accept fees from a borrower in advance to pay third-party providers?** Yes. However, prior to accepting the funds, you must provide the borrower a good faith estimate or loan estimate identifying the specific third-party provider goods and services the funds are to be used for and the cost of the

goods and services. Additionally, you must not charge the borrower more for the third-party provider goods and services than the actual costs of the goods and services charged by the provider. Once you have the funds you must then:

(a) Deposit the funds in a trust account pursuant to the act and these rules (see WAC 208-660-410 on Trust accounting);

(b) Refund any fees collected for goods or services not provided.

(10) **What is a "written commitment from a lender on the same terms and conditions agreed upon by the borrower and mortgage broker"?** The written commitment is a written agreement or contract between the mortgage broker and lender containing mutually acceptable loan provisions and terms. The lender must be one with whom the mortgage broker maintains a written correspondent or loan brokerage agreement as required by RCW 19.146.040(3). The mutually acceptable loan provisions and terms must be the same terms and conditions set forth in the most recent good faith estimate or loan estimate.

(11) **How do I sponsor a loan originator?** You must file a sponsorship request through the NMLS.

(12) **What action must a mortgage broker take to terminate a working relationship with a loan originator?** The licensed mortgage broker must process the termination through the NMLS.

(13) **When must I update my record in the NMLS after I terminate employment with a loan originator?** You must process the termination through the NMLS within five business days of the termination.

(14) **Are there any loan originator compensation models I am prohibited from using?** Yes. You are prohibited from using a compensation model for loan originators based on a loan's interest rate or other terms. You are not prohibited from basing compensation on the principal balance of a loan. Additionally, your loan originator compensation models must comply with federal law, including Regulation Z, 12 C.F.R. Part 1026.

[Statutory Authority: Chapter 43.320 RCW, RCW 19.146.223. WSR 16-08-027, § 208-660-155, filed 3/30/16, effective 4/30/16; WSR 12-18-048, § 208-660-155, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 19.146.223, and 2010 c 35. WSR 10-20-125, § 208-660-155, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 43.320.040, 19.146.223, and 2009 c 528. WSR 09-24-091, § 208-660-155, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 43.320.040, 19.144.070, 2008 c 109. WSR 09-01-156, § 208-660-155, filed 12/23/08, effective 1/23/09. Statutory Authority: RCW 43.320.040, 19.146.223, 2006 c 19. WSR 06-23-137, § 208-660-155, filed 11/21/06, effective 1/1/07.]