

WSR 07-09-027
EXPEDITED RULES
DEPARTMENT OF
FINANCIAL INSTITUTIONS

[Filed April 9, 2007, 2:31 p.m.]

Title of Rule and Other Identifying Information: Making the brief adjudicative proceeding process under RCW 34.05.482 through 34.05.494 available to applicants who have had license applications denied under the Mortgage Broker Practices Act, chapter 19.146 RCW.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jeannette Terry, Department of Financial Institutions, Division of Consumer Services, P.O. Box 41200, Olympia, WA 98504-1200, (360) 902-8786, jterry@dfi.wa.gov, AND RECEIVED BY July 31, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposal will give applicants access to the brief adjudicative proceeding process if their license application under the Mortgage Broker Practices Act is denied.

Reasons Supporting Proposal: By having access to the brief adjudicative proceeding process, applicants can achieve a quicker resolution of an appeal to their licensing application denial without sacrificing any other remedies available to them.

Statutory Authority for Adoption: RCW 43.320.040, 19.146.223, chapter 19, Laws of 2006.

Statute Being Implemented: Chapter 19.146 RCW.

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

Name of Proponent: Department of financial institutions, governmental.

Name of Agency Personnel Responsible for Drafting: Cindy Fazio, 150 Israel Road, Tumwater, WA, (360) 902-8800; Implementation and Enforcement: Deborah Bortner, 150 Israel Road, Tumwater, WA, (360) 902-0511.

March 27, 2007

Deborah Bortner, Director
 Division of Consumer Services

AMENDATORY SECTION (Amending WSR 06-23-137, filed 11/21/06, effective 1/1/07)

WAC 208-660-350 Loan originators—Licensing. (1) How do I apply for a loan originator license?

(a) **Pass a licensing test.** You must take and pass a test that assesses your knowledge of the mortgage business and related regulations. See WAC 208-660-360, Loan originators—Testing.

(b) **Submit an application.** The application form will be prescribed by the director.

(c) **Prove your identity.** You must provide information to prove your identity.

(d) **Pay the application fee.** You must pay an application fee to cover the department's cost of processing and reviewing applications. See WAC 208-660-550, Department fees and costs.

(2) In addition to reviewing my application, what else will the department consider to determine if I qualify for a loan originator license?

(a) **General fitness and prior compliance actions.** The department will investigate your background to see that you demonstrate the experience, character, and general fitness that commands the confidence of the community and creates a belief that you will conduct business honestly and fairly within the purposes of the act. This investigation may include a review of the number and severity of complaints filed against you, or any person you were responsible for, and a review of any investigation or enforcement activity taken against you, or any person you were responsible for, in this state, or any jurisdiction.

(b) **License suspensions or revocations.** You are not eligible for a loan originator license if you have been found to be in violation of the act or the rules, or have had a license issued under the act or any similar state statute suspended or revoked within five years of the filing of the present application.

(c) **Criminal history.** You are not eligible for a loan originator license if you have been convicted of a gross misdemeanor involving dishonesty or financial misconduct, or a felony, within seven years of the filing of the present application.

(3) May I originate residential mortgage loans in Washington without a loan originator license? Persons conducting the business of a loan originator without an active loan originator license must fall under one of the following categories of exemption from loan originator licensing:

(a) Persons conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(a)(i); or

(b) The exclusive agents conducting residential mortgage loan business for any exempt person under RCW 19.146.020 (1)(a)(ii); or

(c) The bona fide employees conducting residential mortgage loan business exclusively for any exempt person under RCW 19.146.020 (1)(b), (e), (g) or (h); or

(d) Those persons exempt under RCW 19.146.020 (1)(c) or (d).

(4) What will happen if my loan originator license application is incomplete? The department will reject and return the entire application package to you with a notice identifying the incomplete, missing, or inaccurate information. You must follow the department's directions to correct the problems. You may then resubmit the application package.

(5) How do I withdraw my application for a loan originator license? Provide the department with a written request to withdraw your application in a form prescribed by the director.

(6) **When will the department consider my loan originator license application to be abandoned?** If you do not respond within ten business days to the department's second request for information, your loan originator license application is considered abandoned. Failure to provide the requested information will not affect new applications filed after the abandonment. You may reapply by submitting a new application package.

(7) **What happens if the department denies my application for a loan originator license, and what are my rights if the license is denied?** (a) The department will notify you if your application is denied. You will receive a refund of any unused portion of the application fee.

(b) If your license application lists any mortgage brokers, the department will also notify the mortgage brokers of the license denial.

(c) Under the Administrative Procedure Act, chapter 34.05 RCW, you have the right to request an ~~administrative hearing on the denial~~ brief adjudicative proceeding. To request a hearing, notify the department, in writing, within twenty days from the date of the director's notice to you notifying you your license application has been denied.

(i) Brief Adjudicative Proceeding Adopted. The director adopts RCW 34.05.482 through 34.05.494 to administer brief adjudicative proceedings under WAC 208-660-350.

(ii) Presiding Officer. Brief adjudicative proceedings are conducted by a presiding officer designated by the director. The presiding officer must have department expertise in the subject matter, but must not have personally participated in the department's licensing application denial, or work in the department's division of consumer services, or such other division within the department delegated by the director to oversee implementation of the act and these rules.

(iii) Preliminary Records. The preliminary record for the brief adjudicative proceeding consists of the application and all associated documents including all documents relied upon by the department to deny the application and all correspondence between the applicant and the department regarding the application.

(iv) Notice of Hearing. The department will set the date, time, and place of the hearing, giving at least seven business days notice to the applicant.

(v) Written Documents. The applicant or their representatives may present written documentation. The presiding officer must designate the date for submission of written documents.

(vi) Oral Argument. The presiding officer may exercise discretion in allowing oral argument.

(vii) Witnesses. Witnesses will not be allowed to testify.

(viii) Agency Expertise Considered. The presiding officer may rely upon agency expertise in addition to the written record as a basis for a decision.

(ix) Initial Order. The presiding officer must make a written initial order within ten business days of the final date for submission of materials, or oral argument, if any. The initial order will become final twenty-one days after service on the applicant unless the applicant requests an administrative review or the department decides to review the matter.

(8) **How will the department provide me with my loan originator license?** The department may use any of the fol-

lowing methods to provide you with your loan originator license:

(a) A printed paper license sent to you by regular mail.

(b) A license sent to you electronically that you may print.

(c) A license verification available on the department's web site and accessible for viewing by the public.

(9) **May I transfer, sell, trade, assign, loan, share, or give my loan originator license to someone else?** No. A loan originator license authorizes only the individual named on the license to conduct the business at the location listed on the license.

(10) **How do I change information on my loan originator license?** You must file a license amendment application with the department, in a form prescribed by the department within thirty days of the change occurring.

(11) **If I am employed by a bank or other exempt entity may I apply for and receive a loan originator license?** Yes, you may apply for a license at any time. However, if you are not working for a licensed mortgage broker, your license will be considered inactive.

(12) **What is an inactive loan originator's license?** If an individual holds a loan originator license but is not working with a licensed mortgage broker, they hold an inactive license. A person holding an inactive license may not hold themselves out as a licensed loan originator.

(13) **When my loan originator's license is inactive, am I subject to the director's enforcement authority?** Yes. Your license is granted under specific authority of the director and under certain situations you may be subject to the director's authority even if you are not doing any activity covered by the act.

(14) **When my loan originator license is inactive, must I continue to pay annual fees, and complete continuing education for that year?** Yes. You must comply with all the annual licensing requirements or you will be unable to renew your inactive loan originator license.

(15) **May I originate loans from a web site when my license is inactive?** You may not originate loans, or engage in any activity that requires a license under the act, while your license is inactive, except as allowed in subsection (3) of this section.

(16) **How do I activate my loan originator license?** When the department receives a notice, in a form prescribed by the department, from a licensed mortgage broker establishing a working relationship with you, your loan originator license will become active. The department will notify you and all mortgage brokers you are working with of the new working relationship established by the licensed mortgage broker.

(17) **When may the department issue interim loan originator licenses?** To prevent an undue delay, the director may issue interim loan originator licenses with a fixed expiration date. The license applicant must have substantially met the initial licensing requirements, as determined by the director, to receive an interim license.

For purposes of this section, undue delay includes the adjustment of license expiration or renewal dates to coincide with the implementation of systems designed to assist in uni-

formity and provide data repositories of licensing information.

One example of having substantially met the initial licensing requirements is: Submitting a complete application, paying all application fees, and the department having received and reviewed the results of the applicant's background check.

(18) When does my loan originator license expire?

The loan originator license expires annually. The expiration date is shown on the license. If the license is an interim license, it may expire in less than one year.

(19) How do I renew my loan originator license?

(a) Before the license expiration date you must:

- (i) Pay the annual assessment fee; and
- (ii) Meet the continuing education requirement.

(b) The renewed license is valid until it expires, or is surrendered, suspended or revoked.

(20) If I let my loan originator license expire, must I apply to get a new license? If you complete all the requirements for renewal within forty-five days of the expiration date you may renew an existing license. However, if you renew your license during this forty-five day period, in addition to paying the annual assessment on your license, you must pay an additional fifty percent of your annual assessment. See subsection (19) of this section for the license renewal requirements.

During this forty-five day period, your license is expired and you must not conduct any business under the act that requires a license.

Any renewal requirements received by the department must be evidenced by either a United States Postal Service postmark or department "date received" stamp within the forty-five days. If you fail to comply with the renewal request requirements within forty-five days, you must apply for a new license.

(21) May I still originate loans if my loan originator license has expired? No. Once your license has expired you may no longer conduct the business of a loan originator as defined in the act and these rules.

(22) What happens to the loan applications I originated before my loan originator license expired? Existing loan applications must be processed by the licensed mortgage broker or another licensed loan originator working for the mortgage broker.

(23) May I surrender my loan originator's license?

Yes. You may surrender your license before the license expires by notifying the department, in a form prescribed by the department.

Surrender of your loan originator license does not change your civil or criminal liability, or your liability for any administrative actions arising from acts or omission occurring before the license surrender.

(24) Must I display my loan originator license where I work as a loan originator? No. Neither you nor the mortgage broker company is required to display your loan originator license. However, evidence that you are licensed as a loan originator must be made available to anyone who requests it.

(25) If I operate as a loan originator on the internet, must I display my license number on my web site? Yes.

You must display your license number, and the license number and name as it appears on the license of the licensed mortgage broker you represent, on the web site.

(26) Must I include my loan originator license number on any documents? You must include your license number immediately following your name on solicitations, including business cards, advertisements, and residential mortgage loan applications.

(27) When must I disclose my loan originator license number? In the following situations you must disclose your loan originator license number and the name and license number of the mortgage broker you are associated with:

(a) When asked by any party to a loan transaction, including third party providers;

(b) When asked by any person you have solicited for business, even if the solicitation is not directly related to a mortgage transaction;

(c) When asked by any person who contacts you about a residential mortgage loan;

(d) When taking a residential mortgage loan application.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

WSR 07-09-099

EXPEDITED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2007-03—Filed April 18, 2007, 10:47 a.m.]

Title of Rule and Other Identifying Information: Technical correction to WAC 284-24A-011.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Insurance Commissioner's Office, P.O. Box 40255, Olympia, WA 98504-0255, e-mail Kacys@oic.wa.gov, fax (360) 586-3109, AND RECEIVED BY June 19, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 284-24A-011 was adopted in December 2004. During that rule making a section caption included an incorrect reference. This proposed amendment will correct that reference.

Reasons Supporting Proposal: The proposed amendment will correct a WAC section caption reference and, therefore, easier for those that comply with chapter 284-24A WAC.

Statutory Authority for Adoption: RCW 48.02.060, 48.18.545.

Statute Being Implemented: RCW 48.18.545.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Melodie Bankers, P.O. Box 40260, Olympia, WA 98504-0260, (360) 725-7039; Implementation: John Hamje, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7262; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

April 18, 2007

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2004-01, filed 12/29/04, effective 7/1/05)

WAC 284-24A-011 What types of information must an insurer provide in addition to the reason(s) for the adverse action to comply with WAC 284-24A-010((3)) (2)? (1) Insurers must provide information that helps the consumer determine why the consumer was charged a higher premium or determined to be ineligible for coverage by the insurer. The following information must be included with the reason for the adverse action:

(a) A description of the attribute of credit history that adversely affected the consumer's insurance score;

(b) How the attribute of credit history affected the insurance score; and

(c) Any actions that are available to the consumer that may improve this attribute of the insurance score.

(2) If an insurer refers to insurance industry research or studies to justify the effect of an insurance score on premiums or eligibility for coverage, the insurer must file those studies with the insurance commissioner so that they are available for public disclosure.

WSR 07-09-100

EXPEDITED RULES

OFFICE OF

INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2007-04—Filed April 18, 2007, 10:53 a.m.]

Title of Rule and Other Identifying Information: Technical amendments to WAC 284-07-050 Financial statement filing instructions.

NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU

MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Kacy Scott, Office of the Insurance Commissioner, P.O. Box 40260, Olympia, WA 98504-0260, fax (360) 586-3109, e-mail KacyS@oic.wa.gov, AND RECEIVED BY June 19, 2007.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These proposed amendments amend WAC 284-07-050 to clarify quarterly financial statement filing dates. Several outdated references are also removed.

Reasons Supporting Proposal: These proposed amendments further the insurance commissioner's commitment to update Title 284 WAC to improve its clarity and efficiency.

Statutory Authority for Adoption: RCW 48.02.060, 48.44.050, and 48.46.200.

Statute Being Implemented: RCW 48.05.073, 48.05-250, and 48.43.097.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Dennis Julnes, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7209; Implementation: Jim Odiorne, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7214; and Enforcement: Carol Sureau, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

April 18, 2007

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending Matter No. R 2002-07, filed 10/23/02, effective 11/23/02)

WAC 284-07-050 Financial statement instructions.

(1) For the purpose of this section, the following definitions shall apply:

(a) "Insurer" shall have the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW and health maintenance organizations registered under chapter 48.46 RCW, and fraternal benefit societies registered under chapter 48.36A RCW.

(b) "Insurance" shall have the same meaning as set forth in RCW 48.01.040. It also includes prepayment of health care services as set forth in RCW 48.44.010(3) and prepayment of comprehensive health care services as set forth in RCW 48.46.020(1).

(2) Each authorized insurer is required to file with the commissioner an annual statement for the previous calendar year in the general form and context as promulgated by the National Association of Insurance Commissioners (NAIC) for the kinds of insurance to be reported upon, and shall also file a copy thereof with the NAIC. To effectuate RCW 48.05.250, 48.05.400, 48.36A.260, 48.44.095 and 48.46.080 and to enhance consistency in the accounting treatment accorded various kinds of insurance transactions, the valuation of assets, and related matters, insurers shall adhere to the appropriate Annual Statement Instructions and the Account-

ing Practices and Procedures Manuals promulgated by the NAIC.

(3) This section does not relieve an insurer from its obligation to comply with specific requirements of the insurance code or rules ~~((thereunder))~~.

(4) Annual statements:

~~(a) ((Until December 31, 2002, for domestic insurers, the statements are to be filed in triplicate to assist with public viewing and copying. Two statements must be permanently bound on the left side. The third statement must be unbound. The statements are to be filed in the Olympia office.~~

~~(b) Until December 31, 2002, for foreign insurers, except for health care service contractors and health maintenance organizations, one statement shall be filed in the Olympia office. For health care service contractors and health maintenance organizations, two left side permanently bound and one unbound statement shall be filed in the Olympia office to assist with public viewing and copying.~~

~~(c) After December 31, 2002,))~~ Annual statements for all domestic ~~((and foreign))~~ insurers must be filed electronically with the commissioner. ~~((This includes the annual statement for the year ended December 31, 2002.))~~ Insurers must electronically transmit the annual statement, as described in subsection (2) of this section, in PDF or other format as noted on the commissioner's web site. The commissioner has the discretion to allow an insurer to file annual statements on paper. The insurer must demonstrate that filing in electronic form will create an undue financial hardship for the insurer. Applications for permission to file on paper must be received by the commissioner at least ninety days before the annual statement is due.

~~((d))~~ (b) To comply with statutory requirements that annual statements must be verified by the oaths of at least two of the insurer's officers, insurers may:

(i) Use a method of electronic signature verification that has been approved by the commissioner for use by the insurer; or

(ii) File a paper copy of the signature and jurat page of the annual statement at the time of the electronic filing of the annual statement. This paper copy must contain the original signature of the company officers and the notary administering the oath. ~~((A foreign insurer may use facsimile signatures or reproductions of original signatures for its paper copy.~~

~~((e))~~ (c) Both the electronic annual statement and the verification of that statement by the oaths of two officers must be received by the commissioner to complete an annual statement filing. The date of receipt of the later of the electronic annual statement or verification is considered the receipt date of the annual statement.

(5)(a) Each domestic insurer shall file quarterly statements of its financial condition with the commissioner and with the NAIC. Each foreign insurer shall file quarterly statements of its financial condition with the NAIC. The commissioner may require a foreign insurer to file quarterly statements with the commissioner whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the foreign insurer. The statements shall be filed in the commissioner's office not later than the forty-fifth day or the fifteenth day of the second month after the end of the insurer's calendar quarters, whichever is later. The

quarterly statements shall be in the form and content as promulgated by the NAIC for quarterly reporting by insurers, shall be prepared according to appropriate Annual and Quarterly Statement Instructions and the Accounting Practices and Procedures Manuals promulgated by the NAIC and shall be supplemented with additional information required by this title and by the commissioner. ~~((The statement is to be completed and filed in the same manner and places as the annual statement.))~~ Quarterly statements for the fourth quarter are not required.

~~((b))~~ Quarterly statements ~~((beginning with the statement for the quarter ended March 31, 2003,))~~ must be filed with the commissioner by electronically transmitting the quarterly statement as described in this subsection, in PDF or other format as noted on the commissioner's web site.

(6) As a part of any investigation by the commissioner, the commissioner may require an insurer to file monthly financial statements whenever, in the commissioner's discretion, there is a need to more closely monitor the financial activities of the insurer. Monthly financial statements shall be filed in the commissioner's office no later than the twenty-fifth day of the month following the month for which the financial statement is being filed. Such monthly financial statements shall be the internal financial statements of the company. In addition, the commissioner may require these internal financial statements to be accompanied by a schedule converting the financial statements to reflect financial position according to statutory accounting practices and submitted in a form using the same format and designation as the insurer's quarterly financial statements of insurers. "Financial statements" as used in this subsection includes:

- (a) Statement of assets;
- (b) Liabilities, capital and surplus;
- (c) Statements of revenue and expenses; and
- (d) Statements of cash flows.

(7) Health care service contractors shall use the Health Statement Form promulgated by the NAIC for their statutory filings.

(8) Each health care service contractor's and health maintenance organization's annual statement shall be accompanied by an additional data statement form (IC-13A-HC/IC-14-HMO).

(9) The commissioner may allow a reasonable extension of the time for filing the financial statements. A request for an extension must be in writing. The request must be received prior to the due date of the filing and must state good cause for the extension. An extension can only be granted in writing; paper, fax, or e-mail is considered "writing" for purposes of this subsection.