



PROPOSED RULE MAKING

CR-102 (July 2022)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: October 04, 2022
TIME: 4:31 PM

WSR 22-20-107

Agency: Department of Financial Institutions, Division of Consumer Services

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 22-10-056 ; or
- Expedited Rule Making--Proposed notice was filed as WSR** _____ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) Amending the rules (chapter 208-660 WAC) under the Mortgage Broker Practices Act (chapter 31.04).

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
November 16, 2022	10 AM	Department of Financial Institutions, 150 Israel Rd. SW, Tumwater, WA 98501	Room 319 or via telephone at 360-725-7839

Date of intended adoption: 11.31.2022 (Note: This is **NOT** the **effective** date)

Submit written comments to:

Name: Ashley Sutherland
 Address: P.O. Box 41200, Olympia, WA 98504-1200
 Email: Ashley.Sutherland@dfi.wa.gov
 Fax:
 Other: www.dfi.wa.gov
 By (date) _____

Assistance for persons with disabilities:

Contact Ashley Sutherland
 Phone: 360-664-7866
 Fax:
 TTY: 1-800-833-6384
 Email:
 Other:
 By (date) _____

Purpose of the proposal and its anticipated effects, including any changes in existing rules: Amending the rules (chapter 208-660 WAC) under the Mortgage Broker Practices Act (chapter 19.146 RCW) to implement amendments (SB 5077, Ch. 15, Laws of 2021) which provides 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 RCW 19.146.225

Statute being implemented: Chapter 19.146 RCW

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) Department of Financial Institutions

Name of agency personnel responsible for:			
	Name	Office Location	Phone
Drafting:	Devon Phelps	150 Israel Rd SW, Tumwater, WA 98501	360-664-7894
Implementation:	Lucinda Fazio	150 Israel Rd SW, Tumwater, WA 98501	360-902-8800
Enforcement:	Lucinda Fazio	150 Israel Rd SW, Tumwater, WA 98501	360-902-8800

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

No: Please explain:

Regulatory Fairness Act and Small Business Economic Impact Statement
Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:
This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.
Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:

<input type="checkbox"/> RCW 34.05.310 (4)(b) (Internal government operations)	<input checked="" type="checkbox"/> RCW 34.05.310 (4)(e) (Dictated by statute)
<input type="checkbox"/> RCW 34.05.310 (4)(c) (Incorporation by reference)	<input type="checkbox"/> RCW 34.05.310 (4)(f) (Set or adjust fees)
<input checked="" type="checkbox"/> RCW 34.05.310 (4)(d) (Correct or clarify language)	<input type="checkbox"/> RCW 34.05.310 (4)(g) (i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit)

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).

This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule: 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.

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):

	Proposed WAC Sections and Title	This proposed rule section is <u>not exempt</u> - Analysis is required	This proposed rule section <u>is exempt</u> . Provide RCW to support this exemption.
1.	WAC 208-660-006 - Definitions	<input checked="" type="checkbox"/>	
2.	WAC 208-660-106 – Definition of loan processor	<input type="checkbox"/>	RCW 34.05.310(4)(d) – Deleted reference to underwriters as mortgage brokers do not have underwriters, only loan processors.
3.	WAC 208-660-300(4) – 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.
4.	WAC 208-660-420(4) – Physical location requirement	<input checked="" type="checkbox"/>	
5.	WAC 208-660-420(5) – 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.
6.	WAC 208-660-505 - Requirements for loan originators working from home without licensing the location	<input checked="" type="checkbox"/>	

- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency’s minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. The majority of changes in the rule actually save licensees money as it removes the requirement for companies to pay \$185 to license and \$530 each year to 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.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

- Name:
- Address:
- Phone:
- Fax:
- TTY:
- Email:
- Other:

Date: 10/4/2022

Name: Charles Clark

Title: Agency Director

Signature:

