

DEPARTMENT OF BUSINESS OVERSIGHT*Ensuring a Fair and Secure Financial Services Marketplace for all Californians*

Jan Lynn Owen
Commissioner of Business Oversight

June 23, 2014

**INVITATION FOR COMMENTS
ON PROPOSED RULEMAKING UNDER THE
CALIFORNIA FINANCE LENDERS LAW AND THE
CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT
(PRO 13/11)**

BACKGROUND

The Department of Business Oversight (Department) licenses and regulates lenders and brokers and mortgage loan originators under the California Finance Lenders Law (CFLL), (Financial Code Section 22000 et seq.) and residential mortgage lenders and servicers and mortgage loan originators under the California Residential Mortgage Lending Act (CRMLA), (Financial Code Section 50000 et seq.). Under the CFLL and CRMLA, the Commissioner shall deny an application for a mortgage loan originator license unless the Commissioner makes specified findings, among other things, that the applicant: (1) has completed at least 20 hours of pre-licensing education; (2) has passed a qualified written test; and (3) is employed by, and subject to the supervision of, a residential mortgage lender or servicer that has obtained a license from the Commissioner pursuant to the respective laws. In order to renew his or her license, a mortgage loan originator must comply with specified requirements, including completing at least 8 hours of continuing education.

The Department is considering changes to regulations that impact finance lenders and brokers, residential mortgage lenders and servicers and mortgage loan originators, and in accordance with Government Code Section 11346.45, the Department is seeking comments from interested parties and those who would be subject to the proposed regulations, prior to the Department providing notice of a proposed rulemaking action.

The Department is seeking comments on amendments to Sections 1404, 1414, 1422.6.1, 1422.6.3, 1950.003, 1950.122.5.1, 1950.122.5.3 and 1950.122.6 of Title 10 of the California Code of Regulations.

In general, the Department is considering changes to the rules to further clarify the supervisory requirements on mortgage providers subject to the CFLL and CRMLA regarding mortgage loan originators, help mortgage providers determine what qualifies

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as a “branch office” and increase consistency with federal definitions. In turn, these proposed changes will increase borrower safeguards. The changes would also broaden the Department’s choice regarding future mortgage loan originator tests and help ensure that mortgage loan originators are knowledgeable about California mortgage related laws.

It should be noted that the proposed amendments to the rule on supervisory requirements for mortgage providers (Sections 1414 and 1950.122.6), are modeled after the National Association of Securities Dealers’ (now known as the Financial Industry Regulatory Authority (FINRA)), extensive supervisory requirements, Regulation 3010, *Supervision*. However, the proposed amendments only incorporate certain provisions contained in *Regulation 3010, Supervision*. The proposed amendments to the mortgage loan originator testing and education requirements (1404, 1422.6.1, 1422.6.3, 1950.003, 1950.122.5.1, and 1950.122.5.3) are intended to complement similar provisions in SB 1459 (Assembly Committee on Banking and Finance, 2014, pending).

INVITATION

In accordance with Government Code Section 11346(b), the Department seeks to involve parties who would be subject to the regulations and other interested parties in discussions regarding the proposed regulations. The Commissioner invites interested parties to review the accompanying draft text of proposed changes to the supervisory requirements of mortgage providers over mortgage loan originators and related definitions, and provide comments.

In addition, the Commissioner invites interested parties to consider the following questions:

1. What is the potential economic impact of the proposed regulations on industry?
2. What is the potential impact of the proposed regulations on industry operations?
3. Are there other alternatives to clarify supervisory requirements? If so, how would they compare to the proposed modifications economically and operationally?
4. Are there other ways to define branch office? If so, how would they compare to the proposed definition?
5. Is there any remaining need for the current definition of “employment relationship” in the definition of “sponsoring”? Or is this definition now

INVITATION FOR COMMENTS (PRO 13/11)

Comments Requested by July 25, 2014

Page 3

obsolete in light of the new exemptions for exempt company registration in the CFLL and CRMLA that provide for non-traditional employees to be sponsored by a mortgage provider?

TIME FOR COMMENTS

Accordingly, the Department is providing the attached text of draft regulations to interested parties, and invites interested parties to submit comments on these documents by July 25, 2014. Comments from interested persons will assist the Department in determining whether amendments to regulations under the California Finance Lenders Law and the California Residential Mortgage Lending Act are necessary and appropriate.

This solicitation for comments from interested parties is not a proposed rulemaking action under Government Code Section 11346, and the public will have an additional opportunity to comment on proposed changes if, after consideration of the comments from interested parties, the Department proceeds with a notice of a proposed rulemaking action.

WHERE TO SUBMIT COMMENTS

You may submit comments by any of the following means:

Electronic

Comments may be submitted electronically to regulations@dbo.ca.gov. Please identify the comments as PRO 13/11.

Mail

California Department of Business Oversight
Legal Division
Attn: Karen Fong (PRO 13/11)
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CONTACT PERSONS

Questions regarding this invitation for comments may be directed to Sherri Kaufman, Senior Counsel, at (916) 324-6965 or Sherri.Kaufman@dbo.ca.gov.