

WAC 208-660-108 How does the department interpret the definition of "loan originator" in RCW 19.146.010(11)? "Loan originator" or "mortgage loan originator" means a natural person who for direct or indirect compensation or gain, or in the expectation of direct or indirect compensation or gain:

- Takes a residential mortgage loan application; or
- Offers or negotiates terms of a mortgage loan, including short sale transactions. An individual "offers or negotiates terms of a residential mortgage loan" if the individual:

- (a) Presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms; or

- (b) Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms.

"Loan originator" also includes a person who holds themselves out to the public as able to perform any of the activities described in this definition. For purposes of this definition, a person "holds themselves out" by advertising or otherwise informing the public that the person engages in any of the activities of a mortgage broker or loan originator, including the use of business cards, stationery, brochures, rate lists, or other promotional items.

For purposes of further defining "loan originator," "taking a residential mortgage loan application" includes soliciting, accepting, or offering to accept an application for a residential mortgage loan or assisting a borrower or offering to assist a borrower in the preparation of a residential mortgage loan application.

"Loan originator" also includes a natural person who for direct or indirect compensation or gain or in the expectation of direct or indirect compensation or gain performs residential mortgage loan modification services.

"Loan originator" does not mean persons performing purely administrative or clerical tasks for a mortgage broker. For the purposes of this paragraph, "administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing of a loan in the mortgage industry and communication with a borrower to obtain information necessary for the processing of a loan. An individual who holds himself or herself out to the public as able to obtain a loan is not performing administrative or clerical tasks.

"Loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For purposes of this chapter, the term "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

- (a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

- (b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

- (c) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to any such transaction;

(d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(e) Offering to engage in any activity, or act in any capacity, described in (a) through (d) of this definition.

"Loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in Sec. 101(53D) of Title 11, U.S.C.

The definition of loan originator does not apply to employees of a housing counseling agency approved by the United States Department of Housing and Urban Development unless the employees of a housing counseling agency are required under federal law to be licensed individually as loan originators.

[Statutory Authority: RCW 43.320.040 and 19.146.225. WSR 19-21-142, § 208-660-108, filed 10/22/19, effective 11/24/19.]