



Mortgage Broker Licensee Interpretive Letter #99-04 MB

To: All Mortgage Broker Licensees
From: Mark Thomson, Assistant Director
Date: November 30, 1999

Dear Mortgage Broker Licensee:

The purpose of this letter is to provide you with the Department of Financial Institutions' (DFI or the Department) position on "Net Branching" under Chapter 19.146 RCW, the Mortgage Broker Practices Act (the Act). This notice clarifies the requirement to license these locations, outlines their status and explains the liability such Net Branches bring to the larger mortgage broker under whose license these independent brokers will operate.

What is a net branch?

Net Branch has become a term loosely used in the mortgage industry lately. So-called Net Branches are becoming more and more popular in the mortgage business across the United States. Often brokers attempt to expand their business by employing or contracting with loan originators who work from their homes or in an existing licensed or unlicensed office space located in another part of the city, county or state. They call these locations net branches.

DFI's view of licensing requirements.

The Department considers a Net Branch or Net Branches to be branches of the main office. The relationship is formed when smaller independent mortgage brokers or other businesses enter into an agreement with a larger mortgage broker to form a network of offices under the larger mortgage broker. The smaller independent businesses agree to become branches of the larger mortgage broker. The smaller independent businesses retain control of their companies in the network and run the day-to-day operations of their companies.

Ramifications of violations by a branch office.

Branch offices operate under the bond and license of the main office. Violations by one branch impact the license and bond for the entire branch network. **A serious violation by a single branch office could result in an action by the Department, including fines or revoking the license of the main office, and thus the license under which all of the net branches operate. The result would be that all of the branches would be unable to operate until they were re-licensed, and such re-licensure would not**

be automatic. For this reason, good audited internal routines and controls that ensure compliance with state law are essential to a company that operates under a net branch structure.

Net branches must be licensed as stipulated under RCW 19.146.250 and RCW 19.146.265. The law allows the mortgage broker to apply to the director to establish more than one branch office under the same or different names as the main office.

When a person is holding him or herself out as being able to make loans from a fixed physical location, that location must be licensed. It is a violation of the Act to have employees or contractors working from their home or a remote office unless that location is licensed as a branch of the main office.

It is the view of the Department that a branch office is directly tied to the main office. Activities in the branch are the responsibility of, and create a liability for, the main office, both in terms of its bond and its license. Regardless of the Net Branch arrangement, there is only one licensee and one surety instrument covering the main office and the branch(es). A net branch cannot directly engage loan originators (whether independent contractors or employees). The licensed entity or main office must establish and maintain these individual relationships. The branches are part of the main office and therefore their activities, conducted under the Act, reflect upon and may place in jeopardy the main office.

Branches are allowed.

A licensee may apply to license the locations from which loan originators work by following procedures outlined in RCW 19.146.265 and WAC 208-660-070.

In summary, the Department of Financial Institutions holds the opinion that the concept of Net Branching is accommodated under the Mortgage Broker Practices Act. However, Net Branches are subject to the same standards required of all branches.

If you have any questions about the Department's point of view on this matter, contact us in writing at the address on the letterhead above.

Sincerely,

Mark Thomson
Assistant Director