

WAC 208-620-550 What business practices are prohibited? In addition to RCW 31.04.027, the following constitute an "unfair or deceptive" act or practice:

(1) Failure to provide the exact pay-off amount as of a certain date within seven business days after being requested in writing to do so by a borrower of record or their authorized representative. Student education loan servicers must comply with this subsection or an applicable federal program requirement;

(2) Failure to record a borrower's payment as received on the day it is delivered to any of the licensee's locations during its regular working hours. If you are in compliance with the United States Department of Education contractual requirements, you are not subject to this subsection;

(3) Collecting more than forty-five days of prepaid interest at the time of loan closing;

(4) Soliciting or entering into a contract with a borrower that provides in substance that the licensee may earn a fee or commission through its "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) **Engaging in unfair or deceptive advertising practices.** Unfair advertising may include advertising that offends public policy, or causes substantial injury to consumers or to competition in the marketplace. See also WAC 208-620-630;

(6) Negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any reports filed with the department by a licensee or in connection with any application, examination or investigation conducted by the department;

(7) Making any payment, directly or indirectly, or withholding or threatening to withhold any payment, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(8) Leaving blanks on a loan origination document that is signed by the borrower or providing the borrower with loan origination documents with blanks;

(9) Failing to clearly disclose to a borrower whether the payment advertised or offered for a real estate loan includes amounts for taxes, insurance or other products sold to the borrower;

(10) Purchasing insurance on an asset secured by a loan without first attempting to contact the borrower by mailing one or more notices to the last known address of the borrower, unless mail has been previously returned as undeliverable from the address, in order to verify that the asset is not otherwise insured;

(11) Willfully filing a lien on property without a legal basis to do so;

(12) Coercing, intimidating, or threatening borrowers in any way with the intent of forcing them to complete a loan transaction;

(13) Failing to reconvey title to collateral, if any, within sixty business days when the loan is paid in full;

(14) Failing to timely and completely comply with any directive, subpoena, or order issued by the department;

(15) Negligently delaying the closing of a residential mortgage loan which results in increased interest, costs, fees, or charges payable by the borrower;

(16) Negligently delaying the refinance or modification of a student education loan which results in increased interest, costs, fees,

or other charges payable by the borrower or which results in the proposed refinancing or modification becoming unavailable, or both;

(17) Steering a borrower to a residential mortgage loan with less favorable terms than they qualify for in order to increase the compensation paid to the company or mortgage loan originator. An example is counseling, or directing a borrower to accept a residential mortgage loan product with a risk grade less favorable than the risk grade the borrower would qualify for based on the licensee or other regulated person's then current underwriting guidelines, prudently applied, considering the information available to the licensee or other regulated person, including the information provided by the borrower;

(18) Failing to indicate on all residential mortgage loan applications, initial and revised, the company's unique identifier, the loan originator's unique identifier, and the date the application was taken or revised;

(19) Receiving compensation or anything of value from any party for assisting in real estate "flopping." Flopping occurs during some short sales where the value of the property is misrepresented to the lender who then authorizes the sale of the property for less than market value. The property is then resold at market value or near market value for a profit. The failure to disclose the true value of the property to the lender constitutes fraud and is a violation of this chapter;

(20) Receiving compensation for making the loan and for brokering the loan in the same transaction;

(21) Charging a fee in a residential mortgage loan transaction that is more than the fees allowed by the state or federal agency overseeing the specific type of loan transaction. Examples include, but are not limited to, loans insured or guaranteed by the Veterans Administration, Home Equity Conversion Mortgages insured by HUD, and loans offered through the United States Department of Agriculture Rural Development;

(22) Making, in any manner, any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan. An example is advertising a discounted rate without clearly and conspicuously disclosing in the advertisement the cost of the discount to the borrower and that the rate is discounted;

(23) Servicing a usurious loan;

(24) Misrepresenting a residential mortgage loan as a business purpose loan.

[Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 19-21-157, § 208-620-550, filed 10/22/19, effective 11/24/19; WSR 18-24-013, § 208-620-550, filed 11/27/18, effective 1/1/19; WSR 18-16-024, § 208-620-550, filed 7/24/18, effective 9/1/18. Statutory Authority: Chapter 43.320 RCW, RCW 31.04.165. WSR 16-08-026, § 208-620-550, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 31.04.165. WSR 13-24-024, § 208-620-550, filed 11/22/13, effective 1/1/14; WSR 12-18-047, § 208-620-550, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 31.04.165 and 2010 c 35. WSR 10-20-122, § 208-620-550, filed 10/5/10, effective 11/5/10. Statutory Authority: RCW 43.320.040, 31.04.165, 2009 c 120, and 2009 c 149. WSR 09-24-090, § 208-620-550, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 43.320.040. WSR 08-15-125, § 208-620-550, filed 7/22/08, effective 8/22/08. Statutory Authority: RCW 31.04.165, 31.04.015, 31.04.045, 31.04.075, 31.04.085, 31.04.093, 31.04.102,

31.04.115, 31.04.145, 31.04.155, and 31.04.175. WSR 06-04-053, §
208-620-550, filed 1/27/06, effective 2/27/06.]