

WAC 208-660-450 Recordkeeping requirements. (1) **What business books and records must I keep to comply with the act?** The following books and records for your business must be available to the department.

(a) **Mortgage transaction documents.**

(i) All forms of loan applications, written or electronic (the Fannie Mae 1003 is an example);

(ii) The initial rate sheet or other supporting rate information. The last rate sheet, or other supporting rate information, if there was a change in rates, terms, or conditions prior to settlement;

(iii) Correspondence with third parties requesting documents necessary to the transaction (and copies of the documents received as a result of that correspondence) including, but not limited to, credit, appraisal, title, verifications of employment and deposits, automated underwriting results, and any other notes or documents used to collect borrower and loan information to originate the loan;

(iv) All written disclosures required by the act and federal laws and regulations, including those provided to consumers by the lender. Some examples of federal law disclosures are: The good faith estimate or loan estimate, Equal Credit Opportunity Act disclosures, affiliated business arrangement disclosures, and RESPA servicing disclosure statement;

(v) Documents and records of compensation paid to employees and independent contractors;

(vi) An accounting of all funds received in connection with loans, including a trust account statement with supporting data;

(vii) Rate lock agreements and the supporting rate sheets or other rate supporting document;

(viii) Settlement statements (initial and final, if applicable);

(ix) Broker loan document requests (may also be known as loan document request or demand statements) that include any prepayment penalties, terms, fees, rates, credit or charge for the interest rate, loan type and terms;

(x) Records of any fees refunded to applicants for loans that did not close;

(xi) All file correspondence and logs;

(xii) All mortgage broker contracts with lenders and all other correspondence with the lenders; and

(xiii) The clear written explanation required under WAC 208-660-430 (11) (b).

(b) **Advertisements.** All advertisements placed by or at the request of the mortgage broker that mention rates or fees, and the corresponding rate sheets for the advertised rates. The copies must include newspaper and print advertising, scripts of radio and television advertising, telemarketing scripts, all direct mail advertising, and any advertising distributed directly by delivery, facsimile, or computer network. The record of each advertisement must include the date or dates of publication, the name of the publisher if advertised by newsprint, radio, television or telephone information line, or in the case of a flyer, the dates, methods and areas of distribution.

(c) **Trust accounting records.** See WAC 208-660-410 Trust accounting.

(d) **Other.** All other books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation. Examples include, but are not limited to, personnel files, company policy and procedure documents, training materials, records evi-

dencing compliance with applicable federal laws and regulations, and complaint correspondence and supporting documents.

(2) **What books and records must I keep for my trust account?** See WAC 208-660-410 Trust accounting.

(3) **How long must I keep my books and records to comply with the act?**

(a) You must keep the books, accounts, records, papers, documents, files, and other information relating to the mortgage broker operation for a minimum of three years.

(b) You must keep the mortgage transaction documents described in subsection (1)(a) of this section for a minimum of three years. It may be a prudent business practice to keep your books and records longer. For example, if a consumer's loan becomes an adjustable rate mortgage, the consumer may become unhappy that the terms of their mortgage have changed and file a complaint against you. The department must begin an investigation into the complaint. If you do not have the records to show proof of proper disclosures and all other compliance with state and federal laws, the department may rely solely on the consumer's records as evidence in the case.

(4) **Where must I keep my business records?**

(a) You must keep all books and records in a location that is on file with and readily available to the department during normal business hours. In the event of a department examination, the location must have the work space and resources that are conducive to business operations. A readily available location may include places of business, personal residences, computers, safes, or vaults. See WAC 208-660-400(8) for the reporting requirements if the address changes.

(b) If your usual business location is outside of Washington, you may either maintain the books and records at a readily available location in Washington, or pay the department's expenses to travel to the location to examine the books and records stored out-of-state. Travel costs may include, but are not limited to, transportation costs, meals, and lodging.

(5) **May I keep my books and records electronically?** Yes. You may keep the required records described in subsection (1) of this section by electronic display equipment if you can meet all of the following requirements:

(a) The equipment must be made available to the department for the purposes of an examination or investigation;

(b) The records must be stored exclusively in a nonrewritable and nonerasable format;

(c) The hardware or software needed to display the records must be maintained during the required retention period under subsection (3) of this section.

If the department requests the books and records in hard copy, you must provide it in that form and within the time frame requested or directed by the department.

(6) **Abandoned records.** If you do not maintain your records as required, you are responsible for the costs of collection, storage, conversion to electronic format, and proper destruction of the records.

(7) **Records disposal.** You must have written policies and procedures for the destruction of records, including electronic records, when the retention period ends. The destruction of records must be accomplished so that the information cannot be reconstructed or read. The destruction of consumer credit report information must also comply with the federal Disposal Rule at 16 C.F.R. 682.

[Statutory Authority: Chapter 43.320 RCW, RCW 19.146.223. WSR 16-08-027, § 208-660-450, filed 3/30/16, effective 4/30/16. Statutory Authority: RCW 43.320.040 and 19.146.225. WSR 13-24-023, § 208-660-450, filed 11/22/13, effective 1/1/14. Statutory Authority: Chapter 43.320 RCW and RCW 19.146.223. WSR 12-18-048, § 208-660-450, filed 8/29/12, effective 11/1/12. Statutory Authority: RCW 43.320.040, 19.146.223, and 2009 c 528. WSR 09-24-091, § 208-660-450, filed 12/1/09, effective 1/1/10. Statutory Authority: RCW 43.320.040, 19.146.223, 2006 c 19. WSR 06-23-137, § 208-660-450, filed 11/21/06, effective 1/1/07.]