

Publication Date: May 4, 2009

Effective:

Section 1: 5-4-09 through 7-1-11

Section 2: 9-1-09 through 7-1-11

Section 3: 1-10-10 through 7-1-11

Hearing Date: June 10, 2009

**DEPARTMENT OF FINANCIAL INSTITUTIONS, DIVISION OF BANKING
ORDER ADOPTING EMERGENCY RULES**

The Wisconsin Department of Financial Institutions, Division of Banking adopts an emergency rule creating ch. DFI – Bkg 47 and repealing ch. DFI – Bkg 41, relating to the transition from a registration system to a license system.

Analysis Prepared by the State of Wisconsin, Department of Financial Institutions, Division of Banking

Statute(s) interpreted: Section 9117 of 2009 Wisconsin Act 2.

Statutory authority: Sections 9117 of 2009 Wisconsin Act 2 and 227.11(2), Stats.

Related statute or rule: Chapter DFI – Bkg 41.

Explanation of agency authority: Pursuant to subch. III, ch. 224 and ss. 220.02(2) and (3), Stats., the division regulates mortgage bankers, mortgage brokers and loan originators.

Summary of proposed rule: The objective of the rule is to create ch. DFI – Bkg 47 and to eventually repeal ch. DFI – Bkg 41. 2009 Wisconsin Act 2 provides that the division shall by rule institute a system of initial license issuance or license renewal that it deems advisable for the purpose of implementing an orderly and efficient transition from the registration system under subchapter III of chapter 224, 2007 Stats., to the license system under subch. III of ch. 224, as affected by 2009 Wisconsin Act 2. The purpose of this rule is to set forth the transition to that system.

Exemption from finding of emergency: The legislature by s. 9117, 2009 Wisconsin Act 2 provides an exemption from a finding of emergency for the adoption of the rule.

Summary of and preliminary comparison with existing or proposed federal regulation: Title V, S.A.F.E. Mortgage Licensing Act, ss. 1501 – 1517. This act encourages states to participate in the Nationwide Mortgage Licensing System and Registry, and requires states to have in place, by law or regulation, a system for licensing and registering mortgage loan originators that meets the requirements of sections 1505, 1506, and 1508(d) of the act.

Comparison with rules in adjacent states: Illinois and Iowa have adopted this act; Minnesota and Michigan have not.

Summary of factual data and analytical methodologies: The department reviewed its regulatory practices and procedures, solicited input from affected entities to determine the necessary regulations, and worked internally with staff on the mechanics of the transition.

Analysis and supporting documentation used to determine effect on small business: The rule does not have a significant economic impact on small business. The requirement to transition from a registration system to a license system are the result of and set forth in 2009 Wisconsin Act 2, and not the rule. Fee revisions herein include a proration and refund of fees paid under the current registration system.

Agency Contact Persons

To obtain a copy of the proposed rule or fiscal estimate at no charge, to submit written comments regarding the proposed rule, or for questions regarding the agency's internal processing of the proposed rule, contact Mark Schlei, Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, P.O. Box 8861, Madison, WI 53708-8861, tel. (608) 267-1705, e-mail mark.schlei@wisconsin.gov. A copy of the proposed rule may also be obtained and reviewed at the Department of Financial Institution's website, www.wdfi.org. Written comments must be received by the conclusion of the department's hearing regarding the proposed rule.

For substantive questions on the rule, contact Michael J. Mach, Administrator, Department of Financial Institutions, Division of Banking, P.O. Box 7876, Madison, WI 53707-7876, tel. (608) 266-0451, e-mail mike.mach@wisconsin.gov.

Text of Emergency Rule

SECTION 1. Ch. DFI—Bkg 47 is created to read:

CHAPTER DFI—BKG 47
TRANSITION TO LICENSE SYSTEM

DFI – Bkg 47.01 Authority, intent and definitions. (1) This chapter is adopted pursuant to s. 9117 of 2009 Wisconsin Act 2.

(2) The intent of the division in adopting this chapter is to implement an orderly and efficient transition from the registration system under subch. III of ch. 224, 2007 Stats., to the license system under subch. III of ch. 224 as affected by 2009 Wisconsin Act 2.

(3) In this chapter, “division” means the division of banking.

DFI – Bkg 47.02 Acceptance of applications for certificate of registration. (1) The division shall not accept any new mortgage banker or mortgage broker applications for a certificate of registration under subch. III of ch. 224, 2007 Stats., after October 30, 2009.

(2) The division shall not accept any new mortgage loan originator applications for a certificate of registration under subch. III of ch. 224, 2007 Stats., after December 11, 2009.

(3) The division shall not approve any new applications for a certificate of registration under subch. III of ch. 224, 2007 Stats., after December 31, 2009.

DFI – Bkg 47.03 Fees for certificates of registration. (1) The fees for initial certificates of registration approved before September 1, 2009 are those fees as set forth in ch. DFI-Bkg 41.

(2) The fees for renewal of certificates of registration expiring before September 1, 2009 are those fees as set forth in ch. DFI-Bkg 41.

DFI – Bkg 47.04 Issuance and refunds. (1) Certificates of registration for any new applications approved before September 1, 2009 shall be issued in accordance with ch. DFI-Bkg 41.

(2) Certificates of registration for approved renewal applications submitted for the renewal of certificates of registration expiring before September 1, 2009 shall be issued in accordance with the ch. DFI-Bkg 41.

(3) Certificates of registration issued under subch. III of ch. 224, 2007 stats., which carry an expiration date of January 1, 2011 or later shall expire on December 31, 2010.

(4) Renewal applicants shall receive a refund of fees corresponding to the unexpired portion of the ordinarily applicable registration period. All refunds shall be made directly to the licensee.

DFI – Bkg 47.05 Expiration. (1) The certificate of registration or license for any new application approved between September 1, 2009 and December 31, 2010 shall expire on December 31, 2010.

(2) The certificate of registration or license for any approved renewal application submitted for the renewal of certificates expiring between September 1, 2009 and December 1, 2010 shall expire on December 31, 2010.

DFI – Bkg 47.06 Fees. (1) The fee for new applications approved between September 1, 2009 and December 31, 2010 are as follows:

Date approved	Mortgage Loan Originator Fee	Mortgage Banker Fee	Mortgage Broker Fee
9/1/09 – 9/30/09	\$291.67	\$1,166.67	\$875.00
10/1/09 – 10/31/09	\$281.25	\$1,125.00	\$843.75
11/1/09 – 11/30/09	\$270.83	\$1,083.33	\$812.50
12/1/09 – 12/31/09	\$260.42	\$1,041.67	\$781.25
1/1/10 – 12/31/10	\$250.00	\$1,000.00	\$750.00

(2) The fee for renewal applications to renew certificates that expire between September 1, 2009 and December 1, 2010 are as follows:

Expiration Date	Mortgage Loan Originator Renewal Fee	Mortgage Banker Renewal Fee	Mortgage Broker Renewal Fee
09/01/2009	\$291.67	\$1,166.67	\$875.00
10/01/2009	\$281.25	\$1,125.00	\$843.75
11/01/2009	\$270.83	\$1,083.33	\$812.50
12/01/2009	\$260.42	\$1,041.67	\$781.25
01/01/2010	\$250.00	\$1,000.00	\$750.00
02/01/2010	\$229.17	\$916.67	\$687.50
03/01/2010	\$208.33	\$833.33	\$625.00
04/01/2010	\$187.50	\$750.00	\$562.50
05/01/2010	\$166.67	\$666.67	\$500.00
06/01/2010	\$145.83	\$583.33	\$437.50

07/01/2010	\$125.00	\$500.00	\$375.00
08/01/2010	\$104.17	\$416.67	\$312.50
09/01/2010	\$83.33	\$333.33	\$250.00
10/01/2010	\$62.50	\$250.00	\$187.50
11/01/2010	\$41.67	\$166.67	\$125.00
12/01/2010	\$20.83	\$83.33	\$62.50

(3) An application for renewal received by the division after the expiration of the certificate and prior to 31 days after the expiration of the certificate shall be accompanied by an additional fee of \$100. A registrant whose application for renewal is not received by the division within 30 days after the expiration of the certificate shall submit an application for a new certificate of registration, and no business for which the certificate is required shall be conducted after the certificate expires and before a new certificate is issued by the division.

(4) No fee paid under sub. 1 or 2 shall be refunded unless a request to withdraw the application is received in writing by the division before the division begins its investigation of the applicant.

DFI – Bkg 47.07 Transition of license information. (1) All licensed mortgage bankers and mortgage brokers shall transition their license information onto the Nationwide Mortgage Licensing System between January 2, 2010 and March 31, 2010. The division may suspend the license of any mortgage banker or mortgage broker that has not transitioned their license information onto the Nationwide Mortgage Licensing System by March 31, 2010.

(2) All licensed mortgage loan originators shall transition their license information onto the Nationwide Mortgage Licensing System between January 2, 2010 and March 31, 2010. Any mortgage loan originator who does not transition their license information onto the Nationwide Mortgage Licensing System by March 31, 2010 shall pay a late transition fee of \$100, if the license information is transitioned between April 1, 2010 and May 31, 2010, and a late transition fee of \$200, if the license information is transitioned between June 1, 2010 and December 31, 2010.

DFI – Bkg 47.08 Requirements. (1) The division shall not approve mortgage loan originator applications unless the applicant meets the requirements of s. 224.725(3)(a) and (b), Stats., as affected by 2009 Wisconsin Act 2.

(2) No mortgage banker, mortgage broker or mortgage loan originator license shall be renewed for the period beginning January 1, 2011 unless the applicant has met all of the requirements of subch. III of ch. 224, Stats., as affected by 2009 Wisconsin Act 2.

(3) Any hours of approved education taken by a mortgage loan originator pursuant to s. 224.72(7)(d)1, Stats., may be applied toward meeting the requirements under s. 224.755(1), Stats., as affected by 2009 Wisconsin Act 2.

(4) The division may hold certain requirements of subch. III of ch. 224, Stats., as affected by 2009 Wisconsin Act 2, in abeyance if the lack of functionality of the Nationwide Mortgage Licensing System makes compliance with those provisions impracticable.

SECTION 2. Sections DFI – Bkg 41.01(1) and (2), and 41.02 are repealed.

SECTION 3. Sections DFI – Bkg 41.01 (3), (4) and (5), and 41.03 are repealed.

Effective date. Section 1 of this rule takes effect May 4, 2009; section 2 of this rule takes effect September 1, 2009; and section 3 of this rule takes effect January 1, 2010; pursuant to s. 227.24(1)(c), Stats.