

**WSBA BUSINESS LAW SECTION
EXECUTIVE COMMITTEE MEETING
AGENDA**

Date: Monday, July 21, 2025
Time: 12:00 p.m.
Location: Offices of Perkins Coie LLP
1301 Second Avenue, Ste 4200
Seattle, WA 98101

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- | | |
|--|-----------------|
| 1. Call to Order | Barbara Prowant |
| 2. Roll Call | Ruthanna Walker |
| 3. Prior EC Meeting Minutes – April 21, 2025 | Barbara Prowant |
| <i>Action to be taken to approve the minutes</i> | |
| 4. Treasurer’s Report | Ruthanna Walker |
| <i>Action to be taken to accept Treasurer’s Report</i> | |
| 5. Activities Update | |
| a. May 21, 2025: UW Law School Lunch on the Terrace | Kaitlin Miller |
| b. June 21, 2025: Seattle U Law Student AIGP Training | Amy Weston |
| <i>Action to be taken re \$3,383.60 expenditure</i> | |
| c. July 19, 2025: Food Lifeline Networking/Volunteer event | Barbara Prowant |
| d. July 31, 2025: AIPP Seattle KnowledgeNet Joint Networking event | Amy Weston |
| e. Ballgame Networking Event | Tyler O’Brien |
| 6. Legislative Matters | Barbara Prowant |
| a. WSBA BOG updated legislative comment policy | See Attached |
| b. Washington Uniform Law Commission
proposed enactment of Uniform Mortgage Modification Act | See Attached |
| c. Provide feedback to Sanjay Walvekar at Sanjayw@wsba.org
WSBA Legislative Affairs Manager | |

7. Committee Reports

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| a. Communications Committee | Kaitlin Miller |
| b. Corporate Act Revision Committee | Michael Hutchings |
| c. Financial Institutions Committee | Kalin Bornemann |
| d. Legal Opinions Committee | Scott MacCormack |
| e. Nonprofit Corporations Committee | David Lawson |
| f. Partnership & LLC Law Committee | Elisabeth McNeil
Matthew LeMaster |
| g. Privacy and Data Security Law Committee | Amy Weston
Michael Harris |
| h. Securities Law Committee | Jason Powell |
| i. Uniform Commercial Code Committee | Gregory Fox |
| j. Young Business Lawyer Committee | Mike Davis |

8. Other Matters Barbara Prowant

9. Adjourned

1501 Legislation and Rulemaking Comment Policy

Adopted: **Month D, YYYY.**

Purpose

The purpose of this policy is (1) to ensure WSBA adheres to germaneness principles as articulated in *Keller v. State Bar of California*, 496 U.S. 1 (1990), and subsequent caselaw, and Washington Court General Rule 12.2 when commenting on legislation and other rulemaking matters; and (2) to provide a process for granting authority for Bar entities to provide comments on legislative and rulemaking matters.

Bar entities are components of WSBA and, therefore, when members of Bar entities speak in their capacity as members of a Bar entity, they are bound by the same legal requirements as WSBA as a whole. In addition, WSBA typically strives to communicate about legislation or rulemaking with a unified voice. Consequently, WSBA's Bylaws provide that no Bar entity or member of a Bar entity may speak for or represent the Bar or any Bar entity before any legislative body, court, or other tribunal without prior authorization from the WSBA Board of Governors.¹ This policy sets forth the conditions and process under which the Board may grant authorization for Bar entities to comment on legislation or rulemaking.

Policy

The Board of Governors may authorize Bar entities to comment on legislation or rulemaking if,

1. The subject of the legislation or rulemaking is within the scope of permissible Bar activities under GR 12.2 and other legal requirements applicable to Bar activities; and
2. A three-quarters supermajority of the total membership of the entity's governing body has voted to support the entity's proposed position on the legislation or rulemaking.

Authority to comment on legislation or rulemaking will not be granted to Bar entities seeking to communicate comments on legislation or rulemaking that are in conflict with prior decisions of the Board of Governors or Board Legislative Committee.

The Board of Governors delegates authority to the Board's Legislative Committee to consider Bar entity requests to comment on legislation and rulemaking.

When granting authority to comment, the Board or Legislative Committee may limit the content or manner of the comment.

Entities may not join or affiliate with or endorse positions of groups or associations whose legislative advocacy reaches beyond the areas allowable under GR 12 or other legal requirements applicable to Bar activities.

Entities Covered

This policy applies to all Bar entities working under the authority of the Bar, no matter how named. Bar entities include, but are not necessarily limited to, WSBA sections, committees, councils, task forces,

¹ See WSBA Bylaws, Art. IV.E

workgroups, and panels. Subcommittees or other subsets of Bar entities may not communicate comments on proposed legislation or court rules.

This policy does not apply to entities created by court rule.

As used in this policy, a Bar entity's governing body refers to section executive committees or, for entities without a membership separate from their decision-making body, to the members appointed to that decision-making body.

Activities Covered

This policy applies when Bar entities seek to comment on pending legislation or rulemaking in the Bar entities' own name. Legislation and rulemaking, as used in this policy, refers to Washington and federal legislation, court rule proposals, executive orders, and administrative rulemaking. Entities are not permitted to comment on local or municipal policies, legislation, or rulemaking.

Commenting refers to communicating a position, such as by supporting, opposing, or raising concerns, on existing legislation or rulemaking pending before a policymaking body. Commenting does not refer to the development of new legislative or rule proposals by Bar entities, sometimes referred to as "WSBA-request legislation."

This policy does not apply to:

1. Bar entity requests for the WSBA Board of Governors to adopt, sponsor, or communicate a position on legislation or rulemaking in WSBA's name.
2. Responses by members of a Bar entity to questions posed by lawmakers directly to the Bar entity in which the lawmaker seeks the advice of entity members as subject matter experts. When responding to such questions, Bar entity members must indicate that they are communicating in their individual capacities and are not speaking on behalf of WSBA.

Annual Training

Training on how to implement this policy will be provided annually by the WSBA staff to Bar entities. Any Section intending to participate in the legislative process must have a designee of the Section's Executive Committee attend the annual training. Other section executive committee members and members of other Bar entities are welcome and encouraged to attend. Such training should include how to accomplish Section goals and how to act responsibly in the legislative setting.

The Legislative Affairs Manager shall be made available to Section Executive Committees as a resource for any questions as a Section works on a matter in accordance with this Policy. Each Section and the Legislative Affairs Manager will work cooperatively to establish a process to assist each Section's Executive Committee in the development of and consideration of any comment. Similarly, Sections should be a resource to the WSBA on legislative matters within a Section's subject area.

Procedure

Entities are encouraged to identify legislative and rulemaking issues within their areas of expertise. The Legislative Affairs Manager will also identify legislation and rulemaking that may be within an entity's expertise and will keep the entity apprised of the progress of the proposed policies.

Entities must seek authorization from the Board of Governors' Legislative Committee prior to communicating comments on a legislative matter. An entity contemplating commenting on legislation or rulemaking should inform the Legislative Affairs Manager of their intention as soon as possible. However, entities must inform the Legislative Affairs Manager and the chair of the Board's Legislative Committee within three days of any vote taken in which three-quarters of the entity's governing body votes to approve comments on legislation or rulemaking.

The Legislative Affairs Manager will coordinate with the entity to present the entity proposal to the Board's Legislative Committee. The Legislative Committee will consider whether the subject of the legislation or rulemaking is within the scope of permissible Bar activities under GR 12.2 and other legal requirements applicable to Bar activities. If the subject matter of the legislation or rulemaking is not within the scope of permissible Bar activities, the Committee may nonetheless consider whether the comments the entity seeks to offer are nonetheless within the scope of Bar activities because the comments are limited solely to the technical nature of the legislation. Such technical advice may be permissible if the effect of the comments is to improve the quality of legal services by providing insight regarding how a law or rule will be used by legal practitioners in practice; identifying drafting issues, such as typographical errors, mis-citations of statutes or other rules, or ambiguities; or identifying possible conflicts with other laws or rules. If the Committee grants authority to offer technical comments on legislation or rulemaking, the entity may not take a position to either support or oppose the policy.

If an entity wishes to testify regarding legislation or rulemaking, the entity must notify the Legislative Affairs Manager at least 24 hours in advance of the public hearing on the proposed legislation or rule. The entity may do nothing more until the Legislative Affairs Manager gives permission to testify or to move forward with the position being taken by the entity; permission may be given either verbally or in writing. The Legislative Affairs Manager will bring the matter to the Board's Legislative Committee for direction on how to proceed if there is time. However, if there is not time to obtain such approval, the Legislative Affairs Manager will make the decision, erring on the side of approving the request to testify or to move forward with the entity's position, unless there is a good and articulable reason to deny the request, which shall be explained to the entity. The Legislative Affairs Manager will notify the Board's Legislative Committee of the decision as soon as possible thereafter.

Each entity is responsible for advising the Legislative Affairs Manager, on an ongoing basis, regarding decisions, comments, and actions of the entity regarding legislative matters. The entity shall advise the Legislative Affairs Manager of any proposed action intended to communicate its comments on legislation in advance of taking such action. Unless otherwise authorized by the Board of Governors or the Board of Governors Legislative Committee, the entity shall follow the advice, guidance, and recommendations of the Legislative Affairs Manager in taking any action.

In all cases, the entity representatives shall cease to publicly communicate the comments of the entity if requested to do so by the Executive Director, the Board of Governors, Board of Governors Legislative Committee, WSBA President, or Legislative Affairs Manager.

BILL REQUEST - CODE REVISER'S OFFICE

BILL REQ. #: Z-0359.1/25

ATTY/TYPIST: KS:akl

BRIEF DESCRIPTION: Enacting the uniform mortgage modification act.

AN ACT Relating to the uniform mortgage modification act; and adding a new chapter to Title 61 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and cited as the uniform mortgage modification act.

NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) "Financial covenant" means an undertaking to demonstrate an obligor's creditworthiness or the adequacy of security provided by an obligor.

(3) "Modification" includes change, amendment, revision, correction, addition, supplementation, elimination, waiver, and restatement.

(4) "Mortgage":

(a) Means an agreement that creates a consensual interest in real property to secure payment or performance of an obligation, regardless of:

(i) How the agreement is denominated, including a mortgage, deed of trust, trust deed, security deed, indenture, and deed to secure debt; and

(ii) Whether the agreement also creates a security interest in personal property; and

(b) Does not include an agreement that creates a consensual interest to secure a liability owed by a unit owner to a condominium association, owners' association, or cooperative housing association for association dues, fees, or assessments.

(5) "Mortgage modification" means modification of:

(a) A mortgage;

(b) An agreement that creates an obligation, including a promissory note, loan agreement, or credit agreement; or

(c) An agreement that creates other security or credit enhancement for an obligation, including an assignment of leases or rents or a guaranty.

(6) "Obligation" means a debt, duty, or other liability, secured by a mortgage.

(7) "Obligor" means a person that:

(a) Owes payment or performance of an obligation;

(b) Signs a mortgage; or

(c) Is otherwise accountable, or whose property serves as collateral, for payment or performance of an obligation.

(8) "Person" means an individual, estate, business or nonprofit entity, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(9) "Recognized index" means an index to which changes in the interest rate may be linked that is:

(a) Readily available to, and verifiable by, the obligor; and

(b) Beyond the control of the person to whom the obligation is owed.

(10) "Record," used as a noun, means information:

(a) Inscribed on a tangible medium; or

(b) Stored in an electronic or other medium and retrievable in perceivable form.

(11) "Sign" means, with present intent to authenticate or adopt a record:

(a) Execute or adopt a tangible symbol; or

(b) Attach to or logically associate with the record an electronic symbol, sound, or process.

NEW SECTION. **Sec. 3.** SCOPE. (1) Except as provided in subsection (2) of this section, this chapter applies to a mortgage modification.

(2) This chapter does not affect:

(a) Law governing the required content of a mortgage;

(b) A statute of limitations or other law governing the expiration or termination of a right to enforce an obligation or a mortgage;

(c) A recording statute;

(d) A statute governing the priority of a tax lien or other governmental lien;

(e) A statute of frauds or chapter 1.80 RCW; or

(f) Except as provided in section 4(2)(h) of this act, law governing the priority of a future advance.

(3) This chapter does not apply to any of the following modifications:

(a) A release of, or addition to, property encumbered by a mortgage;

(b) A release of, addition of, or other change in an obligor; or

(c) An assignment or other transfer of a mortgage or an obligation.

NEW SECTION. **Sec. 4.** EFFECT OF MORTGAGE MODIFICATION. (1) For a mortgage modification described in subsection (2) of this section:

 (a) The mortgage continues to secure the obligation as modified;

 (b) The priority of the mortgage is not affected by the modification;

 (c) The mortgage retains its priority regardless of whether a record of the mortgage modification is recorded as provided in chapter 65.08 RCW; and

 (d) The modification is not a novation.

 (2) Subsection (1) of this section applies to one or more of the following mortgage modifications:

 (a) An extension of the maturity date of an obligation;

 (b) A decrease in the interest rate of an obligation;

 (c) If the change does not result in an increase in the interest rate of an obligation as calculated on the date the modification becomes effective:

 (i) A change to a different index that is a recognized index if the previous index to which changes in the interest rate were linked is no longer available;

 (ii) A change in the differential between the index and the interest rate;

 (iii) A change from a floating or adjustable rate to a fixed rate; or

 (iv) A change from a fixed rate to a floating or adjustable rate based on a recognized index;

 (d) A capitalization of unpaid interest or other unpaid monetary obligation;

 (e) A forgiveness, forbearance, or other reduction of principal, accrued interest, or other monetary obligation;

 (f) A modification of a requirement for maintaining an escrow or reserve account for payment of an obligation, including taxes and insurance premiums;

 (g) A modification of a requirement for acquiring or maintaining insurance;

(h) A modification of an existing condition to advance funds;
(i) A modification of a financial covenant; and
(j) A modification of the payment amount or schedule resulting from another modification described in this subsection.

(3) The effect of a mortgage modification not described in subsection (2) of this section is governed by other law.

NEW SECTION. **Sec. 5.** UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, a court shall consider the promotion of uniformity of the law among jurisdictions that enact it.

NEW SECTION. **Sec. 6.** RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This chapter modifies, limits, or supersedes the electronic signatures in global and national commerce act, 15 U.S.C. Sec. 7001 et seq., but does not modify, limit, or supersede 15 U.S.C. Sec. 7001(c), or authorize electronic delivery of any of the notices described in 15 U.S.C. Sec. 7003(b).

NEW SECTION. **Sec. 7.** TRANSITIONAL PROVISION. This chapter applies to a mortgage modification made on or after the effective date of this section regardless of when the mortgage or the obligation was created.

NEW SECTION. **Sec. 8.** SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec. 9.** CODIFICATION. Sections 1 through 7 of this act constitute a new chapter in Title 61 RCW.

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