
SUBSTITUTE SENATE BILL 5299

State of Washington**64th Legislature****2015 Regular Session**

By Senate Financial Institutions & Insurance (originally sponsored by Senators Benton, Mullet, Fain, Darneille, Hobbs, Angel, and Conway; by request of Department of Financial Institutions)

1 AN ACT Relating to updating, clarifying, and strengthening
2 department of financial institutions' enforcement, licensing, and
3 examination statutes relating to residential mortgage lending, and
4 enhancing the crime of mortgage fraud in the residential mortgage
5 lending process; amending RCW 18.44.021, 19.144.010, 19.144.080,
6 19.144.090, 19.146.010, 19.146.020, 19.146.0201, 19.146.030,
7 19.146.040, 19.146.070, 19.146.205, 19.146.220, 19.146.221,
8 19.146.227, 19.146.228, 19.146.265, 19.146.300, 19.146.390,
9 31.04.015, 31.04.027, 31.04.045, 31.04.075, 31.04.093, 31.04.102,
10 31.04.105, 31.04.145, 31.04.205, 31.04.221, 31.04.224, 31.04.247,
11 31.04.277, 31.04.290, and 31.04.520; reenacting and amending RCW
12 31.04.025; adding new sections to chapter 31.04 RCW; repealing RCW
13 19.146.290 and 19.146.330; and prescribing penalties.

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

15 **Sec. 1.** RCW 18.44.021 and 2012 c 124 s 1 are each amended to
16 read as follows:

17 (1) It shall be unlawful for any person to engage in business as
18 an escrow agent by performing escrows or any of the functions of an
19 escrow agent as described in RCW 18.44.011(7) within this state or
20 with respect to transactions that involve personal property or real
21 property located in this state unless such person possesses a valid

1 license issued by the director pursuant to this chapter. The
2 licensing requirements of this chapter shall not apply to:

3 ~~((1))~~ (a) Any person doing business under the law of this state
4 or the United States relating to banks, trust companies, mutual
5 savings banks, savings and loan associations, credit unions,
6 insurance companies, or any federally approved agency or lending
7 institution under the national housing act (12 U.S.C. Sec. 1703).

8 ~~((2))~~ (b) Any person licensed to practice law in this state if:

9 ~~((a))~~ (i) All escrow transactions are performed by the lawyer
10 while engaged in the practice of law, or by employees of the law
11 practice under the direct supervision of the lawyer while engaged in
12 the practice of law;

13 ~~((b))~~ (ii) All escrow transactions are performed under a legal
14 entity publicly identified and operated as a law practice; and

15 ~~((c))~~ (iii) All escrow funds are deposited to, maintained in,
16 and disbursed from a trust account in compliance with rules enacted
17 by the Washington supreme court regulating the conduct of lawyers.

18 ~~((3))~~ (c) Any real estate company, broker, or agent subject to
19 the jurisdiction of the director of licensing while performing acts
20 in the course of or incidental to sales or purchases of real or
21 personal property handled or negotiated by such real estate company,
22 broker, or agent: PROVIDED, That no compensation is received for
23 escrow services.

24 ~~((4))~~ (d) Any transaction in which money or other property is
25 paid to, deposited with, or transferred to a joint control agent for
26 disbursement or use in payment of the cost of labor, material, services,
27 permits, fees, or other items of expense incurred in the construction
28 of improvements upon real property.

29 ~~((5))~~ (e) Any receiver, trustee in bankruptcy, executor,
30 administrator, guardian, or other person acting under the supervision
31 or order of any superior court of this state or of any federal court.

32 ~~((6))~~ (f) Title insurance companies having a valid certificate
33 of authority issued by the insurance commissioner of this state and
34 title insurance agents having a valid license as a title insurance
35 agent issued by the insurance commissioner of this state.

36 (2) The director may at his or her discretion waive applicability
37 of the licensing provisions of this chapter if the director
38 determines it necessary to facilitate commerce or protect consumers.
39 The director may adopt rules interpreting this section.

1 **Sec. 2.** RCW 19.144.010 and 2008 c 108 s 2 are each amended to
2 read as follows:

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

5 (1) "Adjustable rate mortgage" or "ARM" means a payment option
6 ARM or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

7 (2) "Application" means the same as in Regulation X, Real Estate
8 Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application
9 for a residential mortgage loan.

10 (3) "Borrower" means any person who consults with or retains a
11 person subject to this chapter in an effort to seek information about
12 obtaining a residential mortgage loan, regardless of whether that
13 person actually obtains such a loan.

14 (4) "Department" means the department of financial institutions.

15 (5) "Director" means the director of the department of financial
16 institutions.

17 (6) "Financial institution" means commercial banks and alien
18 banks subject to regulation under Title 30A RCW, savings banks
19 subject to regulation under Title 32 RCW, savings associations
20 subject to regulation under Title 33 RCW, credit unions subject to
21 regulation under chapter 31.12 RCW, consumer loan companies subject
22 to regulation under chapter 31.04 RCW, and mortgage brokers and
23 lenders subject to regulation under chapter 19.146 RCW.

24 (7) "Fully indexed rate" means the index rate prevailing at the
25 time a residential mortgage loan is made, plus the margin that will
26 apply after the expiration of an introductory interest rate.

27 (8) "Mortgage lending process" means the process through which a
28 person seeks or obtains a residential mortgage loan or residential
29 mortgage loan modification including, but not limited to,
30 solicitation, application, or origination; negotiation of terms;
31 third-party provider services; underwriting; signing and closing; and
32 funding of the loan. Documents involved in the mortgage lending
33 process include, but shall not be limited to, uniform residential
34 loan applications or other loan applications, appraisal reports,
35 settlement statements, supporting personal documentation for loan
36 applications such as W-2 forms, verifications of income and
37 employment, bank statements, tax returns, payroll stubs, and any
38 required disclosures.

39 (9) "Negative amortization" means an increase in the principal
40 balance of a loan caused when the loan agreement allows the borrower

1 to make payments less than the amount needed to pay all the interest
2 that has accrued on the loan. The unpaid interest is added to the
3 loan balance and becomes part of the principal.

4 ~~((9))~~ (10) "Person" means individuals, partnerships,
5 associations, limited liability companies, limited liability
6 partnerships, trusts, corporations, and all other legal entities.

7 ~~((10))~~ (11) "Residential mortgage loan" means an extension of
8 credit secured by residential real property located in this state
9 upon which is constructed or intended to be constructed, a single-
10 family dwelling or multiple-family dwelling of four or less units. It
11 does not include a reverse mortgage or a borrower credit transaction
12 that is secured by rental property. It does not include a bridge
13 loan. It does not include loans to individuals making or acquiring a
14 residential mortgage loan solely with his or her own funds for his or
15 her own investment. For purposes of this subsection, a "bridge loan"
16 is any temporary loan, having a maturity of one year or less, for the
17 purpose of acquisition or construction of a dwelling intended to
18 become the borrower's principal dwelling.

19 ~~((11))~~ (12) "Residential mortgage loan modification" means a
20 change in one or more of a residential mortgage loan's terms or
21 conditions. Changes to a residential mortgage loan's terms or
22 conditions include, but are not limited to, forbearances; repayment
23 plans; changes in interest rates, loan terms, or loan types;
24 capitalizations of arrearages; or principal reductions.

25 (13) "The interagency guidance on nontraditional mortgage product
26 risks" means the guidance document issued in September 2006 by the
27 office of the comptroller of the currency, the board of governors of
28 the federal reserve system, the federal deposit insurance
29 corporation, the office of thrift supervision, and the national
30 credit union administration, and the guidance on nontraditional
31 mortgage product risks released in November 2006 by the conference of
32 state bank supervisors and the American association of residential
33 mortgage regulators.

34 ~~((12))~~ (14) "The statement on subprime mortgage lending" means
35 the guidance document issued in June 2007 by the office of the
36 comptroller of the currency, the board of governors of the federal
37 reserve system, the federal deposit insurance corporation, the office
38 of thrift supervision, and the national credit union administration,
39 and the statement on subprime mortgage lending released in July 2007
40 by the conference of state bank supervisors, the American association

1 of residential mortgage regulators, and the national association of
2 consumer credit administrators.

3 **Sec. 3.** RCW 19.144.080 and 2010 c 35 s 12 are each amended to
4 read as follows:

5 (1) It is unlawful for any person in connection with ~~((making,~~
6 ~~brokering, obtaining, or modifying a residential))~~ the mortgage
7 ~~((loan))~~ lending process to directly or indirectly:

8 ~~((1))~~ (a)(i) Employ any scheme, device, or artifice to defraud
9 or materially mislead any borrower during the lending process;
10 ~~((b))~~ (ii) defraud or materially mislead any lender, defraud or
11 materially mislead any person, or engage in any unfair or deceptive
12 practice toward any person ~~((in))~~ related to the mortgage lending
13 process; or ~~((e))~~ (iii) obtain property by fraud or material
14 misrepresentation ~~((in))~~ during the mortgage lending process;

15 ~~((2))~~ (b) Knowingly make any misstatement, misrepresentation,
16 or omission ~~((during))~~ related to the mortgage lending process
17 knowing that it may be relied on by a mortgage lender, borrower, or
18 any other party related to the mortgage lending process;

19 ~~((3))~~ (c) Use or facilitate the use of any misstatement,
20 misrepresentation, or omission, knowing the same to contain a
21 misstatement, misrepresentation, or omission, ~~((during))~~ related to
22 the mortgage lending process with the intention that it be relied on
23 by a mortgage lender, borrower, or any other party related to the
24 mortgage lending process; ~~((e~~

25 ~~(4))~~ (d) Receive any proceeds or anything of value in connection
26 with a residential mortgage closing that such person knew resulted
27 from a violation of subsection (1), (2), or (3) of this section;

28 (e) File or cause to be filed with the county recorder or the
29 official registrar of deeds of any county of this state any document
30 such person knows to contain a material misstatement,
31 misrepresentation, or omission;

32 (f) Violate RCW 31.04.297(3); or

33 (g) Knowingly alter, destroy, shred, mutilate, or conceal a
34 record, document, or other object, or attempt to do so, with the
35 intent to impair the investigation and prosecution of this crime.

36 (2) Each crime prosecuted under this section shall be punished
37 separately under chapter 9.94A RCW, unless it is the same criminal
38 conduct as any other crime under RCW 9.94A.589.

1 (3) Every person who, in the commission of mortgage fraud as
2 described in this section, commits any other crime may be punished
3 for that other crime in addition to mortgage fraud, and may be
4 prosecuted for each crime separately.

5 **Sec. 4.** RCW 19.144.090 and 2008 c 108 s 10 are each amended to
6 read as follows:

7 (1) Any person who knowingly violates RCW 19.144.080 or who
8 knowingly aids or abets in the violation of RCW 19.144.080 is guilty
9 of a class B felony punishable under RCW 9A.20.021(1)(b). Mortgage
10 fraud is a serious level III offense per chapter 9.94A RCW.

11 ~~(2) ((Any person who knowingly alters, destroys, shreds,~~
12 ~~mutilates, or conceals a record, document, or other object, or~~
13 ~~attempts to do so, with the intent to impair the investigation and~~
14 ~~prosecution of this crime is guilty of a class B felony punishable~~
15 ~~under RCW 9A.20.021(1)(b)).~~

16 ~~(3))~~ No information may be returned more than (a) five years
17 after the violation, or (b) three years after the actual discovery of
18 the violation, whichever date of limitation is later.

19 (3) For purposes of venue under this chapter, any violation of
20 RCW 19.144.080 and 31.04.297(3), is considered to have been
21 committed: (a) In the county in which the residential property for
22 which a residential mortgage loan is being sought is located; (b) in
23 any county in which any act was performed in furtherance of the
24 violation; or (c) in any county in which a document containing a
25 misstatement, misrepresentation, or omission of a material fact is
26 filed with the county recorder or the official registrar of deeds.

27 (4) Any person who violates this chapter is subject to civil
28 forfeiture statutes.

29 (5) Any person who violates RCW 19.144.080 or 31.04.297(3) is
30 liable for civil damages of five thousand dollars or actual damages,
31 whichever is greater, including costs to repair the victim's credit
32 record and quiet title on the residential property that is involved
33 in the prosecution, and reasonable attorneys' fees as determined by
34 the court.

35 (6) In a proceeding under RCW 19.144.080 in which there has been
36 a conviction, the sentencing court may issue such orders as necessary
37 to correct a public record that contains false information resulting
38 from a violation of the referenced sections.

1 **Sec. 5.** RCW 19.146.010 and 2013 c 30 s 1 are each amended to
2 read as follows:

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

5 (1) "Affiliate" means any person who directly or indirectly
6 through one or more intermediaries, controls, or is controlled by, or
7 is under common control with another person.

8 ~~((("Application" means the same as in Regulation X, Real
9 Estate Settlement Procedures, 24 C.F.R. Sec. 3500.~~

10 ~~(3))~~ "Borrower" means any person who consults with or retains a
11 mortgage broker or loan originator in an effort to obtain or seek
12 advice or information on obtaining or applying to obtain a
13 residential mortgage loan, or a residential mortgage loan
14 modification, for himself, herself, or persons including himself or
15 herself, regardless of whether the person actually obtains such a
16 loan.

17 ~~((4))~~ (3) "Computer loan information systems" or "CLI system"
18 means a real estate mortgage financing information system that
19 facilitates the provision of information to consumers by a mortgage
20 broker, loan originator, lender, real estate agent, or other person
21 regarding interest rates and other loan terms available from
22 different lenders.

23 ~~((5))~~ (4) "Department" means the state department of financial
24 institutions.

25 ~~((6))~~ (5) "Designated broker" means ~~((a natural person))~~ an
26 individual designated as the person responsible for activities of the
27 licensed mortgage broker in conducting the business of a mortgage
28 broker under this chapter and who meets the experience and
29 examination requirements set forth in RCW 19.146.210(1)(e).

30 ~~((7))~~ (6) "Director" means the director of financial
31 institutions.

32 ~~((8))~~ (7) "Employee" means an individual who has an employment
33 relationship with a mortgage broker, and the individual is treated as
34 an employee by the mortgage broker for purposes of compliance with
35 federal income tax laws.

36 ~~((9))~~ (8) "Federal banking agencies" means the board of
37 governors of the federal reserve system, comptroller of the currency,
38 director of the office of thrift supervision, national credit union
39 administration, and federal deposit insurance corporation.

1 ~~((10) "Independent contractor" or "person who independently~~
2 ~~contracts" means any person that expressly or impliedly contracts to~~
3 ~~perform mortgage brokering services for another and that with respect~~
4 ~~to its manner or means of performing the services is not subject to~~
5 ~~the other's right of control, and that is not treated as an employee~~
6 ~~by the other for purposes of compliance with federal income tax laws.~~

7 ~~(11))~~ (9) "License" means a single license issued under the
8 authority of this chapter.

9 (10) "Licensee" means a person to whom one or more licenses have
10 been issued. "Licensee" also means any person, whether located within
11 or outside of this state, who fails to obtain a license required by
12 this chapter.

13 ~~(11)~~(a) "Loan originator" means ~~((a natural person))~~ an
14 individual who for direct or indirect compensation or gain, or in the
15 expectation of direct or indirect compensation or gain (i) takes a
16 residential mortgage loan application ~~((for a mortgage broker))~~, or
17 (ii) offers or negotiates terms of a residential mortgage loan. "Loan
18 originator" also includes a person who holds themselves out to the
19 public as able to perform any of these activities. "Loan originator"
20 does not mean persons performing purely administrative or clerical
21 tasks for a mortgage broker. For the purposes of this subsection,
22 "administrative or clerical tasks" means the receipt, collection, and
23 distribution of information common for the processing of a loan in
24 the mortgage industry and communication with a borrower to obtain
25 information necessary for the processing of a residential mortgage
26 loan. A person who holds himself or herself out to the public as able
27 to obtain a residential mortgage loan is not performing
28 administrative or clerical tasks.

29 (b) "Loan originator" also includes ~~((a natural person))~~ an
30 individual who for direct or indirect compensation or gain or in the
31 expectation of direct or indirect compensation or gain performs
32 residential mortgage loan modification services or holds himself or
33 herself out as being able to perform residential mortgage loan
34 modification services.

35 (c) "Loan originator" does not include a person or entity that
36 only performs real estate brokerage activities and is licensed or
37 registered in accordance with applicable state law, unless the person
38 or entity is compensated by a lender, a mortgage broker, or other
39 mortgage loan originator or by any agent of such a lender, mortgage
40 broker, or other mortgage loan originator. For purposes of this

1 chapter, the term "real estate brokerage activity" means any activity
2 that involves offering or providing real estate brokerage services to
3 the public, including:

4 (i) Acting as a real estate agent or real estate broker for a
5 buyer, seller, lessor, or lessee of real property;

6 (ii) Bringing together parties interested in the sale, purchase,
7 lease, rental, or exchange of real property;

8 (iii) Negotiating, on behalf of any party, any portion of a
9 contract relating to the sale, purchase, lease, rental, or exchange
10 of real property, other than in connection with providing financing
11 with respect to such a transaction;

12 (iv) Engaging in any activity for which a person engaged in the
13 activity is required to be registered or licensed as a real estate
14 agent or real estate broker under any applicable law; and

15 (v) Offering to engage in any activity, or act in any capacity,
16 described in (c)(i) through (iv) of this subsection.

17 (d) "Loan originator" does not include a person or entity solely
18 involved in extensions of credit relating to timeshare plans, as that
19 term is defined in section 101(53D) of Title 11, United States Code.

20 (e) This subsection does not apply to employees of a housing
21 counseling agency approved by the United States department of housing
22 and urban development unless the employees of a housing counseling
23 agency are required under federal law to be licensed individually as
24 loan originators.

25 (12) "Loan processor" means an individual who performs clerical
26 or support duties as an employee at the direction of and subject to
27 the supervision and instruction of a person licensed, or exempt from
28 licensing, under this chapter.

29 (13) "Lock-in agreement" means an agreement with a borrower made
30 by a mortgage broker or loan originator, in which the mortgage broker
31 or loan originator agrees that, for a period of time, a specific
32 interest rate or other financing terms will be the rate or terms at
33 which it will make a residential mortgage loan available to that
34 borrower.

35 (14) "Mortgage broker" means any person who for direct or
36 indirect compensation or gain, or in the expectation of direct or
37 indirect compensation or gain (a) assists a person in obtaining or
38 applying to obtain a residential mortgage loan or performs
39 residential mortgage loan modification services or (b) holds himself
40 or herself out as being able to assist a person in obtaining or

1 applying to obtain a residential mortgage loan or provide residential
2 mortgage loan modification services.

3 (15) "Mortgage loan originator" has the same meaning as "loan
4 originator."

5 (16) "Nationwide mortgage licensing system and registry" means a
6 mortgage licensing system developed and maintained by the conference
7 of state bank supervisors ~~((and the American association of
8 residential mortgage regulators for the))~~ for licensing and
9 registration ~~((of mortgage loan originators))~~.

10 (17) "Person" means ~~((a natural person))~~ an individual,
11 corporation, company, limited liability ((corporation)) company,
12 partnership, ((or)) association, and all other legal entities.

13 (18) "Principal" means any person who controls, directly or
14 indirectly through one or more intermediaries, or alone or in concert
15 with others, a ten percent or greater interest in a partnership,
16 company, association, ~~((or))~~ corporation, limited liability company,
17 and the owner of a sole proprietorship.

18 (19) "Residential mortgage loan" means any loan primarily for
19 personal, family, or household use secured by a mortgage ~~((or))~~ deed
20 of trust ((or)) or other consensual security interest on a dwelling
21 as defined in the truth in lending act, or residential real estate
22 upon which is constructed or intended to be constructed a ((single-
23 family)) dwelling ~~((or multiple family dwelling of four or less~~
24 units)).

25 (20) "Residential mortgage loan modification" means a change in
26 one or more of a residential mortgage loan's terms or conditions.
27 Changes to a residential mortgage loan's terms or conditions include
28 but are not limited to forbearances; repayment plans; changes in
29 interest rates, loan terms, or loan types; capitalizations of
30 arrearages; or principal reductions.

31 (21) "Residential mortgage loan modification services" includes
32 negotiating, attempting to negotiate, arranging, attempting to
33 arrange, or otherwise offering to perform a residential mortgage loan
34 modification. "Residential mortgage loan modification services" also
35 includes the collection of data for submission to any entity
36 performing mortgage loan modification services.

37 (22) "S.A.F.E. act" means the secure and fair enforcement for
38 mortgage licensing act of 2008, or Title V of the housing and
39 economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July
40 30, 2008, codified at 12 U.S.C. Sec. 5101 et seq.

1 (23) "Third-party provider" means any person other than a
2 mortgage broker or lender who provides goods or services to the
3 mortgage broker in connection with the preparation of the borrower's
4 residential mortgage loan and includes, but is not limited to, credit
5 reporting agencies, title companies, appraisers, structural and pest
6 inspectors, or escrow companies.

7 (24) "Third-party residential mortgage loan modification
8 services" means residential mortgage loan modification services
9 offered or performed by any person other than the owner or servicer
10 of the loan.

11 (25) "Unique identifier" means a number or other identifier
12 assigned by protocols established by the nationwide mortgage
13 licensing system and registry.

14 **Sec. 6.** RCW 19.146.020 and 2013 c 30 s 2 are each amended to
15 read as follows:

16 (1) The following are exempt from all provisions of this chapter:

17 (a) Any person doing business under the laws of the state of
18 Washington or the United States, and any federally insured depository
19 institution doing business under the laws of any other state,
20 relating to commercial banks, bank holding companies, savings banks,
21 trust companies, savings and loan associations, credit unions,
22 insurance companies, or real estate investment trusts as defined in
23 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service
24 corporations thereof;

25 (b) Any person doing business under the consumer loan act is
26 exempt from this chapter only for that business conducted under the
27 authority and coverage of the consumer loan act;

28 (c) An attorney licensed to practice law in this state. However,
29 (i) all mortgage broker or loan originator services must be performed
30 by the attorney while engaged in the practice of law; (ii) all
31 mortgage broker or loan originator services must be performed under a
32 business that is publicly identified and operated as a law practice;
33 and (iii) all funds associated with the transaction and received by
34 the attorney must be deposited in, maintained in, and disbursed from
35 a trust account to the extent required by rules enacted by the
36 Washington supreme court regulating the conduct of attorneys;

37 (d) Any person doing any act under order of any court, except for
38 a person subject to an injunction to comply with any provision of
39 this chapter or any order of the director issued under this chapter;

1 (e) A real estate broker or salesperson licensed by the state who
2 obtains financing for a real estate transaction involving a bona fide
3 sale of real estate in the performance of his or her duties as a real
4 estate broker and who receives only the customary real estate
5 broker's or salesperson's commission in connection with the
6 transaction;

7 (f) The United States of America, the state of Washington, any
8 other state, and any Washington city, county, or other political
9 subdivision, and any agency, division, or corporate instrumentality
10 of any of the entities in this subsection (1)(f);

11 (g) A real estate broker who provides only information regarding
12 rates, terms, and lenders in connection with a CLI system, who
13 receives a fee for providing such information, who conforms to all
14 rules of the director with respect to the providing of such service,
15 and who discloses on a form approved by the director that to obtain a
16 loan the borrower must deal directly with a mortgage broker or
17 lender. However, a real estate broker shall not be exempt if he or
18 she does any of the following:

19 (i) Holds himself or herself out as able to obtain a loan from a
20 lender;

21 (ii) Accepts a loan application, or submits a loan application to
22 a lender;

23 (iii) Accepts any deposit for third-party services or any loan
24 fees from a borrower, whether such fees are paid before, upon, or
25 after the closing of the loan;

26 (iv) Negotiates rates or terms with a lender on behalf of a
27 borrower; or

28 (v) Provides the disclosure required by RCW 19.146.030(1);

29 (h) Registered mortgage loan originators, or any individual
30 required to be registered; (~~and~~)

31 (i) A manufactured or modular home retailer employee who performs
32 purely administrative or clerical tasks and who receives only the
33 customary salary or commission from the employer in connection with
34 the transaction; and

35 (j) Nonprofit housing organizations brokering residential
36 mortgage loans under housing programs that are funded in whole or in
37 part by federal or state programs if the primary purpose of the
38 programs is to assist low-income borrowers with purchasing,
39 repairing, or otherwise providing housing for low-income Washington
40 state residents.

1 (2) Any person otherwise exempted from the licensing provisions
2 of this chapter may voluntarily submit an application to the director
3 for a mortgage broker's license. The director shall review such
4 application and may grant or deny licenses to such applicants upon
5 the same grounds and with the same fees as may be applicable to
6 persons required to be licensed under this chapter.

7 (a) Upon receipt of a license under this subsection, the licensee
8 is required to continue to maintain a valid license, is subject to
9 all provisions of this chapter, and has no further right to claim
10 exemption from the provisions of this chapter except as provided in
11 (b) of this subsection.

12 (b) Any licensee under this subsection who would otherwise be
13 exempted from the requirements of licensing by this section may apply
14 to the director for exemption from licensing. The director shall
15 adopt rules for reviewing such applications and shall grant
16 exemptions from licensing to applications which are consistent with
17 those rules and consistent with the other provisions of this chapter.

18 **Sec. 7.** RCW 19.146.0201 and 2013 c 30 s 3 are each amended to
19 read as follows:

20 It is a violation of this chapter for ((a)) loan originators
21 ((~~or~~)), mortgage brokers, ((~~required to be licensed under~~)) officers,
22 directors, employees, independent contractors, or any other person
23 subject to this chapter to:

24 (1) Directly or indirectly employ any scheme, device, or artifice
25 to defraud or mislead borrowers or lenders or to defraud any person;

26 (2) Directly or indirectly engage in any unfair or deceptive
27 practice toward any person;

28 (3) Directly or indirectly obtain property by fraud or
29 misrepresentation;

30 (4) Solicit or enter into a contract with a borrower that
31 provides in substance that the mortgage broker may earn a fee or
32 commission through the mortgage broker's "best efforts" to obtain a
33 loan even though no loan is actually obtained for the borrower;

34 (5) Solicit, advertise, or enter into a contract for specific
35 interest rates, points, or other financing terms unless the terms are
36 actually available at the time of soliciting, advertising, or
37 contracting from a person exempt from licensing under RCW
38 19.146.020(1)(f) or a lender with whom the mortgage broker maintains

1 a written correspondent or loan broker agreement under RCW
2 19.146.040;

3 (6) Fail to make disclosures to loan applicants and
4 noninstitutional investors as required by RCW 19.146.030 and any
5 other applicable state or federal law;

6 (7) Make, in any manner, any false or deceptive statement or
7 representation with regard to the rates, points, or other financing
8 terms or conditions for a residential mortgage loan or engage in bait
9 and switch advertising;

10 (8) Negligently make any false statement or knowingly and
11 willfully make any omission of material fact in connection with any
12 reports filed by a (~~mortgage broker~~) licensee or in connection with
13 any investigation conducted by the department;

14 (9) Make any payment, directly or indirectly, to any appraiser of
15 a property, for the purposes of influencing the independent judgment
16 of the appraiser with respect to the value of the property;

17 (10) Advertise any rate of interest without conspicuously
18 disclosing the annual percentage rate implied by such rate of
19 interest;

20 (11) Fail to comply with state and federal laws applicable to the
21 activities governed by this chapter;

22 (12) Fail to pay third-party providers no later than thirty days
23 after the recording of the loan closing documents or ninety days
24 after completion of the third-party service, whichever comes first,
25 unless otherwise agreed or unless the third-party service provider
26 has been notified in writing that a bona fide dispute exists
27 regarding the performance or quality of the third-party service;

28 (13) Collect, charge, attempt to collect or charge or use or
29 propose any agreement purporting to collect or charge any fee
30 prohibited by RCW 19.146.030 or 19.146.070;

31 (14)(a) Except when complying with (b) and (c) of this
32 subsection, act as a loan originator in any transaction (i) in which
33 the loan originator acts or has acted as a real estate broker or
34 salesperson or (ii) in which another person doing business under the
35 same licensed real estate broker acts or has acted as a real estate
36 broker or salesperson;

37 (b) Prior to providing mortgage services to the borrower, a loan
38 originator, in addition to other disclosures required by this chapter
39 and other laws, (~~shall~~) must provide to the borrower the following
40 written disclosure:

1 THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES
2 HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON
3 REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO
4 YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE
5 MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO
6 PURCHASE THE PROPERTY.

7 YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN
8 CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON
9 SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT
10 ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

11 (c) A real estate broker or salesperson licensed under chapter
12 18.85 RCW who also acts as a mortgage broker (~~(shall)~~) must carry on
13 such mortgage broker business activities and (~~(shall)~~) must maintain
14 such person's mortgage broker business records separate and apart
15 from the real estate broker activities conducted pursuant to chapter
16 18.85 RCW. Such activities (~~(shall be deemed)~~) are separate and apart
17 even if they are conducted at an office location with a common
18 entrance and mailing address, so long as each business is clearly
19 identified by a sign visible to the public, each business is
20 physically separated within the office facility, and no deception of
21 the public as to the separate identities of the broker business firms
22 results. This subsection (14)(c) (~~(shall)~~) does not require a real
23 estate broker or salesperson licensed under chapter 18.85 RCW who
24 also acts as a mortgage broker to maintain a physical separation
25 within the office facility for the conduct of its real estate and
26 mortgage broker activities where the director determines that
27 maintaining such physical separation would constitute an undue
28 financial hardship upon the mortgage broker and is unnecessary for
29 the protection of the public; (~~(or)~~)

30 (15) Fail to comply with any provision of RCW 19.146.030 through
31 19.146.080 or any rule adopted under those sections;

32 (16) Originate loans from any unlicensed location;

33 (17) Solicit or accept from any borrower at or near the time a
34 loan application is taken, and in advance of any foreclosure of the
35 borrower's existing residential mortgage loan or loans, any
36 instrument of conveyance of any interest in the borrower's primary
37 dwelling that is the subject of the residential mortgage loan or
38 loans; or

1 (18) Make a residential mortgage loan unless the loan is table
2 funded.

3 **Sec. 8.** RCW 19.146.030 and 2006 c 19 s 5 are each amended to
4 read as follows:

5 (1) Within three business days following receipt of a loan
6 application (~~((or any moneys))~~) from a borrower, a mortgage broker or
7 loan originator (~~((on behalf of the mortgage broker shall))~~) must
8 provide to (~~((each))~~) the borrower a full written disclosure containing
9 an itemization and explanation of all fees and costs that the
10 borrower is required to pay in connection with obtaining a
11 residential mortgage loan, and specifying the fee or fees which inure
12 to the benefit of the mortgage broker and other such disclosures as
13 may be required by rule. A good faith estimate of a fee or cost
14 (~~((shall))~~) must be provided if the exact amount of the fee or cost is
15 not determinable. (~~((This subsection shall not be construed to require~~
16 ~~disclosure of the distribution or breakdown of loan fees, discount,~~
17 ~~or points between the mortgage broker and any lender or investor.))~~)

18 (2) The written disclosure (~~((shall))~~) must contain the following
19 information:

20 (a) The annual percentage rate, finance charge, amount financed,
21 total amount of all payments, number of payments, amount of each
22 payment, amount of points or prepaid interest and the conditions and
23 terms under which any loan terms may change between the time of
24 disclosure and closing of the loan; and if a variable rate, the
25 circumstances under which the rate may increase, any limitation on
26 the increase, the effect of an increase, and an example of the
27 payment terms resulting from an increase. Disclosure in compliance
28 with the requirements of the truth-in-lending act, 15 U.S.C. Sec.
29 1601 and Regulation Z, 12 C.F.R. (~~((Sec. 226))~~) Part 1026, as now or
30 hereafter amended, (~~((shall be deemed to comply))~~) is in compliance
31 with the disclosure requirements of this subsection;

32 (b) The itemized costs of any credit report, appraisal, title
33 report, title insurance policy, mortgage insurance, escrow fee,
34 property tax, insurance, structural or pest inspection, and any other
35 third-party provider's costs associated with the residential mortgage
36 loan. Disclosure through good faith estimates of settlement services
37 and special information booklets in compliance with the requirements
38 of the real estate settlement procedures act, 12 U.S.C. Sec. 2601,
39 and Regulation X, 24 C.F.R. (~~((Sec. 3500))~~) Part 1024, as now or

1 hereafter amended, (~~shall be deemed to comply~~) is in compliance
2 with the disclosure requirements of this subsection;

3 (c) If applicable, the cost, terms, duration, and conditions of a
4 lock-in agreement and whether a lock-in agreement has been entered,
5 and whether the lock-in agreement is guaranteed by the mortgage
6 broker or lender, and if a lock-in agreement has not been entered,
7 disclosure in a form acceptable to the director that the disclosed
8 interest rate and terms are subject to change;

9 (d) If applicable, a statement that if the borrower is unable to
10 obtain a loan for any reason, the mortgage broker must, within five
11 days of a written request by the borrower, give copies of any
12 appraisal, title report, or credit report paid for by the borrower to
13 the borrower, and transmit the appraisal, title report, or credit
14 report to any other mortgage broker or lender to whom the borrower
15 directs the documents to be sent;

16 (e) Whether and under what conditions any lock-in fees are
17 refundable to the borrower; and

18 (f) A statement providing that moneys paid by the borrower to the
19 mortgage broker for third-party provider services are held in a trust
20 account and any moneys remaining after payment to third-party
21 providers will be refunded.

22 (3) If subsequent to the written disclosure being provided under
23 this section, a mortgage broker or loan originator enters into a
24 lock-in agreement with a borrower or represents to the borrower that
25 the borrower has entered into a lock-in agreement, then no less than
26 three business days thereafter including Saturdays, the mortgage
27 broker or loan originator (~~shall~~) must deliver or send by first-
28 class mail to the borrower a written confirmation of the terms of the
29 lock-in agreement, which (~~shall~~) must include a copy of the
30 disclosure made under subsection (2)(c) of this section.

31 (4) A mortgage broker or loan originator on behalf of a mortgage
32 broker (~~shall~~) must not charge any fee that inures to the benefit
33 of the mortgage broker if it exceeds the fee disclosed on the written
34 disclosure pursuant to this section, unless (a) the need to charge
35 the fee was not reasonably foreseeable at the time the written
36 disclosure was provided and (b) the mortgage broker or loan
37 originator on behalf of a mortgage broker has provided to the
38 borrower, no less than three business days prior to the signing of
39 the loan closing documents, a clear written explanation of the fee
40 and the reason for charging a fee exceeding that which was previously

1 disclosed. However, if the borrower's closing costs on the final
2 settlement statement, excluding prepaid escrowed costs of ownership
3 as defined by rule, does not exceed the total closing costs in the
4 most recent good faith estimate, excluding prepaid escrowed costs of
5 ownership as defined by rule, no other disclosures (~~shall be~~) are
6 required by this subsection.

7 **Sec. 9.** RCW 19.146.040 and 2006 c 19 s 6 are each amended to
8 read as follows:

9 (1) Every contract between a mortgage broker, or a loan
10 originator, and a borrower (~~shall~~) must be in writing and (~~shall~~)
11 contain the entire agreement of the parties.

12 (2) Any contract under this section entered by a loan originator
13 (~~shall be~~) is binding on the mortgage broker.

14 (3) A mortgage broker (~~shall~~) must have a written
15 (~~correspondent or~~) loan broker agreement with a lender before any
16 solicitation of, or contracting with, the public.

17 **Sec. 10.** RCW 19.146.070 and 2006 c 19 s 8 are each amended to
18 read as follows:

19 (1) Except as otherwise permitted by this section, a mortgage
20 broker (~~shall~~) must not receive a fee, commission, or compensation
21 of any kind in connection with the preparation, negotiation, and
22 brokering of a residential mortgage loan unless a borrower actually
23 obtains a loan from a lender on the terms and conditions agreed upon
24 by the borrower and mortgage broker. A loan originator may not accept
25 a fee, commission, or compensation of any kind from borrowers in
26 connection with the preparation, negotiation, and brokering of a
27 residential mortgage loan.

28 (2) A mortgage broker may:

29 (a) If the mortgage broker has obtained for the borrower a
30 written commitment from a lender for a loan on the terms and
31 conditions agreed upon by the borrower and the mortgage broker, and
32 the borrower fails to close on the loan through no fault of the
33 mortgage broker, charge a fee not to exceed three hundred dollars for
34 services rendered, preparation of documents, or transfer of documents
35 in the borrower's file which were prepared or paid for by the
36 borrower if the fee is not otherwise prohibited by the Truth-in-
37 Lending Act, 15 U.S.C. Sec. 1601, and Regulation Z, 12 C.F.R. (~~See-~~
38 ~~226~~) Part 1026, as now or hereafter amended; or

1 (b) Solicit or receive fees for third party provider goods or
2 services in advance. Fees for any goods or services not provided must
3 be refunded to the borrower and the mortgage broker may not charge
4 more for the goods and services than the actual costs of the goods or
5 services charged by the third party provider.

6 (3) A loan originator may not solicit or receive fees for a
7 third-party provider of goods or services except that a loan
8 originator may transfer funds from a borrower to a licensed mortgage
9 broker, exempt mortgage broker, or third-party provider, if the loan
10 originator does not deposit, hold, retain, or use the funds for any
11 purpose other than the payment of bona fide fees to third-party
12 providers.

13 **Sec. 11.** RCW 19.146.205 and 2009 c 528 s 4 are each amended to
14 read as follows:

15 (1) Application for a mortgage broker license under this chapter
16 must be made to the nationwide mortgage licensing system and registry
17 and in the form prescribed by the director. The application (~~shall~~)
18 must contain at least the following information:

19 (a) The name, address, date of birth, and social security number
20 of the applicant, and any other names, dates of birth, or social
21 security numbers previously used by the applicant, unless waived by
22 the director;

23 (b) If the applicant is a partnership (~~or~~), association, or
24 limited liability company the name, address, date of birth, and
25 social security number of each general partner (~~or~~), principal, or
26 member of the association, and any other names, dates of birth, or
27 social security numbers previously used by the members, unless waived
28 by the director;

29 (c) If the applicant is a corporation, the name, address, date of
30 birth, and social security number of each officer, director,
31 registered agent, and each principal stockholder, and any other
32 names, dates of birth, or social security numbers previously used by
33 the officers, directors, registered agents, and principal
34 stockholders unless waived by the director;

35 (d) The street address, county, and municipality where the
36 principal business office is to be located;

37 (e) The name, address, date of birth, and social security number
38 of the applicant's designated broker, and any other names, dates of
39 birth, or social security numbers previously used by the designated

1 broker and a complete set of the designated broker's fingerprints
2 taken by an authorized law enforcement officer; and

3 (f)(i) Such other information regarding the applicant's or
4 designated broker's background, financial responsibility, experience,
5 character, and general fitness as the director may require by rule.

6 (ii) The director may waive one or more requirements of this
7 section or permit an applicant to submit other information in lieu of
8 the required information.

9 (2) As a part of or in connection with an application for any
10 license under this section, or periodically upon license renewal, the
11 applicant (~~shall~~) must furnish information concerning his or her
12 identity, including fingerprints for submission to the Washington
13 state patrol, the federal bureau of investigation, the nationwide
14 mortgage licensing system and registry, or any governmental agency or
15 entity authorized to receive this information for a state and
16 national criminal history background check; personal history;
17 experience; business record; purposes; and other pertinent facts, as
18 the director may reasonably require. As part of or in connection with
19 an application for a license under this chapter, the director is
20 authorized to receive criminal history record information that
21 includes nonconviction data as defined in RCW 10.97.030. The
22 department may only disseminate nonconviction data obtained under
23 this section to criminal justice agencies. This section does not
24 apply to financial institutions regulated under chapters 31.12 and
25 31.13 RCW and Titles 30A, 32, and 33 RCW.

26 (3) In order to reduce the points of contact which the federal
27 bureau of investigation may have to maintain, the director may use
28 the nationwide mortgage licensing system and registry as a channeling
29 agent for requesting information from and distributing information to
30 the department of justice or any governmental agency.

31 (4) In order to reduce the points of contact which the director
32 may have to maintain, the director may use the nationwide mortgage
33 licensing system and registry as a channeling agent for requesting
34 and distributing information to and from any source so directed by
35 the director.

36 (5) At the time of filing an application for a license under this
37 chapter, each applicant (~~shall~~) must pay to the director through
38 the nationwide mortgage licensing system and registry the appropriate
39 application fee in an amount determined by rule of the director in
40 accordance with RCW 43.24.086 to cover, but not exceed, the cost of

1 processing and reviewing the application. The director (~~shall~~) must
2 deposit the moneys in the financial services regulation fund, unless
3 the consumer services account is created as a dedicated,
4 nonappropriated account, in which case the director (~~shall~~) must
5 deposit the moneys in the consumer services account.

6 (6)(a) Except as provided in (b) of this subsection, each
7 applicant for a mortgage broker's license (~~shall~~) must file and
8 maintain a surety bond, in an amount which the director deems
9 adequate to protect the public interest, executed by the applicant as
10 obligor and by a surety company authorized to do a surety business in
11 this state as surety. The bonding requirement as established by the
12 director (~~shall~~) must take the form of a range of bond amounts
13 which (~~shall~~) vary according to the annual loan origination volume
14 of the licensee. The bond (~~shall~~) must run to the state of
15 Washington as obligee, and (~~shall~~) must run first to the benefit of
16 the borrower and then to the benefit of the state and any person or
17 persons who suffer loss by reason of the applicant's or its loan
18 originator's violation of any provision of this chapter or rules
19 adopted under this chapter. The bond (~~shall~~) must be conditioned
20 that the obligor as licensee will faithfully conform to and abide by
21 this chapter and all rules adopted under this chapter, and (~~shall~~)
22 must reimburse all persons who suffer loss by reason of a violation
23 of this chapter or rules adopted under this chapter. Borrowers
24 (~~shall~~) must be given priority over the state and other persons.
25 The state and other third parties (~~shall~~) must be allowed to
26 receive distribution pursuant to a valid claim against the remainder
27 of the bond. In the case of claims made by any person or entity who
28 is not a borrower, no final judgment may be entered prior to one
29 hundred eighty days following the date the claim is filed. The bond
30 (~~shall~~) must be continuous and may be canceled by the surety upon
31 the surety giving written notice to the director of its intent to
32 cancel the bond. The cancellation (~~shall~~) must be effective thirty
33 days after the notice is received by the director. Whether or not the
34 bond is renewed, continued, reinstated, reissued, or otherwise
35 extended, replaced, or modified, including increases or decreases in
36 the penal sum, it (~~shall—be~~) is considered one continuous
37 obligation, and the surety upon the bond (~~shall—not—be~~) is not
38 liable in an aggregate or cumulative amount exceeding the penal sum
39 set forth on the face of the bond. In no event (~~shall~~) is the penal
40 sum, or any portion thereof, at two or more points in time be added

1 together in determining the surety's liability. The bond (~~shall~~) is
2 not be liable for any penalties imposed on the licensee, including,
3 but not limited to, any increased damages or attorneys' fees, or
4 both, awarded under RCW 19.86.090. The applicant may obtain the bond
5 directly from the surety or through a group bonding arrangement
6 involving a professional organization comprised of mortgage brokers
7 if the arrangement provides at least as much coverage as is required
8 under this subsection.

9 (b) If the director determines that the bond required in (a) of
10 this subsection is not reasonably available, the director (~~shall~~)
11 must waive the requirements for such a bond. The mortgage recovery
12 fund account is created in the custody of the state treasurer. The
13 director is authorized to charge fees to fund the account. All fees
14 charged under this section, except those retained by the director for
15 administration of the (~~fund—[account]~~) account, must be deposited
16 into the mortgage recovery fund account. Expenditures from the
17 account may be used only for the same purposes as the surety bond as
18 described in (a) of this subsection. Only the director or the
19 director's designee may authorize expenditures from the account. The
20 account is subject to allotment procedures under chapter 43.88 RCW,
21 but an appropriation is not required for expenditures. A person
22 entitled to receive payment from the mortgage recovery (~~fund~~
23 ~~[account]~~) account may only receive reimbursement after a court of
24 competent jurisdiction has determined the actual damages caused by
25 the licensee. The director may determine by rule the procedure for
26 recovery; the amount each mortgage broker must pay through the
27 nationwide mortgage licensing system and registry for deposit in the
28 mortgage recovery (~~fund—[account]~~) account; and the amount
29 necessary to administer the (~~fund—[account]~~) account.

30 **Sec. 12.** RCW 19.146.220 and 2014 c 36 s 2 are each amended to
31 read as follows:

32 (1) The director may enforce all laws and rules relating to the
33 licensing of mortgage brokers and loan originators, grant or deny
34 licenses to mortgage brokers and loan originators, and hold hearings.

35 (2) The director may impose fines (~~or~~) and order restitution
36 and refunds against licensees (~~or~~), employees, independent
37 contractors, agents of licensees, and other persons subject to this
38 chapter, (~~or~~) and may deny, condition, suspend, decline to renew,
39 decline to reactivate, or revoke licenses for:

1 (a) Violations of orders, including cease and desist orders;
2 (b) False statements or omission of material information on the
3 application that, if known, would have allowed the director to deny
4 the application for the original license;
5 (c) Failure to pay a fee required by the director or maintain the
6 required bond;
7 (d) Failure to comply with any directive, order, or subpoena of
8 the director; or
9 (e) Any violation of this chapter.

10 ~~(3) ((The director may impose fines on an employee, loan~~
11 ~~originator, independent contractor, or agent of the licensee, or~~
12 ~~other person subject to this chapter for:~~
13 ~~(a) Any violations of this chapter; or~~
14 ~~(b) Failure to comply with any directive or order of the~~
15 ~~director.~~

16 ~~(4))~~ The director may issue orders directing a licensee, its
17 employee, loan originator, independent contractor, agent, or other
18 person subject to this chapter to cease and desist from conducting
19 business or take such other affirmative action as is necessary to
20 comply with this chapter.

21 ~~((5))~~ (4) The director may issue orders removing from office or
22 prohibiting from participation in the conduct of the affairs of a
23 licensed mortgage broker, or both, any officer, principal, employee,
24 or loan originator of any licensed mortgage broker or any person
25 subject to licensing under this chapter for:
26 (a) Any violation of this chapter;
27 (b) False statements or omission of material information on the
28 application that, if known, would have allowed the director to deny
29 the application for the original license;
30 (c) Conviction of a gross misdemeanor involving dishonesty or
31 financial misconduct or a felony after obtaining a license; or
32 (d) Failure to comply with any directive or order of the
33 director.

34 ~~((6))~~ (5) Each day's continuance of a violation or failure to
35 comply with any directive or order of the director is a separate and
36 distinct violation or failure.

37 ~~((7))~~ (6) The statute of limitations on actions not subject to
38 RCW 4.16.160 that are brought under this chapter by the director is
39 five years.

1 (~~(8)~~) (7) The director (~~(shall)~~) must establish by rule
2 standards for licensure of applicants licensed in other
3 jurisdictions.

4 (~~(9)~~) (8) The director (~~(shall)~~) must immediately suspend the
5 license or certificate of a person who has been certified pursuant to
6 RCW 74.20A.320 by the department of social and health services as a
7 person who is not in compliance with a support order. If the person
8 has continued to meet all other requirements for reinstatement during
9 the suspension, reissuance of the license or certificate (~~(shall be)~~)
10 is automatic upon the director's receipt of a release issued by the
11 department of social and health services stating that the licensee is
12 in compliance with the order.

13 **Sec. 13.** RCW 19.146.221 and 1994 c 33 s 13 are each amended to
14 read as follows:

15 (1) The director may, at his or her discretion (~~(and as provided~~
16 ~~for in RCW 19.146.220(2))~~), take any action (~~(specified in RCW~~
17 ~~19.146.220(1))~~) as provided for in this chapter to enforce this
18 chapter. If the person subject to such action does not appear in
19 person or by counsel at the time and place designated for any
20 administrative hearing that may be held on the action then the person
21 shall be deemed to consent to the action. If the person subject to
22 the action consents, or if after hearing the director finds by a
23 preponderance of the evidence that any grounds for sanctions under
24 this chapter exist, then the director may impose any sanction
25 authorized by this chapter.

26 (2) The director may recover the state's costs and expenses for
27 prosecuting violations of this chapter including staff time spent
28 preparing for and attending administrative hearings and reasonable
29 attorneys' fees, unless, after a hearing, the director determines no
30 violation occurred.

31 **Sec. 14.** RCW 19.146.227 and 1994 c 33 s 14 are each amended to
32 read as follows:

33 Whenever the director determines that the public is likely to be
34 substantially injured by delay in issuing a cease and desist order,
35 the director may immediately issue a temporary cease and desist
36 order. The order may direct the licensee to discontinue any violation
37 of this chapter and take such affirmative action as is necessary to
38 comply with this chapter, may include a summary suspension of the

1 licensee's license, and may order the licensee to immediately cease
2 the conduct of business under this chapter. The order (~~shall~~)
3 becomes effective at the time specified in the order. Every temporary
4 cease and desist order (~~shall~~) must include a provision that a
5 hearing will be held, within fourteen days unless otherwise specified
6 in chapter 34.05 RCW, upon request to determine whether the order
7 will become permanent.

8 If it appears that a person has engaged in an act or practice
9 constituting a violation of a provision of this chapter, or a rule or
10 order under this chapter, the director, with or without prior
11 administrative proceedings, may bring an action in the superior court
12 to enjoin the acts or practices and to enforce compliance with this
13 chapter or any rule or order under this chapter. Upon proper showing,
14 injunctive relief or temporary restraining orders (~~shall~~) must be
15 granted. The director (~~shall not be~~) is not required to post a bond
16 in any court proceedings.

17 **Sec. 15.** RCW 19.146.228 and 2009 c 528 s 5 are each amended to
18 read as follows:

19 The director (~~shall~~) must establish fees sufficient to cover,
20 but not exceed, the costs of administering this chapter. These fees
21 may include:

22 (1) An annual assessment paid by each licensee on or before a
23 date specified by rule;

24 (2) An investigation fee to cover the costs of any investigation
25 of the books and records of a licensee or other person subject to
26 this chapter; and

27 (3) An application fee to cover the costs of processing
28 applications made to the director under this chapter.

29 Mortgage brokers (~~and~~), loan originators (~~shall~~), and any
30 person subject to licensing under this chapter must not be charged
31 investigation fees for the processing of complaints when the
32 investigation determines that no violation of this chapter occurred
33 or when the mortgage broker or loan originator provides a remedy
34 satisfactory to the complainant and the director and no order of the
35 director is issued. All moneys, fees, and penalties collected under
36 the authority of this chapter (~~shall~~) must be deposited into the
37 financial services regulation fund, unless the consumer services
38 account is created as a dedicated, nonappropriated account, in which

1 case all moneys, fees, and penalties collected under this chapter
2 (~~shall~~) must be deposited in the consumer services account.

3 **Sec. 16.** RCW 19.146.265 and 1997 c 106 s 19 are each amended to
4 read as follows:

5 A licensed mortgage broker may apply to the director for
6 authority to establish one or more branch offices under the same or
7 different name as the main office upon the payment of a fee as
8 prescribed by the director by rule. (~~Provided that~~) The applicant
9 (~~is~~) must be in good standing with the department, as defined in
10 rule by the director, and the director (~~shall~~) must promptly issue
11 a (~~duplicate~~) license for each of the branch offices showing the
12 location of the main office and the particular branch. (~~Each~~
13 ~~duplicate license shall be prominently displayed in the office for~~
14 ~~which it is issued.~~)

15 **Sec. 17.** RCW 19.146.300 and 2009 c 528 s 9 are each amended to
16 read as follows:

17 (1) Application for a loan originator license under this chapter
18 must be made to the nationwide mortgage licensing system and registry
19 and in the form prescribed by the director. The application (~~shall~~)
20 must contain at least the following information:

21 (a) The name, address, date of birth, and social security number
22 of the loan originator applicant, and any other names, dates of
23 birth, or social security numbers previously used by the loan
24 originator applicant, unless waived by the director; and

25 (b) Such other information regarding the loan originator
26 applicant's background, experience, character, and general fitness as
27 the director may require by rule or as deemed necessary by the
28 nationwide mortgage licensing system and registry.

29 (2)(a) As part of or in connection with an application for any
30 license under this section, or periodically upon license renewal, the
31 loan originator applicant (~~shall~~) must furnish information
32 concerning his or her identity, including fingerprints for submission
33 to the Washington state patrol, the federal bureau of investigation,
34 the nationwide mortgage licensing system and registry, or any
35 governmental agency or entity authorized to receive this information
36 for a state and national criminal history background check; personal
37 history; experience; business record; purposes; and other pertinent
38 facts, as the director may reasonably require. As part of or in

1 connection with an application for a license under this chapter, or
2 periodically upon license renewal, the director is authorized to
3 receive criminal history record information that includes
4 nonconviction data as defined in RCW 10.97.030. The department may
5 only disseminate nonconviction data obtained under this section to
6 criminal justice agencies. This section does not apply to financial
7 institutions regulated under chapters 31.12 and 31.13 RCW and Titles
8 30A, 32, and 33 RCW.

9 (b) In order to reduce the points of contact which the federal
10 bureau of investigation may have to maintain, the director may use
11 the nationwide mortgage licensing system and registry as a channeling
12 agent for requesting information from and distributing information to
13 the department of justice or any governmental agency.

14 (c) In order to reduce the points of contact which the director
15 may have to maintain, the director may use the nationwide mortgage
16 licensing system and registry as a channeling agent for requesting
17 and distributing information to and from any source so directed by
18 the director.

19 (d) As part of or in connection with an application for a license
20 under this section, the loan originator applicant must furnish to the
21 nationwide mortgage licensing system and registry personal history
22 and experience in a form prescribed by the nationwide mortgage
23 licensing system and registry, including the submission of
24 authorization for the nationwide mortgage licensing system and
25 registry and the director to obtain:

26 (i) An independent credit report obtained from a consumer
27 reporting agency described in section 603(p) of the federal fair
28 credit reporting act; and

29 (ii) Information related to any administrative, civil, or
30 criminal findings by any governmental jurisdiction.

31 (3) At the time of filing an application for a license under this
32 chapter, each loan originator applicant (~~shall~~) must pay to the
33 director the appropriate application fee in an amount determined by
34 rule of the director in accordance with RCW 19.146.228 to cover the
35 cost of processing and reviewing the application. The director
36 (~~shall~~) must deposit the moneys in the financial services
37 regulation fund.

38 (4) The director must establish by rule procedures for accepting
39 and processing incomplete applications.

1 **Sec. 18.** RCW 19.146.390 and 2009 c 528 s 17 are each amended to
2 read as follows:

3 Each mortgage broker licensee (~~shall~~) must submit (~~to~~) call
4 reports through the nationwide mortgage licensing system and registry
5 (~~reports of condition, which must be in the~~) in a form and (~~must~~
6 ~~contain~~) containing the information as prescribed by the director or
7 as deemed necessary by the nationwide mortgage licensing system and
8 registry (~~may require~~).

9 **Sec. 19.** RCW 31.04.015 and 2013 c 29 s 1 are each amended to
10 read as follows:

11 The definitions set forth in this section apply throughout this
12 chapter unless the context clearly requires a different meaning.

13 (1) "Add-on method" means the method of precomputing interest
14 payable on a loan whereby the interest to be earned is added to the
15 principal balance and the total plus any charges allowed under this
16 chapter is stated as the loan amount, without further provision for
17 the payment of interest except for failure to pay according to loan
18 terms. The director may adopt by rule a more detailed explanation of
19 the meaning and use of this method.

20 (2) "Applicant" means a person applying for a license under this
21 chapter.

22 (3) "Borrower" means any person who consults with or retains a
23 licensee or person subject to this chapter in an effort to obtain, or
24 who seeks information about obtaining a loan, regardless of whether
25 that person actually obtains such a loan. "Borrower" includes a
26 person who consults with or retains a licensee or person subject to
27 this chapter in an effort to obtain, or who seeks information about
28 obtaining a residential mortgage loan modification, regardless of
29 whether that person actually obtains a residential mortgage loan
30 modification.

31 (4) "Depository institution" has the same meaning as in section 3
32 of the federal deposit insurance act on July 26, 2009, and includes
33 credit unions.

34 (5) "Director" means the director of financial institutions.

35 (6) "Federal banking agencies" means the board of governors of
36 the federal reserve system, comptroller of the currency, director of
37 the office of thrift supervision, national credit union
38 administration, and federal deposit insurance corporation.

1 (7) "Individual servicing a mortgage loan" means a person on
2 behalf of a lender or servicer licensed by this state, who collects
3 or receives payments including payments of principal, interest,
4 escrow amounts, and other amounts due, on existing obligations due
5 and owing to the licensed lender or servicer for a residential
6 mortgage loan when the borrower is in default, or in reasonably
7 foreseeable likelihood of default, working with the borrower and the
8 licensed lender or servicer, collects data and makes decisions
9 necessary to modify either temporarily or permanently certain terms
10 of those obligations, or otherwise finalizing collection through the
11 foreclosure process.

12 (8) "Insurance" means life insurance, disability insurance,
13 property insurance, involuntary unemployment insurance, and such
14 other insurance as may be authorized by the insurance commissioner.

15 (9) "License" means a single license issued under the authority
16 of this chapter (~~(with respect to a single place of business)~~).

17 (10) "Licensee" means a person to whom one or more licenses have
18 been issued. "Licensee" also means any person, whether located within
19 or outside of this state, who fails to obtain a license required by
20 this chapter.

21 (11) "Loan" means a transfer of a sum of money (~~(lent at interest~~
22 ~~or for a fee or other charge)~~) with an expectation of repayment of an
23 amount in excess of the amount transferred and includes both open-end
24 and closed-end loan transactions.

25 (12) "Loan processor or underwriter" means an individual who
26 performs clerical or support duties as an employee at the direction
27 of and subject to the supervision and instruction of a person
28 licensed, or exempt from licensing, under this chapter.

29 (13) "Making a loan" means advancing, offering to advance, or
30 making a commitment to advance funds to a borrower for a loan.

31 (14) "Mortgage broker" means the same as defined in RCW
32 19.146.010, except that for purposes of this chapter, a licensee or
33 person subject to this chapter cannot receive compensation as both a
34 consumer loan licensee making the loan and as a consumer loan
35 licensee acting as the mortgage broker in the same loan transaction.

36 (15)(a) "Mortgage loan originator" means an individual who for
37 compensation or gain (i) takes a residential mortgage loan
38 application, or (ii) offers or negotiates terms of a residential
39 mortgage loan. "Mortgage loan originator" also includes individuals
40 who hold themselves out to the public as able to perform any of these

1 activities. "Mortgage loan originator" does not include any
2 individual who performs purely administrative or clerical tasks; and
3 does not include a person or entity solely involved in extensions of
4 credit relating to timeshare plans, as that term is defined in
5 section 101(53D) of Title 11, United States Code. For the purposes of
6 this definition, administrative or clerical tasks means the receipt,
7 collection, and distribution of information common for the processing
8 of a loan in the mortgage industry and communication with a consumer
9 to obtain information necessary for the processing of a residential
10 mortgage loan.

11 (b) "Mortgage loan originator" also includes an individual who
12 for direct or indirect compensation or gain performs residential
13 mortgage loan modification services or holds himself or herself out
14 as being able to perform residential mortgage loan modification
15 services.

16 (c) "Mortgage loan originator" does not include a person or
17 entity that only performs real estate brokerage activities and is
18 licensed or registered in accordance with applicable state law,
19 unless the person or entity is compensated by a lender, a mortgage
20 broker, or other mortgage loan originator or by any agent of such a
21 lender, mortgage broker, or other mortgage loan originator. For the
22 purposes of chapter 120, Laws of 2009, the term "real estate
23 brokerage activity" means any activity that involves offering or
24 providing real estate brokerage services to the public, including:

25 (i) Acting as a real estate agent or real estate broker for a
26 buyer, seller, lessor, or lessee of real property;

27 (ii) Bringing together parties interested in the sale, purchase,
28 lease, rental, or exchange of real property;

29 (iii) Negotiating, on behalf of any party, any portion of a
30 contract relating to the sale, purchase, lease, rental, or exchange
31 of real property, other than in connection with providing financing
32 with respect to such a transaction;

33 (iv) Engaging in any activity for which a person engaged in the
34 activity is required to be registered or licensed as a real estate
35 agent or real estate broker under any applicable law; and

36 (v) Offering to engage in any activity, or act in any capacity,
37 described in (c)(i) through (iv) of this subsection.

38 (d) This subsection does not apply to employees of a housing
39 counseling agency approved by the United States department of housing
40 and urban development unless the employees of a housing counseling

1 agency are required under federal law to be individually licensed as
2 mortgage loan originators.

3 (16) "Nationwide (~~((multistate))~~) mortgage licensing system" means
4 a licensing system developed and maintained by the conference of
5 state bank supervisors (~~((and the American association of residential~~
6 ~~mortgage regulators for the))~~) for licensing and registration (~~((of~~
7 ~~mortgage loan originators and other licensing types))~~).

8 (17) "Officer" means an official appointed by the company for the
9 purpose of making business decisions or corporate decisions.

10 (18) "Person" includes individuals, partnerships, associations,
11 limited liability companies, limited liability partnerships, trusts,
12 corporations, and all other legal entities.

13 (19) "Principal" means any person who controls, directly or
14 indirectly through one or more intermediaries, alone or in concert
15 with others, a ten percent or greater interest in a partnership;
16 company; association or corporation; or a limited liability company,
17 and the owner of a sole proprietorship.

18 (20) "Registered mortgage loan originator" means any individual
19 who meets the definition of mortgage loan originator and is an
20 employee of a depository institution; a subsidiary that is owned and
21 controlled by a depository institution and regulated by a federal
22 banking agency; or an institution regulated by the farm credit
23 administration and is registered with, and maintains a unique
24 identifier through, the nationwide (~~((multistate))~~) mortgage licensing
25 system.

26 (21) "Residential mortgage loan" means any loan primarily for
27 personal, family, or household use that is secured by a mortgage,
28 deed of trust, or other (~~((equivalent))~~) consensual security interest
29 on a dwelling, as defined in (~~((section 103(v) of))~~) the truth in
30 lending act, or residential real estate upon which is constructed or
31 intended to be constructed a dwelling.

32 (22) "Residential mortgage loan modification" means a change in
33 one or more of a residential mortgage loan's terms or conditions.
34 Changes to a residential mortgage loan's terms or conditions include
35 but are not limited to forbearances; repayment plans; changes in
36 interest rates, loan terms, or loan types; capitalizations of
37 arrearages; or principal reductions.

38 (23) "Residential mortgage loan modification services" includes
39 negotiating, attempting to negotiate, arranging, attempting to
40 arrange, or otherwise offering to perform a residential mortgage loan

1 modification for compensation or gain. "Residential mortgage loan
2 modification services" also includes the collection of data for
3 submission to an entity performing mortgage loan modification
4 services.

5 (24) "S.A.F.E. act" means the secure and fair enforcement for
6 mortgage licensing act of 2008, Title V of the housing and economic
7 recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

8 (25) "Senior officer" means an officer of a licensee at the vice
9 president level or above.

10 (26) "Service or servicing a loan" means on behalf of the lender
11 or investor of a residential mortgage loan: (a) Collecting or
12 receiving payments on existing obligations due and owing to the
13 lender or investor, including payments of principal, interest, escrow
14 amounts, and other amounts due; (b) collecting fees due to the
15 servicer; (c) working with the borrower and the licensed lender or
16 servicer to collect data and make decisions necessary to modify
17 certain terms of those obligations either temporarily or permanently;
18 (d) otherwise finalizing collection through the foreclosure process;
19 or (e) servicing a reverse mortgage loan.

20 (27) "Service or servicing a reverse mortgage loan" means,
21 pursuant to an agreement with the owner of a reverse mortgage loan:
22 Calculating, collecting, or receiving payments of interest or other
23 amounts due; administering advances to the borrower; and providing
24 account statements to the borrower or lender.

25 (28) "Simple interest method" means the method of computing
26 interest payable on a loan by applying the annual percentage interest
27 rate or its periodic equivalent to the unpaid balances of the
28 principal of the loan outstanding for the time outstanding.

29 (a) On a nonresidential loan each payment is applied first to any
30 unpaid penalties, fees, or charges, then to accumulated interest, and
31 the remainder of the payment applied to the unpaid balance of the
32 principal until paid in full. In using such method, interest
33 (~~shall~~) must not be payable in advance nor compounded. The
34 prohibition on compounding interest does not apply to reverse
35 mortgage loans made in accordance with the Washington state reverse
36 mortgage act. The director may adopt by rule a more detailed
37 explanation of the meaning and use of this method.

38 (b) On a residential mortgage loan payments are applied as
39 determined in the security instrument.

1 (29) "Third-party residential mortgage loan modification
2 services" means residential mortgage loan modification services
3 offered or performed by any person other than the owner or servicer
4 of the loan.

5 (30) "Third-party service provider" means any person other than
6 the licensee or a mortgage broker who provides goods or services to
7 the licensee or borrower in connection with the preparation of the
8 borrower's loan and includes, but is not limited to, credit reporting
9 agencies, real estate brokers or salespersons, title insurance
10 companies and agents, appraisers, structural and pest inspectors, or
11 escrow companies.

12 (31) "Unique identifier" means a number or other identifier
13 assigned by protocols established by the nationwide ((multistate))
14 mortgage licensing system.

15 (32) "Affiliate" means any person who, directly or indirectly
16 through one or more intermediaries, controls, or is controlled by, or
17 is under common control with another person.

18 (33) "Department" means the state department of financial
19 institutions.

20 **Sec. 20.** RCW 31.04.025 and 2013 c 64 s 2 and 2013 c 29 s 2 are
21 each reenacted and amended to read as follows:

22 (1) Each loan made to a resident of this state by a licensee, or
23 persons subject to this chapter, is subject to the authority and
24 restrictions of this chapter.

25 (2) This chapter does not apply to the following:

26 (a) Any person doing business under, and as permitted by, any law
27 of this state or of the United States relating to banks, savings
28 banks, trust companies, savings and loan or building and loan
29 associations, or credit unions;

30 (b) Entities making loans under chapter 19.60 RCW (pawnbroking);

31 (c) Entities conducting transactions under chapter 63.14 RCW
32 (retail installment sales of goods and services), unless credit is
33 extended to purchase merchandise certificates, coupons, open or
34 closed loop stored value, or other similar items issued and
35 redeemable by a retail seller other than the retail seller extending
36 the credit;

37 (d) Entities making loans under chapter 31.45 RCW (check cashers
38 and sellers);

1 (e) Any person making a loan primarily for business, commercial,
2 or agricultural purposes unless the loan is secured by a lien on the
3 borrower's primary (~~residence~~) dwelling;

4 (f) Any person selling property owned by that person who provides
5 financing for the sale when the property does not contain a dwelling
6 and when the property serves as security for the financing. This
7 exemption is available for five or fewer transactions in a calendar
8 year. This exemption is not available to individuals subject to the
9 federal S.A.F.E. act or any person in the business of constructing or
10 acting as a contractor for the construction of residential dwellings.

11 (g) Any person making loans made to government or government
12 agencies or instrumentalities or making loans to organizations as
13 defined in the federal truth in lending act;

14 (~~g~~) (h) Entities making loans under chapter 43.185 RCW
15 (housing trust fund);

16 (~~h~~) (i) Entities making loans under programs of the United
17 States department of agriculture, department of housing and urban
18 development, or other federal government program that provides
19 funding or access to funding for single-family housing developments
20 or grants to low-income individuals for the purchase or repair of
21 single-family housing;

22 (~~i~~) (j) Nonprofit housing organizations making loans, or
23 loans made, under housing programs that are funded in whole or in
24 part by federal or state programs if the primary purpose of the
25 programs is to assist low-income borrowers with purchasing or
26 repairing housing or the development of housing for low-income
27 Washington state residents;

28 (~~j~~) (k) Entities making loans which are not residential
29 mortgage loans under a credit card plan;

30 (~~k~~) (l) Individuals employed by a licensed residential
31 mortgage loan servicing company engaging in activities related to
32 servicing, unless (~~se~~) licensing is required by federal law or
33 regulation; and

34 (~~l~~) (m) Entities licensed under chapter 18.44 RCW that
35 process payments on seller-financed loans secured by liens on real or
36 personal property.

37 (3) The director may, at his or her discretion, waive
38 applicability of the consumer loan company licensing provisions of
39 this chapter to other persons, not including individuals subject to
40 the S.A.F.E. act, making or servicing loans when the director

1 determines it necessary to facilitate commerce and protect consumers.
2 (~~The director may adopt rules interpreting this section.~~)

3 (4) The burden of proving the application for an exemption or
4 exception from a definition, or a preemption of a provision of this
5 chapter, is upon the person claiming the exemption, exception, or
6 preemption.

7 (5) The director may adopt rules interpreting this section.

8 **Sec. 21.** RCW 31.04.027 and 2013 c 29 s 3 are each amended to
9 read as follows:

10 It is a violation of this chapter for a licensee, its officers,
11 directors, employees, or independent contractors, or any other person
12 subject to this chapter to:

13 (1) Directly or indirectly employ any scheme, device, or artifice
14 to defraud or mislead any borrower, to defraud or mislead any lender,
15 or to defraud or mislead any person;

16 (2) Directly or indirectly engage in any unfair or deceptive
17 practice toward any person;

18 (3) Directly or indirectly obtain property by fraud or
19 misrepresentation;

20 (4) Solicit or enter into a contract with a borrower that
21 provides in substance that the consumer loan company may earn a fee
22 or commission through the consumer loan company's best efforts to
23 obtain a loan even though no loan is actually obtained for the
24 borrower;

25 (5) Solicit, advertise, or enter into a contract for specific
26 interest rates, points, or other financing terms unless the terms are
27 actually available at the time of soliciting, advertising, or
28 contracting;

29 (6) Fail to make disclosures to loan applicants as required by
30 RCW 31.04.102 and any other applicable state or federal law;

31 (7) Make, in any manner, any false or deceptive statement or
32 representation with regard to the rates, points, or other financing
33 terms or conditions for a residential mortgage loan or engage in bait
34 and switch advertising;

35 (8) Negligently make any false statement or knowingly and
36 willfully make any omission of material fact in connection with any
37 reports filed with the department by a licensee or in connection with
38 any investigation conducted by the department;

1 (9) Make any payment, directly or indirectly, to any appraiser of
2 a property, for the purposes of influencing the independent judgment
3 of the appraiser with respect to the value of the property;

4 (10) Accept from any borrower at or near the time a loan is made
5 and in advance of any default an execution of, or induce any borrower
6 to execute, any instrument of conveyance, not including a mortgage or
7 deed of trust, to the lender of any ownership interest in the
8 borrower's primary (~~residence~~) dwelling that is the security for
9 the borrower's loan;

10 (11) Obtain at the time of closing a release of future damages
11 for usury or other damages or penalties provided by law or a waiver
12 of the provisions of this chapter;

13 (12) Advertise any rate of interest without conspicuously
14 disclosing the annual percentage rate implied by that rate of
15 interest;

16 (13) Violate any applicable state or federal law relating to the
17 activities governed by this chapter; or

18 (14) Make or originate loans from any unlicensed location.

19 **Sec. 22.** RCW 31.04.045 and 2014 c 36 s 5 are each amended to
20 read as follows:

21 (1) Application for a license under this chapter must be made to
22 the nationwide mortgage licensing system and registry or in the form
23 prescribed by the director. The application must contain at least the
24 following information:

25 (a) The name and the business addresses of the applicant;

26 (b) If the applicant is a partnership, limited liability company,
27 or association, the name of every member;

28 (c) If the applicant is a corporation, the name, residence
29 address, and telephone number of each officer and director;

30 (d) The street address, county, and municipality from which
31 business is to be conducted; and

32 (e) Such other information as the director may require by rule.

33 (2) As part of or in connection with an application for any
34 license under this section, or periodically upon license renewal,
35 each officer, director, and owner applicant (~~shall~~) must furnish
36 information concerning his or her identity, including fingerprints
37 for submission to the Washington state patrol, the federal bureau of
38 investigation, or any governmental agency or entity authorized to
39 receive this information for a state and national criminal history

1 background check; personal history; experience; business record;
2 purposes; and other pertinent facts, as the director may reasonably
3 require. As part of or in connection with an application for a
4 license under this chapter, or periodically upon license renewal, the
5 director is authorized to receive criminal history record information
6 that includes nonconviction data as defined in RCW 10.97.030. The
7 department may only disseminate nonconviction data obtained under
8 this section to criminal justice agencies. This section does not
9 apply to financial institutions regulated under chapters 31.12 and
10 31.13 RCW and Titles 30A, 32, and 33 RCW.

11 (3) At the time of filing an application for a license under this
12 chapter, each applicant shall pay to the director or through the
13 nationwide mortgage licensing system and registry an investigation
14 fee and the license fee in an amount determined by rule of the
15 director to be sufficient to cover the director's costs in
16 administering this chapter.

17 (4) Each applicant (~~shall~~) must file and maintain a surety
18 bond, approved by the director, executed by the applicant as obligor
19 and by a surety company authorized to do a surety business in this
20 state as surety, whose liability as such surety (~~shall~~) must not
21 exceed in the aggregate the penal sum of the bond. The penal sum of
22 the bond (~~shall~~) must be a minimum of thirty thousand dollars and
23 based on the annual dollar amount of loans originated or residential
24 mortgage loans serviced. The bond (~~shall~~) must run to the state of
25 Washington as obligee for the use and benefit of the state and of any
26 person or persons who may have a cause of action against the obligor
27 under this chapter. The bond (~~shall~~) must be conditioned that the
28 obligor as licensee will faithfully conform to and abide by this
29 chapter and all the rules adopted under this chapter. The bond will
30 pay to the state and any person or persons having a cause of action
31 against the obligor all moneys that may become due and owing to the
32 state and those persons under and by virtue of this chapter. The bond
33 must be continuous and may be canceled by the surety upon the surety
34 giving written notice to the director of its intent to cancel the
35 bond. The cancellation is effective forty-five days after the notice
36 is received by the director. In lieu of a surety bond, if the
37 applicant is a Washington business corporation, the applicant may
38 maintain unimpaired capital, surplus, and long-term subordinated debt
39 in an amount that at any time its outstanding promissory notes or
40 other evidences of debt (other than long-term subordinated debt) in

1 an aggregate sum do not exceed three times the aggregate amount of
2 its unimpaired capital, surplus, and long-term subordinated debt. The
3 director may define qualifying "long-term subordinated debt" for
4 purposes of this section.

5 (5) The director may waive one or more requirements of this
6 section or permit an applicant to submit other information in lieu of
7 the required information.

8 **Sec. 23.** RCW 31.04.075 and 2001 c 81 s 6 are each amended to
9 read as follows:

10 The licensee may not maintain more than one place of business
11 under the same license, but the director may issue more than one
12 license to the same licensee upon application by the licensee in a
13 form and manner established by the director.

14 Whenever a licensee wishes to change the place of business to a
15 street address other than that (~~designated in the license~~) reported
16 in the nationwide mortgage licensing system and registry, the
17 licensee (~~shall~~) must give prior written notice to the director
18 (~~as required by rule~~), pay the (~~license~~) fee, and obtain the
19 director's approval.

20 **Sec. 24.** RCW 31.04.093 and 2014 c 36 s 6 are each amended to
21 read as follows:

22 (1) The director (~~shall~~) must enforce all laws and rules
23 relating to the licensing and regulation of licensees and persons
24 subject to this chapter.

25 (2) The director may deny applications for licenses for:

26 (a) Failure of the applicant to demonstrate within its
27 application for a license that it meets the requirements for
28 licensing in RCW 31.04.045 and 31.04.055;

29 (b) Violation of an order issued by the director under this
30 chapter or another chapter administered by the director, including
31 but not limited to cease and desist orders and temporary cease and
32 desist orders;

33 (c) Revocation or suspension of a license to conduct lending or
34 residential mortgage loan servicing, or to provide settlement
35 services associated with lending or residential mortgage loan
36 servicing, by this state, another state, or by the federal government
37 within five years of the date of submittal of a complete application
38 for a license; or

1 (d) Filing an incomplete application when that incomplete
2 application has been filed with the department for sixty or more
3 days, provided that the director has given notice to the licensee
4 that the application is incomplete, informed the applicant why the
5 application is incomplete, and allowed at least twenty days for the
6 applicant to complete the application.

7 (3) The director may condition, suspend, or revoke a license
8 issued under this chapter if the director finds that:

9 (a) The licensee has failed to pay any fee due the state of
10 Washington, has failed to maintain in effect the bond or permitted
11 substitute required under this chapter, or has failed to comply with
12 any specific order or demand of the director lawfully made and
13 directed to the licensee in accordance with this chapter;

14 (b) The licensee, either knowingly or without the exercise of due
15 care, has violated any provision of this chapter or any rule adopted
16 under this chapter; ((~~or~~))

17 (c) A fact or condition exists that, if it had existed at the
18 time of the original application for the license, clearly would have
19 allowed the director to deny the application for the original
20 license(~~(. The director may revoke or suspend only the particular~~
21 ~~license with respect to which grounds for revocation or suspension~~
22 ~~may occur or exist unless the director finds that the grounds for~~
23 ~~revocation or suspension are of general application to all offices or~~
24 ~~to more than one office operated by the licensee, in which case, the~~
25 ~~director may revoke or suspend all of the licenses issued to the~~
26 ~~licensee)); or~~

27 (d) The licensee failed to comply with any directive, order, or
28 subpoena issued by the director under this chapter.

29 The director may condition, revoke, or suspend only the particular
30 license with respect to which grounds for conditioning, revocation,
31 or suspension may occur or exist or the director may condition,
32 revoke, or suspend all of the licenses issued to the licensee.

33 (4) The director may impose fines of up to one hundred dollars
34 per day, per violation, upon the licensee, its employee or loan
35 originator, or other person subject to this chapter for:

36 (a) Any violation of this chapter; or

37 (b) Failure to comply with any directive, order, or subpoena
38 issued by the director under this chapter.

1 (5) The director may issue an order directing the licensee, its
2 employee or loan originator, or other person subject to this chapter
3 to:

4 (a) Cease and desist from conducting business in a manner that is
5 injurious to the public or violates any provision of this chapter;

6 (b) Take such affirmative action as is necessary to comply with
7 this chapter; ((~~or~~))

8 (c) Make a refund or restitution to a borrower or other person
9 who is damaged as a result of a violation of this chapter;

10 (d) Refund all fees received through any violation of this
11 chapter.

12 (6) The director may issue an order removing from office or
13 prohibiting from participation in the affairs of any licensee, or
14 both, any officer, principal, employee or mortgage loan originator,
15 or any person subject to this chapter for:

16 (a) False statements or omission of material information from an
17 application for a license that, if known, would have allowed the
18 director to deny the original application for a license;

19 (b) Conviction of a gross misdemeanor involving dishonesty or
20 financial misconduct or a felony;

21 (c) Suspension or revocation of a license to engage in lending or
22 residential mortgage loan servicing, or perform a settlement service
23 related to lending or residential mortgage loan servicing, in this
24 state or another state;

25 (d) Failure to comply with any order or subpoena issued under
26 this chapter;

27 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or
28 31.04.221; or

29 (f) Failure to obtain a license for activity that requires a
30 license.

31 (7) Except to the extent prohibited by another statute, the
32 director may engage in informal settlement of complaints or
33 enforcement actions including, but not limited to, payment to the
34 department for purposes of financial literacy and education programs
35 authorized under RCW 43.320.150. If any person subject to this
36 chapter makes a payment to the department under this section, the
37 person may not advertise such payment.

38 (8) Whenever the director determines that the public is likely to
39 be substantially injured by delay in issuing a cease and desist
40 order, the director may immediately issue a temporary cease and

1 desist order. The order may direct the licensee to discontinue any
2 violation of this chapter, to take such affirmative action as is
3 necessary to comply with this chapter, and may include a summary
4 suspension of the licensee's license and may order the licensee to
5 immediately cease the conduct of business under this chapter. The
6 order (~~shall~~) becomes effective at the time specified in the order.
7 Every temporary cease and desist order (~~shall~~) must include a
8 provision that a hearing will be held upon request to determine
9 whether the order will become permanent. Such hearing (~~shall~~) must
10 be held within fourteen days of receipt of a request for a hearing
11 unless otherwise specified in chapter 34.05 RCW.

12 (9) A licensee may surrender a license by delivering to the
13 director written notice of surrender, but the surrender does not
14 affect the licensee's civil or criminal liability, if any, for acts
15 committed before the surrender, including any administrative action
16 initiated by the director to suspend or revoke a license, impose
17 fines, compel the payment of restitution to borrowers or other
18 persons, or exercise any other authority under this chapter. The
19 statute of limitations on actions not subject to RCW 4.16.160 that
20 are brought under this chapter by the director is five years.

21 (10) The revocation, suspension, or surrender of a license does
22 not impair or affect the obligation of a preexisting lawful contract
23 between the licensee and a borrower.

24 (11) Every license issued under this chapter remains in force and
25 effect until it has been surrendered, revoked, or suspended in
26 accordance with this chapter. However, the director may on his or her
27 own initiative reinstate suspended licenses or issue new licenses to
28 a licensee whose license or licenses have been revoked if the
29 director finds that the licensee meets all the requirements of this
30 chapter.

31 (12) A license issued under this chapter expires upon the
32 licensee's failure to comply with the annual assessment requirements
33 in RCW 31.04.085, and the rules. The department must provide notice
34 of the expiration to the address of record provided by the licensee.
35 On the 15th day after the department provides notice, if the
36 assessment remains unpaid, the license expires. The licensee must
37 receive notice prior to expiration and have the opportunity to stop
38 the expiration as set forth in rule.

1 NEW SECTION. **Sec. 25.** A new section is added to chapter 31.04
2 RCW to read as follows:

3 (1) A residential mortgage loan servicer licensee must maintain
4 liquidity, operating reserves, and a tangible net worth in accordance
5 with generally accepted accounting principles as determined by the
6 director. The director may adopt rules to interpret this subsection.

7 (2) A residential mortgage loan servicer that is a Fannie Mae or
8 Freddie Mac-approved servicer meets the requirements of subsection
9 (1) of this section if the liquidity, operating reserves, and
10 tangible net worth each meet the standards of the government-
11 sponsored enterprise for which they are approved. For loans serviced
12 that would not otherwise be subject to the liquidity, operating
13 reserves, and tangible net worth requirements of Fannie Mae or
14 Freddie Mac, the residential mortgage loan servicer must maintain
15 liquidity, operating reserves, and tangible net worth consistent with
16 the highest standards of the government-sponsored entity or entities
17 for which they are approved.

18 (3) If a licensee's liquidity, operating reserves, or tangible
19 net worth fall below the amount required under subsection (1) or (2)
20 of this section, the director or the director's designee may initiate
21 an action.

22 NEW SECTION. **Sec. 26.** A new section is added to chapter 31.04
23 RCW to read as follows:

24 Upon application by the director and upon a showing that the
25 interests of borrowers or creditors so requires, the superior court
26 may appoint a receiver to take over, operate, or liquidate any
27 residential mortgage loan servicer.

28 **Sec. 27.** RCW 31.04.102 and 2013 c 29 s 6 are each amended to
29 read as follows:

30 (1) For all loans made by a licensee that are not secured by a
31 lien on real property, the licensee must make disclosures in
32 compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and
33 regulation Z, 12 C.F.R. Part ((226)) 1026, and all other applicable
34 federal laws and regulations.

35 (2) For all loans made by a licensee that are secured by a lien
36 on real property, the licensee ((shall)) must provide to each
37 borrower within three business days following receipt of a loan
38 application a written disclosure containing an itemized estimation

1 and explanation of all fees and costs that the borrower is required
2 to pay in connection with obtaining a loan from the licensee. A good
3 faith estimate of a fee or cost (~~shall~~) must be provided if the
4 exact amount of the fee or cost is not available when the disclosure
5 is provided. Disclosure in a form which complies with the
6 requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and
7 regulation Z, 12 C.F.R. Part (~~226~~) 1026, the real estate settlement
8 procedures act and regulation X, 24 C.F.R. (~~Sec. 3500~~) Part 1024,
9 and all other applicable federal laws and regulations, as now or
10 hereafter amended, (~~shall be deemed to~~) constitutes compliance with
11 this disclosure requirement. Each licensee (~~shall~~) must comply with
12 all other applicable federal and state laws and regulations.

13 (3) In addition, for all loans made by the licensee that are
14 secured by a lien on real property, the licensee must provide to the
15 borrower an estimate of the annual percentage rate on the loan and a
16 disclosure of whether or not the loan contains a prepayment penalty
17 within three days of receipt of a loan application. The annual
18 percentage rate must be calculated in compliance with the truth in
19 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part
20 (~~226~~) 1024. If a licensee provides the borrower with a disclosure
21 in compliance with the requirements of the truth in lending act
22 within three business days of receipt of a loan application, then the
23 licensee has complied with this subsection. If the director
24 determines that the federal government has required a disclosure that
25 substantially meets the objectives of this subsection, then the
26 director may make a determination by rule that compliance with this
27 federal disclosure requirement constitutes compliance with this
28 subsection.

29 (4) In addition for all consumer loans made by the licensee that
30 are secured by a lien on real property, the licensee must comply with
31 RCW 19.144.020.

32 **Sec. 28.** RCW 31.04.105 and 2013 c 29 s 7 are each amended to
33 read as follows:

34 Every licensee may:

35 (1) Lend money at a rate that does not exceed twenty-five percent
36 per annum as determined by the simple interest method of calculating
37 interest owed;

38 (2) In connection with the making of a loan, charge the borrower
39 a nonrefundable, prepaid, loan origination fee not to exceed four

1 percent of the first twenty thousand dollars and two percent
2 thereafter of the principal amount of the loan advanced to or for the
3 direct benefit of the borrower, which fee may be included in the
4 principal balance of the loan;

5 (3) Agree with the borrower for the payment of fees to third
6 parties other than the licensee who provide goods or services to the
7 licensee in connection with the preparation of the borrower's loan,
8 including, but not limited to, credit reporting agencies, title
9 companies, appraisers, structural and pest inspectors, and escrow
10 companies, when such fees are actually paid by the licensee to a
11 third party for such services or purposes and may include such fees
12 in the amount of the loan. However, no charge may be collected unless
13 a loan is made, except for reasonable fees properly incurred for a
14 credit report and in connection with the appraisal of property by a
15 qualified, independent, professional, third-party appraiser selected
16 by the borrower and approved by the lender or in the absence of
17 borrower selection, selected by the lender;

18 (4) In connection with the making of a loan secured by real
19 estate, when the borrower actually obtains a loan, agree with the
20 borrower to pay a fee to a mortgage broker that is not owned by the
21 licensee or under common ownership with the licensee and that
22 performed services in connection with the origination of the loan. A
23 licensee may not receive compensation as a mortgage broker in
24 connection with any loan made by the licensee;

25 (5) Collect at the time of the loan closing up to but not
26 exceeding forty-five days of prepaid interest;

27 (6) Charge and collect a penalty of not more than ten percent of
28 any installment payment delinquent ten days or more;

29 (7) Collect from the debtor reasonable attorneys' fees, actual
30 expenses, and costs incurred in connection with the collection of a
31 delinquent debt, a repossession, or a foreclosure when a debt is
32 referred for collection to an attorney who is not a salaried employee
33 of the licensee;

34 (8) Make open-end loans as provided in this chapter;

35 (9) Charge and collect a fee for dishonored checks in an amount
36 approved by the director; and

37 (10) In accordance with Title 48 RCW, sell insurance covering
38 real and personal property, covering the life or disability or both
39 of the borrower, and covering the involuntary unemployment of the
40 borrower.

1 **Sec. 29.** RCW 31.04.145 and 2012 c 17 s 5 are each amended to
2 read as follows:

3 (1) For the purpose of discovering violations of this chapter or
4 securing information lawfully required under this chapter, the
5 director may at any time, either personally or by designees,
6 investigate or examine the loans and business and, wherever located,
7 the books, accounts, records, papers, documents, files, and other
8 information used in the business of every licensee and of every
9 person who is engaged in the business making or assisting in the
10 making of loans at interest rates authorized by this chapter, whether
11 the person acts or claims to act as principal or agent, or under or
12 without the authority of this chapter. The director or designated
13 representative:

14 (a) (~~shall~~) Must have free access to the employees, offices,
15 and places of business, books, accounts, papers, documents, other
16 information, records, files, safes, and vaults of all such persons
17 during normal business hours;

18 (b) May require the attendance of and examine under oath all
19 persons whose testimony may be required about the loans or the
20 business or the subject matter of any investigation, examination, or
21 hearing and may require such person to produce books, accounts,
22 papers, records, files, and any other information the director or
23 designated persons deem relevant to the inquiry;

24 (c) May require by directive, subpoena, or any other lawful means
25 the production of original books, accounts, papers, records, files,
26 and other information; may require that such original books,
27 accounts, papers, records, files, and other information be copied; or
28 may make copies of such original books, accounts, papers, records,
29 files, or other information;

30 (d) May issue a subpoena or subpoena duces tecum requiring
31 attendance by any person identified in this section or compelling
32 production of any books, accounts, papers, records, files, or other
33 documents or information identified in this section.

34 (2) The director (~~shall~~) must make such periodic examinations
35 of the affairs, business, office, and records of each licensee as
36 determined by rule.

37 (3) Every licensee examined or investigated by the director or
38 the director's designee (~~shall~~) must pay to the director the cost
39 of the examination or investigation of each licensed place of
40 business as determined by rule by the director.

1 (4) In order to carry out the purposes of this section, the
2 director may:

3 (a) Retain attorneys, accountants, or other professionals and
4 specialists as examiners, auditors, or investigators to conduct or
5 assist in the conduct of examinations or investigations;

6 (b) Enter into agreements or relationships with other government
7 officials or regulatory associations in order to improve efficiencies
8 and reduce regulatory burden by sharing resources, standardized or
9 uniform methods or procedures, and documents, records, information,
10 or evidence obtained under this section;

11 (c) Use, hire, contract, or employ public or privately available
12 analytical systems, methods, or software to examine or investigate
13 the licensee, individual, or person subject to chapter 120, Laws of
14 2009;

15 (d) Accept and rely on examination or investigation reports made
16 by other government officials, within or without this state;

17 (e) Accept audit reports made by an independent certified public
18 accountant for the licensee, individual, or person subject to chapter
19 120, Laws of 2009 in the course of that part of the examination
20 covering the same general subject matter as the audit and may
21 incorporate the audit report in the report of the examination, report
22 of investigation, or other writing of the director; or

23 (f) Assess the licensee, individual, or person subject to chapter
24 120, Laws of 2009 the cost of the services in (a) of this subsection.

25 **Sec. 30.** RCW 31.04.205 and 2001 c 81 s 16 are each amended to
26 read as follows:

27 (1) The director or designated persons may, at his or her
28 discretion, take such action as provided for in this chapter to
29 enforce this chapter. If the person subject to such action does not
30 appear in person or by counsel at the time and place designated for
31 any administrative hearing that may be held on the action, then the
32 person (~~shall be~~) is deemed to consent to the action. If the person
33 subject to the action consents, or if after hearing the director
34 finds by a preponderance of the evidence that any grounds for
35 sanctions under this chapter exist, then the director may impose any
36 sanction authorized by this chapter.

37 (2) The director may recover the state's costs and expenses for
38 prosecuting violations of this chapter including staff time spent
39 preparing for and attending administrative hearings and reasonable

1 attorneys' fees unless, after a hearing, the director determines no
2 violation occurred.

3 **Sec. 31.** RCW 31.04.221 and 2013 c 29 s 9 are each amended to
4 read as follows:

5 An individual defined as a mortgage loan originator (~~shall~~)
6 must not engage in the business of a mortgage loan originator without
7 first obtaining and maintaining annually a license under this
8 chapter. Each licensed mortgage loan originator must register with
9 and maintain a valid unique identifier issued by the nationwide
10 (~~multistate~~) mortgage licensing system.

11 **Sec. 32.** RCW 31.04.224 and 2012 c 17 s 6 are each amended to
12 read as follows:

13 The following are exempt from licensing as mortgage loan
14 originators under this chapter:

15 (1) Registered mortgage loan originators, or any individual
16 required to be registered while actively employed by a covered
17 financial institution as defined in regulation G, 12 C.F.R. Part
18 1007.102;

19 (2) (~~A licensed~~) An attorney licensed in Washington who
20 negotiates the terms of a residential mortgage loan on behalf of a
21 client as an ancillary matter to the attorney's representation of the
22 client, unless the attorney is compensated by a lender, a mortgage
23 broker, or other mortgage loan originator or by any agent of a
24 lender, mortgage broker, or other mortgage loan originator;

25 (3) Any individual who offers or negotiates terms of a
26 residential mortgage loan with or on behalf of an immediate family
27 member; or

28 (4) Any individual who offers or negotiates terms of a
29 residential mortgage loan secured by a dwelling that served as the
30 individual's residence.

31 **Sec. 33.** RCW 31.04.247 and 2009 c 120 s 18 are each amended to
32 read as follows:

33 (1) The director (~~shall~~) must issue and deliver a mortgage loan
34 originator license if, after investigation, the director makes at a
35 minimum the following findings:

36 (a) The applicant has paid the required license fees;

37 (b) The applicant has met the requirements of this chapter;

1 (c) The applicant has never had a mortgage loan originator
2 license revoked in any governmental jurisdiction, except that, for
3 the purposes of this subsection, a subsequent formal vacation of such
4 revocation is not a revocation;

5 (d) The applicant has not been convicted of a gross misdemeanor
6 involving dishonesty or financial misconduct or has not been
7 convicted of, or pled guilty or nolo contendere to, a felony in a
8 domestic, foreign, or military court (i) during the seven-year period
9 preceding the date of the application for licensing and registration;
10 or (ii) at any time preceding the date of application, if the felony
11 involved an act of fraud, dishonesty, breach of trust, or money
12 laundering;

13 (e) The applicant has demonstrated financial responsibility,
14 character, and general fitness such as to command the confidence of
15 the community and to warrant a determination that the mortgage loan
16 originator will operate honestly, fairly, and efficiently within the
17 purposes of chapter 120, Laws of 2009. For the purposes of this
18 section, an applicant has not demonstrated financial responsibility
19 when the applicant shows disregard in the management of his or her
20 financial condition. A determination that an individual has shown
21 disregard in the management of his or her financial condition may
22 include, but is not limited to, an assessment of: Current outstanding
23 judgments, except judgments solely as a result of medical expenses;
24 current outstanding tax liens or other government liens and filings;
25 foreclosures within the last three years; or a pattern of seriously
26 delinquent accounts within the past three years;

27 (f) The applicant has completed the prelicensing education
28 requirement as required by this chapter;

29 (g) The applicant has passed a written test that meets the test
30 requirement as required by this chapter;

31 (h) The consumer loan licensee that the applicant works for has
32 met the surety bond requirement as required by this chapter;

33 (i) The applicant has not been found to be in violation of this
34 chapter or rules adopted under this chapter;

35 (j) The mortgage loan originator licensee has completed, during
36 the calendar year preceding a licensee's annual license renewal date,
37 continuing education as required by this chapter.

38 (2) If the director finds the conditions of this section have not
39 been met, the director (~~shall~~) must not issue the mortgage loan
40 originator license. The director (~~shall~~) must notify the applicant

1 of the denial and return to the mortgage loan originator applicant
2 any remaining portion of the license fee that exceeds the
3 department's actual cost to investigate the license.

4 **Sec. 34.** RCW 31.04.277 and 2010 c 35 s 8 are each amended to
5 read as follows:

6 Each consumer loan company licensee who makes, services, or
7 brokers a loan secured by real property (~~shall~~) must submit (~~to~~)
8 call reports through the nationwide mortgage licensing system and
9 registry (~~reports of condition, which must be in the~~) in a form and
10 (~~must contain~~) containing the information (~~as~~) prescribed by the
11 director or as deemed necessary by the nationwide mortgage licensing
12 system and registry (~~may require~~).

13 **Sec. 35.** RCW 31.04.290 and 2013 c 29 s 10 are each amended to
14 read as follows:

15 (1) A residential mortgage loan servicer must comply with the
16 following requirements:

17 (a) (~~The requirements of chapter 19.148 RCW;~~

18 ~~b))~~) Any fee that is assessed by a servicer must be assessed
19 within forty-five days of the date on which the fee was incurred and
20 must be explained clearly and conspicuously in a statement mailed to
21 the borrower at the borrower's last known address no more than thirty
22 days after assessing the fee;

23 (~~e))~~) (b) All amounts received by a servicer on a residential
24 mortgage loan at the address where the borrower has been instructed
25 to make payments must be accepted and credited, or treated as
26 credited, within one business day of the date received, provided that
27 the borrower has provided sufficient information to credit the
28 account. If a servicer uses the scheduled method of accounting, any
29 regularly scheduled payment made prior to the scheduled due date must
30 be credited no later than the due date. If any payment is received
31 and not credited, or treated as credited, the borrower must be
32 notified of the disposition of the payment within ten business days
33 by mail at the borrower's last known address. The notification must
34 identify the reason the payment was not credited or treated as
35 credited to the account, as well as any actions the borrower must
36 take to make the residential mortgage loan current;

37 (~~d))~~) (c) Any servicer that exercises the authority to collect
38 escrow amounts on a residential mortgage loan held for the borrower

1 for payment of insurance, taxes, and other charges with respect to
2 the property (~~(shall)~~) must collect and make all such payments from
3 the escrow account and ensure that no late penalties are assessed or
4 other negative consequences result for the borrower;

5 (~~(e)~~) (d) The servicer (~~(shall)~~) must make reasonable attempts
6 to comply with a borrower's request for information about the
7 residential mortgage loan account and to respond to any dispute
8 initiated by the borrower about the loan account. The servicer:

9 (i) Must maintain written or electronic records of each written
10 request for information regarding a dispute or error involving the
11 borrower's account until the residential mortgage loan is paid in
12 full, sold, or otherwise satisfied; and

13 (ii) Must provide a written statement to the borrower within
14 fifteen business days of receipt of a written request from the
15 borrower. The borrower's request must include the name and account
16 number, if any, of the borrower, a statement that the account is or
17 may be in error, and sufficient detail regarding the information
18 sought by the borrower to permit the servicer to comply. At a
19 minimum, the servicer's response to the borrower's request must
20 include the following information:

21 (A) Whether the account is current or, if the account is not
22 current, an explanation of the default and the date the account went
23 into default;

24 (B) The current balance due on the residential mortgage loan,
25 including the principal due, the amount of funds, if any, held in a
26 suspense account, the amount of the escrow balance known to the
27 servicer, if any, and whether there are any escrow deficiencies or
28 shortages known to the servicer;

29 (C) The identity, address, and other relevant information about
30 the current holder, owner, or assignee of the residential mortgage
31 loan; and

32 (D) The telephone number and mailing address of a servicer
33 representative with the information and authority to answer questions
34 and resolve disputes; and

35 (~~(f)~~) (e) Promptly correct any errors and refund any fees
36 assessed to the borrower resulting from the servicer's error.

37 (2) In addition to the statement in subsection (1)(~~(e)~~) (d)(ii)
38 of this section, a borrower may request more detailed information
39 from a servicer, and the servicer must provide the information within
40 fifteen business days of receipt of a written request from the

1 borrower. The request must include the name and account number, if
2 any, of the borrower, a statement that the account is or may be in
3 error, and provide sufficient detail to the servicer regarding
4 information sought by the borrower. If requested by the borrower this
5 statement must include:

6 (a) A copy of the original note, or if unavailable, an affidavit
7 of lost note; and

8 (b) A statement that identifies and itemizes all fees and charges
9 assessed under the loan transaction and provides a full payment
10 history identifying in a clear and conspicuous manner all of the
11 debits, credits, application of and disbursement of all payments
12 received from or for the benefit of the borrower, and other activity
13 on the residential mortgage loan including escrow account activity
14 and suspense account activity, if any. The period of the account
15 history (~~shall~~) must cover at a minimum the two-year period prior
16 to the date of the receipt of the request for information. If the
17 servicer has not serviced the residential mortgage loan for the
18 entire two-year time period the servicer (~~shall~~) must provide the
19 information going back to the date on which the servicer began
20 servicing the home loan, and identify the previous servicer, if
21 known. If the servicer claims that any delinquent or outstanding sums
22 are owed on the home loan prior to the two-year period or the period
23 during which the servicer has serviced the residential mortgage loan,
24 the servicer (~~shall~~) must provide an account history beginning with
25 the month that the servicer claims any outstanding sums are owed on
26 the residential mortgage loan up to the date of the request for the
27 information. The borrower may request annually one statement free of
28 charge.

29 **Sec. 36.** RCW 31.04.520 and 2009 c 149 s 4 are each amended to
30 read as follows:

31 The borrower in a proprietary reverse mortgage transaction has
32 the same right to rescind the transaction as provided in the truth in
33 lending act, Regulation Z, 12 C.F.R. (~~Sec. 226~~) Part 1026.

34 NEW SECTION. **Sec. 37.** The following acts or parts of acts are
35 each repealed:

36 (1) RCW 19.146.290 (Licensee to provide director with annual
37 report of mortgage broker activity) and 2006 c 19 s 18; and

1 (2) RCW 19.146.330 (Loan originator—Limit on applications taken)
2 and 2006 c 19 s 22.

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