Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Insurance, Financial Services & Consumer Protection Committee

HB 3319

Brief Description: Addressing residential mortgage loans.

Sponsors: Representative Kirby.

Brief Summary of Bill

- Requires a mortgage broker to work in the borrower's best interest and in the utmost good faith. A mortgage broker is prohibited from receiving undisclosed compensation.
- Lenders making a residential mortgage loan must use sound underwriting principles.
- Requires a comparison of certain loan terms for borrowers who are refinancing a loan.
- Limits prepayment penalties to 60 days prior to the initial reset period of an adjustable rate mortgage. In no case may a penalty exceed five years after the date of the closing of the loan.

Hearing Date: 2/5/08

Staff: Jon Hedegard (786-7127).

Background:

Regulation of Financial Institutions
Financial institutions are regulated in accordance with their charters. A financial institution may be chartered in Washington, a different state, or the federal government. An institution that is chartered in Washington is subject to the regulatory authority of the Department of Financial Institutions (DFI).

State and Federal Issuances on Mortgage Lending
In October 2006 federal financial regulators published the final *Guidance on Nontraditional Mortgage Product Risks (Guidance)*. "Nontraditional" mortgage product include interest-only

---

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

mortgages, payment option adjustable rate mortgages, and other products that have negative amortization (certain products that result in monthly payments where the payment is insufficient to cover the interest due on the loan). The National Associations for State Financial Regulators adopted parallel standards to address state-licensed mortgage entities that are not subject to the federal *Guidance*.

In June 2007 federal financial regulators published the final *Statement on Subprime Mortgage Leaning (Statement)*. The *Statement* addresses the use of hybrid adjustable rate 30-year mortgages that have low rates for a two or three-year period before adjusting for 27 or 28-year period. The National Associations for State Financial Regulators adopted parallel standards to address state-licensed mortgage entities that are not subject to the federal *Statement*.

Mortgage Broker Licensing
The DFI licenses mortgage brokers and loan originators under the Mortgage Broker Practices Act (MBPA). The MBPA has provisions regarding licensing, continuing education, prohibited practices, examinations, investigations, and criminal, civil, and administrative penalties.

Summary of Bill:

The bill provides a number of definitions.

Mortgage Broker's Duty to a Borrower
A mortgage broker and any person working with or for a mortgage broker must:
- act in the borrower's best interest and in the utmost good faith toward the borrower; and
- not compromise a borrower's right or interest in favor of the mortgage broker or another's right or interest.

A mortgage broker, designated broker, loan originator, and other persons working with or for mortgage brokers must not receive any undisclosed compensation or benefit.

Sound Underwriting
Financial institutions must use sound underwriting principles, including:
- determining that a borrower has the ability to repay the loan;
- verifying a borrower's income; and
- escrowing the property taxes and property insurance associated with the residence into the loan.

Financial institutions subject to this chapter must adopt and adhere to the *Guidance* and the *Statement*.

The DFI must adopt rules to ensure that financial institutions are using sound underwriting principles.

Limitations on Prepayment Penalties
A financial institution may not make or facilitate the origination of a residential mortgage loan that includes a prepayment penalty or fee that extends beyond:
- 60 days prior to the initial reset period of an adjustable rate mortgage; or
- five years after the date of the closing of the loan.

Disclosure of Loan Features

If a borrower is refinancing a loan, the financial institution must provide the borrower with a written side-by-side chart comparing the following provisions of the proposed and the existing loans:

- the monthly payments;
- the interest rates;
- the length of the loan; and
- whether the loan is a fixed-rate mortgage or adjustable rate mortgage.

The financial institution is required to review the chart with the borrower prior to making the loan.

Appropriation: None.

Fiscal Note: Requested on February 1, 2008.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.