

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6381**

60th Legislature  
2008 Regular Session

Passed by the Senate March 10, 2008  
YEAS 35 NAYS 9

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**President of the Senate**

Passed by the House March 4, 2008  
YEAS 93 NAYS 0

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**Speaker of the House of Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6381** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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SENATE BILL 6381

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AS AMENDED BY THE HOUSE

Passed Legislature - 2008 Regular Session

State of Washington                      60th Legislature                      2008 Regular Session

By Senators Weinstein, Kauffman, Tom, Fairley, McAuliffe, Kohl-  
Welles, Kline, and Murray

Read first time 01/16/08.                      Referred to Committee on Consumer  
Protection & Housing.

1            AN ACT Relating to fiduciary duties of mortgage brokers; and adding  
2 a new section to chapter 19.146 RCW.

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

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 19.146 RCW  
5 to read as follows:

6            (1) A mortgage broker has a fiduciary relationship with the  
7 borrower. For the purposes of this section, the fiduciary duty means  
8 that the mortgage broker has the following duties:

9            (a) A mortgage broker must act in the borrower's best interest and  
10 in the utmost good faith toward the borrower, and shall disclose any  
11 and all interests to the borrower including, but not limited to,  
12 interests that may lie with the lender that are used to facilitate a  
13 borrower's request. A mortgage broker shall not accept, provide, or  
14 charge any undisclosed compensation or realize any undisclosed  
15 remuneration that inures to the benefit of the mortgage broker on an  
16 expenditure made for the borrower;

17            (b) A mortgage broker must carry out all lawful instructions  
18 provided by the borrower;

1 (c) A mortgage broker must disclose to the borrower all material  
2 facts of which the mortgage broker has knowledge that might reasonably  
3 affect the borrower's rights, interests, or ability to receive the  
4 borrower's intended benefit from the residential mortgage loan;

5 (d) A mortgage broker must use reasonable care in performing  
6 duties; and

7 (e) A mortgage broker must provide an accounting to the borrower  
8 for all money and property received from the borrower.

9 (2) A mortgage broker may contract for or collect a fee for  
10 services rendered if the fee is disclosed to the borrower in advance of  
11 the provision of those services.

12 (3) The fiduciary duty in this section does not require a mortgage  
13 broker to offer or obtain access to loan products and services other  
14 than those that are available to the mortgage broker at the time of the  
15 transaction.

16 (4) The director must adopt rules to implement this section.

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