CERTIFICATION OF ENROLLMENT

SENATE BILL 6381

Chapter 109, Laws of 2008

60th Legislature
2008 Regular Session

MORTGAGE BROKERS--FIDUCIARY DUTIES

EFFECTIVE DATE: 06/12/08

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

BRAD OWEN
President of the Senate

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

FRANK CHOPP
Speaker of the House of Representatives

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.

THOMAS HOEMANN
Secretary

Approved March 21, 2008, 1:49 p.m.

FILED
March 24, 2008

CHRISTINE GREGOIRE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to fiduciary duties of mortgage brokers; and adding a new section to chapter 19.146 RCW.

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

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

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

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

(b) A mortgage broker must carry out all lawful instructions provided by the borrower;
(c) A mortgage broker must disclose to the borrower all material facts of which the mortgage broker has knowledge that might reasonably affect the borrower's rights, interests, or ability to receive the borrower's intended benefit from the residential mortgage loan;

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

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

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

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

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

Passed by the Senate March 10, 2008.
Passed by the House March 4, 2008.
Approved by the Governor March 21, 2008.
Filed in Office of Secretary of State March 24, 2008.