
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1440

State of Washington

65th Legislature

2017 Regular Session

By House Appropriations (originally sponsored by Representatives Stonier, Stambaugh, Hudgins, Johnson, Ortiz-Self, Stokesbary, Sells, Jinkins, Ryu, Appleton, Pollet, Senn, Peterson, Kilduff, Bergquist, Stanford, Frame, Slatter, and Dolan; by request of Attorney General)

READ FIRST TIME 02/24/17.

1 AN ACT Relating to establishing a student loan bill of rights;
2 amending RCW 43.320.110, 31.04.027, 31.04.035, 31.04.093, 31.04.102,
3 31.04.145, 31.04.165, 31.04.277, and 31.04.310; reenacting and
4 amending RCW 31.04.015; adding new sections to chapter 28B.77 RCW;
5 adding new sections to chapter 31.04 RCW; creating new sections; and
6 providing an effective date.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.77
9 RCW to read as follows:

10 (1) The council shall designate a student education loan ombuds
11 within the office to provide timely assistance to any student
12 education loan borrower with any student education loan.

13 (2) The student education loan ombuds receives and reviews
14 complaints from student education loan borrowers. Complaints
15 regarding student education loan servicers licensed or subject to
16 licensing under chapter 31.04 RCW must be referred to the department
17 of financial institutions. The department of financial institutions
18 investigates complaints received by the ombuds, and from the public
19 who may also submit complaints directly to the department of
20 financial institutions.

1 (3) The student education loan ombuds, in collaboration with the
2 attorney general's office, receives, reviews, and refers to the
3 attorney general's consumer protection division all other complaints
4 from student education loan borrowers regarding student education
5 loan servicers whose activities are not subject to licensure by
6 chapter 31.04 RCW.

7 (4) The student education loan ombuds, the department of
8 financial institutions, and the office of the attorney general shall
9 confer annually regarding the student education loan servicer
10 complaints, the proper referral processes for those complaints, and
11 the reporting requirements of the ombuds under chapter 31.04 RCW and
12 this section.

13 (5) The student education loan ombuds has the following duties:

14 (a) Compile and analyze data on student education loan borrower
15 complaints received and referred to the department of financial
16 institutions and the office of the attorney general;

17 (b) Assist student education loan borrowers in understanding
18 rights and responsibilities under the terms of student education
19 loans, including reviewing the complete student education loan
20 history for any student education loan borrower who has provided
21 written consent for the review;

22 (c) Provide information to the public, agencies, legislators, and
23 others regarding the problems and concerns of student education loan
24 borrowers and make recommendations for resolving those problems and
25 concerns;

26 (d) Analyze and monitor the development and implementation of
27 federal, state, and local laws, rules, regulations, and policies
28 relating to student education loan borrowers and recommend any
29 changes the student education loan ombuds deems necessary;

30 (e) Disseminate information concerning the availability of the
31 student education loan ombuds to assist student education loan
32 borrowers and potential student education loan borrowers, as well as
33 institutions of higher education, student education loan servicers,
34 and any other participant in student education loan lending, with any
35 student education loan concerns; and

36 (f) Take any other actions necessary to fulfill the duties of the
37 student education loan ombuds as provided in chapter 31.04 RCW and
38 this section.

39 (6) By October 1, 2019, the student education loan ombuds shall
40 establish and maintain a student education loan borrower education

1 course that includes educational presentations and materials
2 regarding issues surrounding student education loans. The course must
3 include, but not be limited to, key loan terms, documentation
4 requirements, monthly payment obligations, income-based repayment
5 options, loan forgiveness, disclosure requirements, information on
6 how to find employment and earnings outcomes relevant to the
7 borrower's program of study, federal gainful employment regulations,
8 and specific benefits and options for military service members and
9 veterans.

10 (7) By December 31, 2019, the council shall submit a report to
11 the appropriate committees of the legislature having jurisdiction
12 over matters relating to financial institutions and higher education.
13 The council shall report on: (a) The implementation of this section;
14 (b) the overall effectiveness of the student education loan ombuds
15 position; and (c) the types of complaints received regarding student
16 education loan borrowing, student education loan repayments and
17 servicing, and how these complaints are resolved.

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

20 (1) The director shall establish fees by rule sufficient to cover
21 the costs of administering the department's program for student
22 education loan servicers and the student achievement council's
23 student education loan ombuds. These fees may include:

24 (a) An annual assessment specified in rule by the director paid
25 by each licensee on or before the annual assessment due date;

26 (b) A late fee for late payment of the annual assessment as
27 specified in rule by the director;

28 (c) Hourly investigation and examination fees to cover the costs
29 of any investigation or examination of the books and records of a
30 licensee or other person subject to this chapter;

31 (d) A nonrefundable application fee to cover the costs of
32 processing license applications made to the director under this
33 chapter;

34 (e) An initial license fee to cover the period from the date of
35 licensure to the end of the calendar year in which the license is
36 initially granted; and

37 (f) A transaction fee or set of transaction fees to cover the
38 administrative costs associated with processing changes in control,

1 changes of address, and other administrative changes as specified in
2 rule by the director.

3 (2) The director shall ensure that when an examination or
4 investigation, or any part of the examination or investigation, of
5 any licensee applicant or person subject to licensing under this
6 chapter requires travel and services outside this state by the
7 director or designee, the licensee applicant or person subject to
8 licensing under this chapter that is the subject of the examination
9 or investigation shall pay the actual travel expenses incurred by the
10 director or designee conducting the examination or investigation.

11 (3) All moneys, fees, and penalties collected for the
12 department's program for student education loan servicing shall be
13 deposited into the financial services regulation fund, except as
14 provided in RCW 43.320.110.

15 **Sec. 3.** RCW 43.320.110 and 2015 3rd sp.s. c 4 s 960 are each
16 amended to read as follows:

17 (1) There is created a local fund known as the "financial
18 services regulation fund" which shall consist of all moneys received
19 by the divisions of the department of financial institutions, except
20 for the division of securities which shall deposit thirteen percent
21 of all moneys received, except as provided in RCW 43.320.115, and
22 which shall be used for the purchase of supplies and necessary
23 equipment; the payment of salaries, wages, and utilities; the
24 establishment of reserves; and other incidental costs required for
25 the proper regulation of individuals and entities subject to
26 regulation by the department. The state treasurer shall be the
27 custodian of the fund. Disbursements from the fund shall be on
28 authorization of the director of financial institutions or the
29 director's designee. In order to maintain an effective expenditure
30 and revenue control, the fund shall be subject in all respects to
31 chapter 43.88 RCW, but no appropriation is required to permit
32 expenditures and payment of obligations from the fund.

33 During the 2015-2017 fiscal biennium, the legislature may
34 transfer from the financial services regulation fund to the state
35 general fund such amounts as reflect the excess fund balance of the
36 fund. During the 2015-2017 fiscal biennium, moneys from the financial
37 services regulation fund may be appropriated for the family
38 prosperity account program at the department of commerce and for the
39 operations of the department of revenue.

1 (2)(a) Beginning in the 2019-2020 fiscal year, the state
2 treasurer shall annually transfer from the fund to the student loan
3 ombuds account created in section 4 of this act, the greater of one
4 hundred seventy-five thousand dollars or twenty percent of the annual
5 assessment derived from student education loan servicing.

6 (b) The department must provide information to the state
7 treasurer regarding the amount of the annual assessment derived from
8 student education loan servicing.

9 NEW SECTION. Sec. 4. A new section is added to chapter 28B.77
10 RCW to read as follows:

11 The student education loan ombuds account is created in the
12 custody of the state treasurer. Expenditures from the account may be
13 used only for the purpose of covering the costs of administering the
14 student education loan ombuds created in section 1 of this act. Only
15 the executive director of the council or the director's designee may
16 authorize expenditures from the account. The account is subject to
17 allotment procedures under chapter 43.88 RCW, but an appropriation is
18 not required for expenditure.

19 NEW SECTION. Sec. 5. A new section is added to chapter 31.04
20 RCW to read as follows:

21 (1) In addition to complying with any applicable federal program
22 requirements, a student education loan servicer must comply with the
23 following requirements:

24 (a) Any fee that is assessed by a student education loan servicer
25 must be assessed within forty-five days of the date on which the fee
26 was incurred and must be explained clearly and conspicuously in a
27 statement mailed to the student education loan borrower at the
28 student education loan borrower's last known address no more than
29 thirty days after assessing the fee, or provided via email if the
30 student education loan borrower has assented to receive electronic
31 communications;

32 (b) All amounts received by a student education loan servicer on
33 a student education loan at the address where the student education
34 loan borrower has been instructed to make payments must be accepted
35 and credited, or treated as credited, within one business day of the
36 date received, provided that the student education loan borrower has
37 provided sufficient information to credit the account. If a student
38 education loan servicer uses the scheduled method of accounting, any

1 regularly scheduled payment made prior to the scheduled due date must
2 be credited no later than the due date. If any payment is received
3 and not credited, or treated as credited, the student education loan
4 borrower must be notified of the disposition of the payment within
5 ten business days by mail at the student education loan borrower's
6 last known address. The notification must identify the reason the
7 payment was not credited or treated as credited to the account, as
8 well as any actions the student education loan borrower must take to
9 make the student education loan current;

10 (c) The student education loan servicer must make reasonable
11 attempts to comply with a student education loan borrower's request
12 for information about the student education loan account and to
13 respond to any dispute initiated by the student education loan
14 borrower about the student education loan account. The student
15 education loan servicer:

16 (i) Must maintain written or electronic records of each written
17 request for information regarding a dispute or error involving the
18 student education loan borrower's account until the student education
19 loan is paid in full, sold, or otherwise satisfied; and

20 (ii) Must provide a written statement to the student education
21 loan borrower within fifteen business days of receipt of a written
22 request from the student education loan borrower. The student
23 education loan borrower's request must include the name and account
24 number, if any, of the student education loan borrower, a statement
25 that the account is or may be in error, and sufficient detail
26 regarding the information sought by the student education loan
27 borrower to permit the student education loan servicer to comply. At
28 a minimum, the student education loan servicer's response to the
29 student education loan borrower's request must include the following
30 information:

31 (A) Whether the account is current or, if the account is not
32 current, an explanation of the default and the date the account went
33 into default;

34 (B) The current balance due on the student education loan,
35 including the principal due, the amount of funds, if any, held in a
36 suspense account, if any, and whether there are any shortages known
37 to the student education loan servicer;

38 (C) The identity, address, and other relevant information about
39 the current holder, owner, or assignee of the student education loan;
40 and

1 (D) The telephone number and mailing address of an individual
2 employed by, or the office or department of, the student education
3 loan servicer with the information and authority to answer questions
4 and resolve disputes; and

5 (d) Promptly correct any errors and refund any fees assessed to
6 the student education loan borrower resulting from the student
7 education loan servicer's error.

8 (2) In addition, a student education loan borrower may request
9 more detailed information from a student education loan servicer, and
10 the student education loan servicer must provide the information
11 within fifteen business days of receipt of a written request from the
12 student education loan borrower. The request must include the name
13 and account number, if any, of the student education loan borrower, a
14 statement that the account is or may be in error, and provide
15 sufficient detail to the student education loan servicer regarding
16 information sought by the student education loan borrower. If
17 requested by the student education loan borrower this statement must
18 include:

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

21 (b) A statement that identifies and itemizes all fees and charges
22 assessed under the student education loan transaction and provides a
23 full payment history identifying in a clear and conspicuous manner
24 all of the debits, credits, application of and disbursement of all
25 payments received from or for the benefit of the student education
26 loan borrower, and other activity on the student education loan
27 including suspense account activity, if any. The period of the
28 account history must cover at a minimum the two-year period prior to
29 the date of the receipt of the request for information. If the
30 student education loan servicer has not serviced the student
31 education loan for the entire two-year time period the student
32 education loan servicer must provide the information going back to
33 the date on which the student education loan servicer began servicing
34 the student education loan, and identify the previous student
35 education loan servicer, if known. If the student education loan
36 servicer claims that any delinquent or outstanding sums are owed on
37 the student education loan prior to the two-year period or the period
38 during which the student education loan servicer has serviced the
39 student education loan, the student education loan servicer must
40 provide an account history beginning with the month that the student

1 education loan servicer claims any outstanding sums are owed on the
2 student education loan up to the date of the request for the
3 information. The student education loan borrower may request annually
4 one statement free of charge.

5 (3) When acquiring servicing rights from another student
6 education loan servicer, a receiving student education loan servicer
7 must:

8 (a) Notify the student education loan borrowers no more than
9 sixty days and no less than forty-five days before the effective date
10 of the transfer of the student education loans to provide them with:

11 (i) The effective date of the transfer of servicing, and the date
12 at which the receiving student education loan servicer will begin to
13 accept payments relating to the student education loan, if different;

14 (ii) The name, address, and toll-free telephone number for an
15 individual employed by, or the office or department of, both the
16 transferring and receiving student education loan servicers at which
17 the student education loan borrower can obtain answers to inquiries;

18 (iii) A statement that the transfer of servicing does not affect
19 any term or condition of the student education loan other than the
20 entity servicing the student education loan;

21 (iv) Information about how to obtain a payment history from both
22 the transferring or receiving student education loan servicer;

23 (v) A notification indicating whether an alternative repayment
24 plan or loan consolidation application is pending; and

25 (vi) Information about how to submit a complaint to the United
26 States department of education and the student education loan ombuds
27 in the event of a servicing error; and

28 (b) Continue processing student education loan modification
29 requests received by the receiving student education loan servicer or
30 the transferring student education loan servicer during the transfer
31 process.

32 (4) When transferring or selling the servicing of student
33 education loans a transferring student education loan servicer must:

34 (a) Notify the student education loan borrowers no more than
35 sixty days and no less than forty-five days before the effective date
36 of the transfer of the student education loans to provide them with:

37 (i) The effective date of the transfer of servicing, and the date
38 at which the transferring student education loan servicer will no
39 longer accept payments relating to the student education loan, if
40 different;

1 (ii) The name, address, and toll-free telephone number for an
2 individual employed by, or the office or department of, both the
3 transferring and receiving student education loan servicers at which
4 the student education loan borrower can obtain answers to inquiries;
5 and

6 (iii) A statement that the transfer of servicing does not affect
7 any term or condition of the student education loan other than the
8 entity servicing the student education loan; and

9 (b) Inform the receiving student education loan servicer if a
10 student education loan modification request is pending.

11 (5) Licensees servicing student education loans shall provide,
12 free of charge on the licensee's web site, information or links to
13 information regarding repayment and loan forgiveness options that may
14 be available to student education loan borrowers, as well as the
15 availability of the student education loan ombuds to provide
16 assistance. This information or these links shall be provided via
17 written correspondence or email at least once per calendar year.

18 (6) In addition to keeping books and records in compliance with
19 this chapter and section 1 of this act, licensees servicing student
20 education loans shall collect, maintain, and report to the department
21 specific information about the student education loans in the
22 licensee's portfolio. Such information shall include, but not be
23 limited by: Student education loan volume, default, refinance and
24 modification information, student education loan type (subsidized,
25 deferred, etc.) information, and collection practices.

26 (7) The director may adopt all rules necessary to implement this
27 section. The director may, at his or her discretion, waive
28 applicability of the provisions of this section when the director
29 determines it necessary to facilitate commerce and protect consumers.

30 NEW SECTION. **Sec. 6.** A new section is added to chapter 31.04
31 RCW to read as follows:

32 A student education loan servicer licensee must maintain
33 liquidity, operating reserves, and a tangible net worth in accordance
34 with generally accepted accounting principles as determined by the
35 director. The director may adopt rules to implement this section.

36 NEW SECTION. **Sec. 7.** A new section is added to chapter 31.04
37 RCW to read as follows:

1 (1) In addition to complying with federal and state law,
2 including all requirements under chapter 18.28 RCW and this chapter,
3 any person providing third-party student education loan modification
4 services must:

5 (a) Provide a written disclosure summary in a form to be
6 prescribed by the department;

7 (b) Not charge or receive any money or other valuable
8 consideration prior to full and complete performance of the services
9 the person has agreed to perform for the borrower;

10 (c) Not charge total fees in excess of usual and customary
11 charges, or total fees that are not reasonable in light of the
12 service provided; and

13 (d) Immediately inform the borrower in writing if the owner or
14 servicer of the student education loan requires additional
15 information or documentation from the borrower, or if it becomes
16 apparent that a modification, refinancing, consolidation, or change
17 in repayment plans on the student education loan is not possible.

18 (2) As a condition for providing third-party student education
19 loan modification services, a person providing the services shall
20 not:

21 (a) Require or encourage a borrower to sign a waiver of his or
22 her legal defenses, counterclaims, and other legal rights against the
23 person for future acts;

24 (b) Represent, expressly or by implication, that funds paid to
25 the person providing third-party student education loan modification
26 services will be applied to the borrower's student education loan
27 balance;

28 (c) Require or encourage a borrower to waive his or her right to
29 receive notice before the owner or servicer of the loan initiates
30 collection proceedings;

31 (d) Require or encourage a borrower to agree to pay charges not
32 enumerated in any agreement between the borrower and the lender,
33 servicer, or owner of the loan;

34 (e) Require or encourage a borrower to:

35 (i) Cease communication with the lender, investor, loan servicer,
36 or United States department of education; or

37 (ii) Change his or her contact information to that of the third-
38 party education loan servicer or any other third party;

39 (f) Misrepresent, expressly or by implication, the availability,
40 performance, cost, or characteristics of any alternative to for-

1 profit third-party student education loan modification services
2 through which the consumer can obtain assistance with refinancing of,
3 consolidation of, or change of repayment plans for a student
4 education loan, including communicating directly with the servicer,
5 applying through or communicating with the United States department
6 of education, communicating with any other government agency, or
7 using any nonprofit agency or program;

8 (g) Misrepresent, expressly or by implication, the amount of
9 money or the percentage of the debt amount a student education loan
10 borrower may save by engaging the person's third-party student
11 education loan modification services;

12 (h) Misrepresent, expressly or by implication, the total cost to
13 purchase the third-party student education loan modification
14 services;

15 (i) Misrepresent, expressly or by implication, the terms,
16 conditions, limitations, contingencies, or requirements to reapply or
17 recertify eligibility for any refinancing of, consolidation of, or
18 change of repayment plans for a student education loan;

19 (j) Misrepresent, expressly or by implication, any affiliation,
20 connection, or relationship with the United States department of
21 education or its contracted entities;

22 (k) Change a borrower's login information, personal
23 identification number, or contact information on file with a servicer
24 or the United States department of education, including without
25 limitation telephone number, address, and email address.

26 (3) In any inconsistency between this chapter and chapter 18.28
27 RCW, this chapter shall control.

28 **Sec. 8.** RCW 31.04.015 and 2015 c 229 s 19 are each reenacted and
29 amended to read as follows:

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

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

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

4 (3) "Applicant" means a person applying for a license under this
5 chapter.

6 (4) "Borrower" means any person who consults with or retains a
7 licensee or person subject to this chapter in an effort to obtain, or
8 who seeks information about obtaining a loan, regardless of whether
9 that person actually obtains such a loan. "Borrower" includes a
10 person who consults with or retains a licensee or person subject to
11 this chapter in an effort to obtain, or who seeks information about
12 obtaining a residential mortgage loan modification, regardless of
13 whether that person actually obtains a residential mortgage loan
14 modification.

15 (5) "Department" means the state department of financial
16 institutions.

17 (6) "Depository institution" has the same meaning as in section 3
18 of the federal deposit insurance act on July 26, 2009, and includes
19 credit unions.

20 (7) "Director" means the director of financial institutions.

21 (8) "Educational institution" means any entity that is a degree-
22 granting institution as defined in RCW 28B.85.010, a private
23 vocational school as defined in RCW 28C.10.020, or school as defined
24 in RCW 18.16.020.

25 (9) "Federal banking agencies" means the board of governors of
26 the federal reserve system, comptroller of the currency, director of
27 the office of thrift supervision, national credit union
28 administration, and federal deposit insurance corporation.

29 ((+9)) (10) "Individual servicing a mortgage loan" means a
30 person on behalf of a lender or servicer licensed by this state, who
31 collects or receives payments including payments of principal,
32 interest, escrow amounts, and other amounts due, on existing
33 obligations due and owing to the licensed lender or servicer for a
34 residential mortgage loan when the borrower is in default, or in
35 reasonably foreseeable likelihood of default, working with the
36 borrower and the licensed lender or servicer, collects data and makes
37 decisions necessary to modify either temporarily or permanently
38 certain terms of those obligations, or otherwise finalizing
39 collection through the foreclosure process.

1 ~~((10))~~ (11) "Insurance" means life insurance, disability
2 insurance, property insurance, involuntary unemployment insurance,
3 and such other insurance as may be authorized by the insurance
4 commissioner.

5 ~~((11))~~ (12) "License" means a single license issued under the
6 authority of this chapter.

7 ~~((12))~~ (13) "Licensee" means a person to whom one or more
8 licenses have been issued. "Licensee" also means any person, whether
9 located within or outside of this state, who fails to obtain a
10 license required by this chapter.

11 ~~((13))~~ (14) "Loan" means a sum of money lent at interest or for
12 a fee or other charge and includes both open-end and closed-end loan
13 transactions.

14 ~~((14))~~ (15) "Loan processor or underwriter" means an individual
15 who performs clerical or support duties as an employee at the
16 direction of and subject to the supervision and instruction of a
17 person licensed, or exempt from licensing, under this chapter.

18 ~~((15))~~ (16) "Making a loan" means advancing, offering to
19 advance, or making a commitment to advance funds to a borrower for a
20 loan.

21 ~~((16))~~ (17) "Mortgage broker" means the same as defined in RCW
22 19.146.010, except that for purposes of this chapter, a licensee or
23 person subject to this chapter cannot receive compensation as both a
24 consumer loan licensee making the loan and as a consumer loan
25 licensee acting as the mortgage broker in the same loan transaction.

26 ~~((17))~~ (18)(a) "Mortgage loan originator" means an individual
27 who for compensation or gain (i) takes a residential mortgage loan
28 application, or (ii) offers or negotiates terms of a residential
29 mortgage loan. "Mortgage loan originator" also includes individuals
30 who hold themselves out to the public as able to perform any of these
31 activities. "Mortgage loan originator" does not include any
32 individual who performs purely administrative or clerical tasks; and
33 does not include a person or entity solely involved in extensions of
34 credit relating to timeshare plans, as that term is defined in
35 section 101(53D) of Title 11, United States Code. For the purposes of
36 this definition, administrative or clerical tasks means the receipt,
37 collection, and distribution of information common for the processing
38 of a loan in the mortgage industry and communication with a consumer
39 to obtain information necessary for the processing of a residential
40 mortgage loan.

1 (b) "Mortgage loan originator" also includes an individual who
2 for direct or indirect compensation or gain performs residential
3 mortgage loan modification services or holds himself or herself out
4 as being able to perform residential mortgage loan modification
5 services.

6 (c) "Mortgage loan originator" does not include a person or
7 entity that only performs real estate brokerage activities and is
8 licensed or registered in accordance with applicable state law,
9 unless the person or entity is compensated by a lender, a mortgage
10 broker, or other mortgage loan originator or by any agent of such a
11 lender, mortgage broker, or other mortgage loan originator. For the
12 purposes of chapter 120, Laws of 2009, the term "real estate
13 brokerage activity" means any activity that involves offering or
14 providing real estate brokerage services to the public, including:

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

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

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

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

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

28 (d) This subsection does not apply to employees of a housing
29 counseling agency approved by the United States department of housing
30 and urban development unless the employees of a housing counseling
31 agency are required under federal law to be individually licensed as
32 mortgage loan originators.

33 ~~((18))~~ (19) "Nationwide mortgage licensing system" means a
34 licensing system developed and maintained by the conference of state
35 bank supervisors for licensing and registration.

36 ~~((19))~~ (20) "Officer" means an official appointed by the
37 company for the purpose of making business decisions or corporate
38 decisions.

1 ~~((20))~~ (21) "Person" includes individuals, partnerships,
2 associations, limited liability companies, limited liability
3 partnerships, trusts, corporations, and all other legal entities.

4 ~~((21))~~ (22) "Principal" means any person who controls, directly
5 or indirectly through one or more intermediaries, alone or in concert
6 with others, a ten percent or greater interest in a partnership;
7 company; association or corporation; or a limited liability company,
8 and the owner of a sole proprietorship.

9 ~~((22))~~ (23) "Registered mortgage loan originator" means any
10 individual who meets the definition of mortgage loan originator and
11 is an employee of a depository institution; a subsidiary that is
12 owned and controlled by a depository institution and regulated by a
13 federal banking agency; or an institution regulated by the farm
14 credit administration and is registered with, and maintains a unique
15 identifier through, the nationwide mortgage licensing system.

16 ~~((23))~~ (24) "Residential mortgage loan" means any loan
17 primarily for personal, family, or household use that is secured by a
18 mortgage, deed of trust, or other consensual security interest on a
19 dwelling, as defined in the truth in lending act, or residential real
20 estate upon which is constructed or intended to be constructed a
21 dwelling.

22 ~~((24))~~ (25) "Residential mortgage loan modification" means a
23 change in one or more of a residential mortgage loan's terms or
24 conditions. Changes to a residential mortgage loan's terms or
25 conditions include but are not limited to forbearances; repayment
26 plans; changes in interest rates, loan terms, or loan types;
27 capitalizations of arrearages; or principal reductions.

28 ~~((25))~~ (26) "Residential mortgage loan modification services"
29 includes negotiating, attempting to negotiate, arranging, attempting
30 to arrange, or otherwise offering to perform a residential mortgage
31 loan modification for compensation or gain. "Residential mortgage
32 loan modification services" also includes the collection of data for
33 submission to an entity performing mortgage loan modification
34 services.

35 ~~((26))~~ (27) "S.A.F.E. act" means the secure and fair
36 enforcement for mortgage licensing act of 2008, Title V of the
37 housing and economic recovery act of 2008 ("HERA"), P.L. 110-289,
38 effective July 30, 2008.

39 ~~((27))~~ (28) "Senior officer" means an officer of a licensee at
40 the vice president level or above.

1 ~~((+28+))~~ (29) "Service or servicing a loan" means on behalf of
2 the lender or investor of a residential mortgage loan: (a) Collecting
3 or receiving payments on existing obligations due and owing to the
4 lender or investor, including payments of principal, interest, escrow
5 amounts, and other amounts due; (b) collecting fees due to the
6 servicer; (c) working with the borrower and the licensed lender or
7 servicer to collect data and make decisions necessary to modify
8 certain terms of those obligations either temporarily or permanently;
9 (d) otherwise finalizing collection through the foreclosure process;
10 or (e) servicing a reverse mortgage loan.

11 ~~((+29+))~~ (30) "Service or servicing a reverse mortgage loan"
12 means, pursuant to an agreement with the owner of a reverse mortgage
13 loan: Calculating, collecting, or receiving payments of interest or
14 other amounts due; administering advances to the borrower; and
15 providing account statements to the borrower or lender.

16 ~~((+30+))~~ (31) "Simple interest method" means the method of
17 computing interest payable on a loan by applying the annual
18 percentage interest rate or its periodic equivalent to the unpaid
19 balances of the principal of the loan outstanding for the time
20 outstanding.

21 (a) On a nonresidential loan each payment is applied first to any
22 unpaid penalties, fees, or charges, then to accumulated interest, and
23 the remainder of the payment applied to the unpaid balance of the
24 principal until paid in full. In using such method, interest must not
25 be payable in advance nor compounded. The prohibition on compounding
26 interest does not apply to reverse mortgage loans made in accordance
27 with the Washington state reverse mortgage act. The director may
28 adopt by rule a more detailed explanation of the meaning and use of
29 this method.

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

32 ~~((+31+))~~ (32) "Student education loan" means any loan solely for
33 personal use to finance postsecondary education and costs of
34 attendance at an educational institution. A student education loan
35 includes a loan made to refinance a student education loan. A student
36 education loan does not include an extension of credit under an open-
37 end consumer credit plan, a reverse mortgage transaction, a
38 residential mortgage transaction, or any other loan that is secured
39 by real property or a dwelling.

1 (33) "Student education loan borrower" means: (a) Any resident of
2 this state who has received or agreed to pay a student education
3 loan; or (b) any person who shares responsibility with such resident
4 for repaying the student education loan.

5 (34) "Student education loan servicer" means any person, wherever
6 located, responsible for the servicing of any student education loan
7 to any student education loan borrower.

8 (35) "Student education loan servicing" or "service a student
9 education loan" means:

10 (a)(i) Receiving any scheduled periodic payments from a student
11 education loan borrower or notification of such payments; and

12 (ii) Applying payments to the student education loan borrower's
13 account pursuant to the terms of the student education loan or of the
14 contract governing the servicing;

15 (b) During a period when no payment is required on a student
16 education loan:

17 (i) Maintaining account records for the loan; and

18 (ii) Communicating with the student education loan borrower or
19 the borrower's designated representative regarding the student
20 education loan, as the student education loan's holder or on behalf
21 of the student education loan's holder; or

22 (c) Interacting with a student education loan borrower, including
23 activities to help prevent default on obligations arising from
24 student education loans, to facilitate the activities described in
25 (a) or (b) of this subsection.

26 (36) "Third-party residential mortgage loan modification
27 services" means residential mortgage loan modification services
28 offered or performed by any person other than the owner or servicer
29 of the loan.

30 ~~((+32+))~~ (37) "Third-party service provider" means any person
31 other than the licensee or a mortgage broker who provides goods or
32 services to the licensee or borrower in connection with the
33 preparation of the borrower's loan and includes, but is not limited
34 to, credit reporting agencies, real estate brokers or salespersons,
35 title insurance companies and agents, appraisers, structural and pest
36 inspectors, or escrow companies.

37 ~~((+33+))~~ (38) "Third-party student education loan modification
38 services" means for compensation or other consideration working with
39 the student education loan borrower or his or her representative to
40 collect data or prepare or submit documents, or collecting data and

1 preparing or submitting documents, to modify, refinance, or
2 consolidate the loan, or change repayment plans.

3 (39) "Unique identifier" means a number or other identifier
4 assigned by protocols established by the nationwide mortgage
5 licensing system.

6 NEW SECTION. **Sec. 9.** A new section is added to chapter 31.04
7 RCW to read as follows:

8 (1) The following are subject to the student education loan
9 servicer requirements in this chapter, but are exempt from having to
10 obtain and maintain a license in accordance with this chapter:

11 (a) Trade, technical, vocational, or apprentice programs that
12 teach skills related to a specific job, and postsecondary schools
13 that service their own student education loans;

14 (b) Persons servicing five or fewer student education loans;

15 (c) The United States or any department or agency thereof, to the
16 extent it is servicing student education loans that it originated;
17 and

18 (d) Any state, county, city, or any department or agency thereof,
19 but only to the extent it is servicing student education loans that
20 it originated.

21 (2) The department may refer to the attorney general's consumer
22 protection division complaints regarding entities subject to this
23 section.

24 **Sec. 10.** RCW 31.04.027 and 2015 c 229 s 21 are each amended to
25 read as follows:

26 (1) It is a violation of this chapter for a licensee, its
27 officers, directors, employees, or independent contractors, or any
28 other person subject to this chapter to:

29 ~~((1))~~ (a) Directly or indirectly employ any scheme, device, or
30 artifice to defraud or mislead any borrower, to defraud or mislead
31 any lender, or to defraud or mislead any person;

32 ~~((2))~~ (b) Directly or indirectly engage in any unfair or
33 deceptive practice toward any person;

34 ~~((3))~~ (c) Directly or indirectly obtain property by fraud or
35 misrepresentation;

36 ~~((4))~~ (d) Solicit or enter into a contract with a borrower that
37 provides in substance that the consumer loan company may earn a fee
38 or commission through the consumer loan company's best efforts to

1 obtain a loan even though no loan is actually obtained for the
2 borrower;

3 ~~((+5))~~ (e) Solicit, advertise, or enter into a contract for
4 specific interest rates, points, or other financing terms unless the
5 terms are actually available at the time of soliciting, advertising,
6 or contracting;

7 ~~((+6))~~ (f) Fail to make disclosures to loan applicants as
8 required by RCW 31.04.102 and any other applicable state or federal
9 law;

10 ~~((+7))~~ (g) Make, in any manner, any false or deceptive statement
11 or representation with regard to the rates, points, or other
12 financing terms or conditions for a residential mortgage loan or
13 engage in bait and switch advertising;

14 ~~((+8))~~ (h) Negligently make any false statement or knowingly and
15 willfully make any omission of material fact in connection with any
16 reports filed with the department by a licensee or in connection with
17 any investigation conducted by the department;

18 ~~((+9))~~ (i) Make any payment, directly or indirectly, to any
19 appraiser of a property, for the purposes of influencing the
20 independent judgment of the appraiser with respect to the value of
21 the property;

22 ~~((+10))~~ (j) Accept from any borrower at or near the time a loan
23 is made and in advance of any default an execution of, or induce any
24 borrower to execute, any instrument of conveyance, not including a
25 mortgage or deed of trust, to the lender of any ownership interest in
26 the borrower's primary dwelling that is the security for the
27 borrower's loan;

28 ~~((+11))~~ (k) Obtain at the time of closing a release of future
29 damages for usury or other damages or penalties provided by law or a
30 waiver of the provisions of this chapter;

31 ~~((+12))~~ (l) Advertise any rate of interest without conspicuously
32 disclosing the annual percentage rate implied by that rate of
33 interest;

34 ~~((+13))~~ (m) Violate any applicable state or federal law relating
35 to the activities governed by this chapter; or

36 ~~((+14))~~ (n) Make or originate loans from any unlicensed
37 location.

38 (2) It is a violation of this chapter for a student education
39 loan servicer to:

40 (a) Conduct licensable activity from any unlicensed location;

1 (b) Misrepresent or omit any material information in connection
2 with the servicing of a student education loan including, but not
3 limited to, misrepresenting the amount, nature, or terms of any fee
4 or payment due or claimed to be due on a student education loan, the
5 terms and conditions of the loan agreement, or the borrower's
6 obligations under the loan;

7 (c) Provide inaccurate information to a credit bureau, thereby
8 harming a student education loan borrower's creditworthiness,
9 including failing to report both the favorable and unfavorable
10 payment history of the student education loan;

11 (d) Fail to report to a consumer credit bureau at least annually
12 if the student education loan servicer regularly reports information
13 to a credit bureau;

14 (e) Refuse to communicate with an authorized representative of
15 the student education loan borrower who provides a written
16 authorization signed by the student education loan borrower. However,
17 the student education loan servicer may adopt procedures reasonably
18 related to verifying that the representative is in fact authorized to
19 act on behalf of the student education loan borrower;

20 (f) Refuse to communicate with the student education loan
21 borrower or an authorized representative of the student education
22 loan borrower; or

23 (g) Apply payments made by a borrower to the outstanding balance
24 of a student education loan, or allocate a payment across a group of
25 student education loans, in a manner that does not conform with the
26 borrower's stated intent. However, this subsection (2)(g) does not
27 require application of a student education loan in a manner contrary
28 to the express terms of the promissory note.

29 **Sec. 11.** RCW 31.04.035 and 2013 c 29 s 4 are each amended to
30 read as follows:

31 (1) No person may make secured or unsecured loans of money or
32 things in action, or extend credit, or service or modify the terms or
33 conditions of residential mortgage loans, or service or modify
34 student education loans, without first obtaining and maintaining a
35 license in accordance with this chapter, except those exempt under
36 RCW 31.04.025 or not subject to licensure under section 9 of this
37 act.

38 (2) If a transaction violates subsection (1) of this section,
39 any:

1 (a) Nonthird-party fees charged in connection with the
2 origination of the residential mortgage loan must be refunded to the
3 borrower, excluding interest charges; and

4 (b) Fees or interest charged in the making of a nonresidential
5 loan must be refunded to the borrower.

6 **Sec. 12.** RCW 31.04.093 and 2015 c 229 s 24 are each amended to
7 read as follows:

8 (1) The director must enforce all laws and rules relating to the
9 licensing and regulation of licensees and persons subject to this
10 chapter.

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

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

15 (b) Violation of an order issued by the director under this
16 chapter or another chapter administered by the director, including
17 but not limited to cease and desist orders and temporary cease and
18 desist orders;

19 (c) Revocation or suspension of a license to conduct lending
20 ~~((~~or~~))~~, residential mortgage loan servicing, student education loan
21 servicing, or to provide settlement services associated with lending
22 ~~((~~or~~))~~, residential mortgage loan servicing, or student education
23 loan servicing, by this state, another state, or by the federal
24 government within five years of the date of submittal of a complete
25 application for a license; or

26 (d) Filing an incomplete application when that incomplete
27 application has been filed with the department for sixty or more
28 days, provided that the director has given notice to the licensee
29 that the application is incomplete, informed the applicant why the
30 application is incomplete, and allowed at least twenty days for the
31 applicant to complete the application.

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

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

1 (b) The licensee, either knowingly or without the exercise of due
2 care, has violated any provision of this chapter or any rule adopted
3 under this chapter;

4 (c) A fact or condition exists that, if it had existed at the
5 time of the original application for the license, clearly would have
6 allowed the director to deny the application for the original
7 license; or

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

10 The director may condition, revoke, or suspend only the particular
11 license with respect to which grounds for conditioning, revocation,
12 or suspension may occur or exist or the director may condition,
13 revoke, or suspend all of the licenses issued to the licensee.

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

17 (a) Any violation of this chapter; or

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

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

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

25 (b) Take such affirmative action as is necessary to comply with
26 this chapter;

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

29 (d) Refund all fees received through any violation of this
30 chapter.

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

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

38 (b) Conviction of a gross misdemeanor involving dishonesty or
39 financial misconduct or a felony;

1 (c) Suspension or revocation of a license to engage in lending
2 (~~(or)~~), residential mortgage loan servicing, student education loan
3 servicing, or perform a settlement service related to lending or
4 residential mortgage loan servicing, in this state or another state;

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

7 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or
8 31.04.221; or

9 (f) Failure to obtain a license for activity that requires a
10 license.

11 (7) Except to the extent prohibited by another statute, the
12 director may engage in informal settlement of complaints or
13 enforcement actions including, but not limited to, payment to the
14 department for purposes of financial literacy and education programs
15 authorized under RCW 43.320.150. If any person subject to this
16 chapter makes a payment to the department under this section, the
17 person may not advertise such payment.

18 (8) Whenever the director determines that the public is likely to
19 be substantially injured by delay in issuing a cease and desist
20 order, the director may immediately issue a temporary cease and
21 desist order. The order may direct the licensee to discontinue any
22 violation of this chapter, to take such affirmative action as is
23 necessary to comply with this chapter, and may include a summary
24 suspension of the licensee's license and may order the licensee to
25 immediately cease the conduct of business under this chapter. The
26 order becomes effective at the time specified in the order. Every
27 temporary cease and desist order must include a provision that a
28 hearing will be held upon request to determine whether the order will
29 become permanent. Such hearing must be held within fourteen days of
30 receipt of a request for a hearing unless otherwise specified in
31 chapter 34.05 RCW.

32 (9) A licensee may surrender a license by delivering to the
33 director written notice of surrender, but the surrender does not
34 affect the licensee's civil or criminal liability, if any, for acts
35 committed before the surrender, including any administrative action
36 initiated by the director to suspend or revoke a license, impose
37 fines, compel the payment of restitution to borrowers or other
38 persons, or exercise any other authority under this chapter. The
39 statute of limitations on actions not subject to RCW 4.16.160 that
40 are brought under this chapter by the director is five years.

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

4 (11) Every license issued under this chapter remains in force and
5 effect until it has been surrendered, revoked, or suspended in
6 accordance with this chapter. However, the director may on his or her
7 own initiative reinstate suspended licenses or issue new licenses to
8 a licensee whose license or licenses have been revoked if the
9 director finds that the licensee meets all the requirements of this
10 chapter.

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

19 **Sec. 13.** RCW 31.04.102 and 2015 c 229 s 27 are each amended to
20 read as follows:

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

26 (2) For all loans made by a licensee that are secured by a lien
27 on real property, the licensee must provide to each borrower within
28 three business days following receipt of a loan application a written
29 disclosure containing an itemized estimation and explanation of all
30 fees and costs that the borrower is required to pay in connection
31 with obtaining a loan from the licensee. A good faith estimate of a
32 fee or cost must be provided if the exact amount of the fee or cost
33 is not available when the disclosure is provided. Disclosure in a
34 form which complies with the requirements of the truth in lending
35 act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 1026, the
36 real estate settlement procedures act and regulation X, 24 C.F.R.
37 Part 1024, and all other applicable federal laws and regulations, as
38 now or hereafter amended, constitutes compliance with this disclosure

1 requirement. Each licensee must comply with all other applicable
2 federal and state laws and regulations.

3 (3) In addition, for all loans made by the licensee that are
4 secured by a lien on real property, the licensee must provide to the
5 borrower an estimate of the annual percentage rate on the loan and a
6 disclosure of whether or not the loan contains a prepayment penalty
7 within three days of receipt of a loan application. The annual
8 percentage rate must be calculated in compliance with the truth in
9 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part
10 1024. If a licensee provides the borrower with a disclosure in
11 compliance with the requirements of the truth in lending act within
12 three business days of receipt of a loan application, then the
13 licensee has complied with this subsection. If the director
14 determines that the federal government has required a disclosure that
15 substantially meets the objectives of this subsection, then the
16 director may make a determination by rule that compliance with this
17 federal disclosure requirement constitutes compliance with this
18 subsection.

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

22 (5) In addition for all consumer loans made by a licensee that
23 are a refinance of a federal student education loan, the licensee
24 must provide to the borrower a clear and conspicuous disclosure that
25 some repayment options available under federal student education loan
26 programs, including without limitation income-driven repayment plans,
27 will no longer be available to the borrower if he or she chooses to
28 refinance federal student education loans with one or more consumer
29 loans.

30 **Sec. 14.** RCW 31.04.145 and 2015 c 229 s 29 are each amended to
31 read as follows:

32 (1) For the purpose of discovering violations of this chapter or
33 securing information lawfully required under this chapter, the
34 director may at any time, either personally or by designees,
35 investigate or examine the loans and business and, wherever located,
36 the books, accounts, records, papers, documents, files, and other
37 information used in the business of every licensee and of every
38 person (~~who is engaged in the business making or assisting in the~~
39 ~~making of loans at interest rates authorized by~~) subject to this

1 chapter, whether the person acts or claims to act as principal or
2 agent, or under or without the authority of this chapter. The
3 director or designated representative:

4 (a) Must have free access to the employees, offices, and places
5 of business, books, accounts, papers, documents, other information,
6 records, files, safes, and vaults of all such persons during normal
7 business hours;

8 (b) May require the attendance of and examine under oath all
9 persons whose testimony may be required about the loans or the
10 business or the subject matter of any investigation, examination, or
11 hearing and may require such person to produce books, accounts,
12 papers, records, files, and any other information the director or
13 designated persons deem relevant to the inquiry;

14 (c) May require by directive, subpoena, or any other lawful means
15 the production of original books, accounts, papers, records, files,
16 and other information; may require that such original books,
17 accounts, papers, records, files, and other information be copied; or
18 may make copies of such original books, accounts, papers, records,
19 files, or other information;

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

24 (2) The director must make such periodic examinations of the
25 affairs, business, office, and records of each licensee as determined
26 by rule.

27 (3) Every licensee examined or investigated by the director or
28 the director's designee must pay to the director the cost of the
29 examination or investigation of each licensed place of business as
30 determined by rule by the director.

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

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

36 (b) Enter into agreements or relationships with other government
37 officials or regulatory associations in order to improve efficiencies
38 and reduce regulatory burden by sharing resources, standardized or
39 uniform methods or procedures, and documents, records, information,
40 or evidence obtained under this section;

1 (c) Use, hire, contract, or employ public or privately available
2 analytical systems, methods, or software to examine or investigate
3 the licensee, individual, or person subject to chapter 120, Laws of
4 2009;

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

7 (e) Accept audit reports made by an independent certified public
8 accountant for the licensee, individual, or person subject to chapter
9 120, Laws of 2009 in the course of that part of the examination
10 covering the same general subject matter as the audit and may
11 incorporate the audit report in the report of the examination, report
12 of investigation, or other writing of the director; or

13 (f) Assess the licensee, individual, or person subject to chapter
14 120, Laws of 2009 the cost of the services in (a) of this subsection.

15 **Sec. 15.** RCW 31.04.165 and 2010 c 35 s 7 are each amended to
16 read as follows:

17 (1) The director has the power, and broad administrative
18 discretion, to administer and interpret this chapter to facilitate
19 the delivery of financial services to the citizens of this state by
20 (~~consumer loan companies, residential mortgage loan servicers, and~~
21 ~~mortgage loan originators~~) persons subject to this chapter. The
22 director shall adopt all rules necessary to administer this chapter
23 and to ensure complete and full disclosure by licensees of lending
24 transactions governed by this chapter.

25 (2) If it appears to the director that a licensee is conducting
26 business in an injurious manner or is violating any provision of this
27 chapter, the director may order or direct the discontinuance of any
28 such injurious or illegal practice.

29 (3) For purposes of this section, "conducting business in an
30 injurious manner" means conducting business in a manner that violates
31 any provision of this chapter, or that creates the reasonable
32 likelihood of a violation of any provision of this chapter.

33 (4) The director or designated persons, with or without prior
34 administrative action, may bring an action in superior court to
35 enjoin the acts or practices that constitute violations of this
36 chapter and to enforce compliance with this chapter or any rule or
37 order made under this chapter. Upon proper showing, injunctive relief
38 or a temporary restraining order shall be granted. The director shall
39 not be required to post a bond in any court proceedings.

1 **Sec. 16.** RCW 31.04.277 and 2015 c 229 s 34 are each amended to
2 read as follows:

3 Each consumer loan company licensee (~~who makes, services, or~~
4 ~~brokers a loan secured by real property~~) must submit call reports
5 through the nationwide mortgage licensing system (~~and registry~~) in
6 a form and containing the information prescribed by the director or
7 as deemed necessary by the nationwide mortgage licensing system (~~and~~
8 ~~registry~~)).

9 **Sec. 17.** RCW 31.04.310 and 2015 c 229 s 26 are each amended to
10 read as follows:

11 Upon application by the director and upon a showing that the
12 interests of borrowers or creditors so requires, the superior court
13 may appoint a receiver to take over, operate, or liquidate any
14 residential mortgage or student education loan servicer.

15 NEW SECTION. **Sec. 18.** A new section is added to chapter 31.04
16 RCW to read as follows:

17 The requirements of this act do not apply to any person doing
18 business under, and as permitted by, any law of this state or of the
19 United States relating to banks, savings banks, trust companies,
20 savings and loan or building and loan associations, or credit unions.

21 NEW SECTION. **Sec. 19.** The director of financial institutions or
22 the director's designee, the attorney general or the attorney
23 general's designee, and the student achievement council may take the
24 actions necessary to ensure this act is implemented on January 1,
25 2018.

26 NEW SECTION. **Sec. 20.** If any provision of this act or its
27 application to any person or circumstance is held invalid, the
28 remainder of the act or the application of the provision to other
29 persons or circumstances is not affected.

30 NEW SECTION. **Sec. 21.** This act may be known and cited as the
31 Washington student education loan bill of rights.

32 NEW SECTION. **Sec. 22.** This act takes effect January 1, 2018.

1 NEW SECTION. **Sec. 23.** If specific funding for the purposes of
2 this act, referencing this act by bill or chapter number, is not
3 provided by June 30, 2017, in the omnibus appropriations act, this
4 act is null and void.

--- END ---