
SUBSTITUTE SENATE BILL 5829

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by Senators Moore and Prince)

Read first time 03/03/93.

1 AN ACT Relating to mortgage brokers and loan originators; amending
2 RCW 19.146.005, 19.146.010, 19.146.020, 19.146.030, 19.146.070, and
3 19.146.110; adding new sections to chapter 19.146 RCW; creating new
4 sections; prescribing penalties; providing effective dates; providing
5 a contingent effective date; providing an expiration date; and
6 declaring an emergency.

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

8 **Sec. 1.** RCW 19.146.005 and 1987 c 391 s 1 are each amended to read
9 as follows:

10 The legislature finds and declares that the brokering of
11 residential real estate loans substantially affects the public
12 interest. The practices of mortgage brokers have had significant
13 impact on the citizens of the state and the banking and real estate
14 industries. It is the intent of the legislature to establish a
15 temporary state system of licensure in addition to rules of practice
16 and conduct of mortgage brokers to promote honesty and fair dealing
17 with citizens and to preserve public confidence in the lending and real
18 estate community.

1 **Sec. 2.** RCW 19.146.010 and 1987 c 391 s 3 are each amended to read
2 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 through
6 one or more intermediaries, controls, or is controlled by, or is under
7 common control with another person.

8 (2) "Department" means the department of licensing.

9 (3) "Director" means the director of licensing.

10 (4) "Loan originator" means a natural person employed, either
11 directly or indirectly, by a licensed mortgage broker, or a natural
12 person who represents a licensed mortgage broker, in the performance of
13 any acts specified in subsection (6) of this section.

14 (5) "Lock-in agreement" means an agreement with a borrower made by
15 a mortgage broker or loan originator, in which the mortgage broker
16 agrees that, for a period of time, a specific interest rate or other
17 financing terms will be the rate or terms at which it will make a loan
18 available to that borrower.

19 (6) "Mortgage broker" means ~~((every))~~ any person who for
20 compensation or gain, or in the expectation of compensation ((either
21 directly or indirectly makes, negotiates, or offers to make or
22 negotiate a residential mortgage loan)) or gain, directly or indirectly
23 negotiates, places, assists in placement, finds, or offers to
24 negotiate, place, assist in placement, or find residential mortgage
25 loans for others.

26 ~~((+3))~~ (7) "Person" means a natural person, corporation, company,
27 partnership, or association.

28 ~~((+4))~~ (8) "Residential mortgage loan" means any loan primarily
29 for personal, family, or household use secured by a mortgage or deed of
30 trust on residential real estate upon which is constructed or intended
31 to be constructed a single family dwelling or multiple family dwelling
32 of four or less units.

33 ~~((+5))~~ (9) "Third-party provider" means any person other than a
34 mortgage broker or lender who provides goods or services to the
35 mortgage broker in connection with the preparation of the borrower's
36 loan and includes, but is not limited to, credit reporting agencies,
37 title companies, appraisers, structural and pest inspectors, or escrow
38 companies.

1 **Sec. 3.** RCW 19.146.020 and 1987 c 391 s 4 are each amended to read
2 as follows:

3 (1) Except as provided under subsection (2) of this section, the
4 following are exempt from all provisions of this chapter:

5 ~~((1))~~ (a) Any person doing business under the laws of this state
6 or the United States relating to commercial banks, bank holding
7 companies, ~~((mutual))~~ savings banks, trust companies, savings and loan
8 associations, credit unions, consumer ~~((finance companies, industrial))~~
9 loan companies, insurance companies, or real estate investment trusts
10 as defined in 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and
11 service corporations thereof;

12 ~~((2))~~ (b) An attorney licensed to practice law in this state who
13 is not principally engaged in the business of negotiating residential
14 mortgage loans when such attorney renders services in the course of his
15 or her practice as an attorney;

16 ~~((3))~~ (c) Any person doing any act under order of any court;

17 ~~((4))~~ (d) Any person making or acquiring a residential mortgage
18 loan solely with his or her own funds for his or her own investment
19 without intending to resell the residential mortgage loans;

20 ~~((5))~~ (e) A real estate broker or salesperson licensed by the
21 state who obtains financing for a real estate transaction involving a
22 bona fide sale of real estate in the performance of his or her duties
23 as a real estate broker and who receives only the customary real estate
24 broker's or salesperson's commission in connection with the
25 transaction;

26 ~~((6))~~ (f) Any mortgage broker approved and subject to auditing by
27 the federal national mortgage association, the government national
28 mortgage association, or the federal home loan mortgage corporation;

29 ~~((7))~~ (g) Any mortgage broker approved by the United States
30 secretary of housing and urban development for participation in any
31 mortgage insurance program under the National Housing Act, 12 U.S.C.
32 Sec. 1701, as now or hereafter amended; and

33 ~~((8))~~ (h) The United States of America, the state of Washington,
34 any other state, and any Washington city, county, or other political
35 subdivision, and any agency, division, or corporate instrumentality of
36 any of the entities in this subsection (1)(h).

37 (2) Those persons otherwise exempt under subsection (1) (f) and (g)
38 of this section must comply with section 4 of this act.

1 NEW SECTION.

2 **Sec. 4.**

3 It is unlawful for a loan originator,
4 mortgage broker required to be licensed under this chapter, or mortgage
5 broker otherwise exempted from this chapter under RCW 19.146.020(1) (f)
6 or (g) in connection with a residential mortgage loan to:

7 (1) Directly or indirectly employ any scheme, device, or artifice
8 to defraud or mislead borrowers or lenders;

9 (2) Engage in any conduct that operates as a fraud upon or unfair
10 or deceptive practice toward any person;

11 (3) Obtain property by fraud or misrepresentation;

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

16 (5) Solicit, advertise, or enter into a contract for specific
17 interest rates, points, or other financing terms unless the terms are
18 actually available at the time of soliciting, advertising, or
19 contracting from a person exempt from licensing under RCW 19.146.020(1)
20 (f) or (g) or a lender with whom the mortgage broker maintains a
21 written correspondent or loan brokerage agreement under RCW 19.146.040;

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

25 (7) Make, in any manner, any false or deceptive statement or
26 representation with regard to the rates, points, or other financing
27 terms or conditions for a residential mortgage loan;

28 (8) Make any false statement in connection with any reports filed
29 by a licensee, or in connection with any examination of the licensee's
30 business;

31 (9) Make any payment, directly or indirectly, to any fee appraiser
32 third party of a property, for the purposes of influencing the
33 independent judgment of the appraiser with respect to the value of the
34 property;

35 (10) Fail to include the words "licensed mortgage broker" in all
36 advertising for the broker's services that are directed at the general
37 public if the person is required to be licensed under this chapter;

38 (11) Fail to comply with the requirements of the truth-in-lending
act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, as now
or hereafter amended, in all advertising of residential mortgage loans.

1 NEW SECTION. **Sec. 5.** (1) A person may not engage in the business
2 of a mortgage broker, except as an employee of a person licensed or
3 exempt from licensing, without first obtaining and maintaining a
4 license under this chapter.

5 (2) A person may not bring a suit or action for the collection of
6 compensation as a mortgage broker unless the plaintiff alleges and
7 proves that he or she was a duly licensed mortgage broker, or exempt
8 from the license requirement of this chapter, at the time of offering
9 to perform or performing any such an act or service regulated by this
10 chapter. This subsection does not apply to suits or actions for the
11 collection or compensation for services performed prior to the
12 effective date of this section.

13 NEW SECTION. **Sec. 6.** (1) Application for a mortgage broker
14 license under this chapter shall be in writing and in the form
15 prescribed by the director. Unless waived by the director, the
16 application shall contain at least the following information:

17 (a) The name, address, date of birth, and social security number of
18 the applicant, and any other names, dates of birth, or social security
19 numbers previously used by the applicant;

20 (b) If the applicant is a partnership or association, the name,
21 address, date of birth, and social security number of each general
22 partner or principal of the association, and any other names, dates of
23 birth, or social security numbers previously used by the members;

24 (c) If the applicant is a corporation, the name, address, date of
25 birth, and social security number of each officer, director, registered
26 agent, and each principal stockholder, and any other names, dates of
27 birth, or social security numbers previously used by the officers,
28 directors, registered agents, and principal stockholders;

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

31 (e) Submission of a complete set of fingerprints taken by an
32 authorized law enforcement officer; and

33 (f) Such other information regarding the applicant's background,
34 financial responsibility, experience, character, and general fitness as
35 the director may require by rule.

36 (2) At the time of filing an application for a license under this
37 chapter, each applicant shall pay to the director the appropriate
38 license fee in an amount determined by rule of the director in

1 accordance with RCW 43.24.086 to be sufficient to cover, but not
2 exceed, the department's costs in administering this chapter. The
3 director shall deposit the moneys in the mortgage broker fund created
4 under section 19 of this act.

5 (3)(a) Each applicant for a mortgage broker's license shall file
6 and maintain a surety bond, in an amount of forty thousand dollars or
7 such lower amount the director deems adequate to protect the public
8 interest, executed by the applicant as obligor and by a surety company
9 authorized to do a surety business in this state as surety. The bond
10 shall run to the state of Washington as obligee, and shall run to the
11 benefit of the state and any person or persons who suffer loss by
12 reason of the applicant's violation of any provision of this chapter or
13 rules adopted under this chapter. The bond shall be conditioned that
14 the obligor as licensee will faithfully conform to and abide by this
15 chapter and all rules adopted under this chapter, and shall reimburse
16 all persons who suffer loss by reason of a violation of this chapter
17 or rules adopted under this chapter. The bond shall be continuous and
18 may be canceled by the surety upon the surety giving written notice to
19 the director of its intent to cancel the bond. The cancellation shall
20 be effective thirty days after the notice is received by the director.
21 Whether or not the bond is renewed, continued, reinstated, reissued, or
22 otherwise extended, replaced, or modified, including increases or
23 decreases in the penal sum, it shall be considered one continuous
24 obligation, and the surety upon the bond shall not be liable in an
25 aggregate or cumulative amount exceeding the penal sum set forth on the
26 face of the bond. In no event shall the penal sum, or any portion
27 thereof, at two or more points in time be added together in determining
28 the surety's liability. The bond shall not be liable for any penalties
29 imposed on the licensee, including, but not limited to, any increased
30 damages or attorneys' fees, or both, awarded under RCW 19.86.090. The
31 applicant may obtain the bond directly from the surety or through a
32 group bonding arrangement involving a professional organization
33 comprised of mortgage brokers if the arrangement provides at least as
34 much coverage as is required under this subsection.

35 (b) In lieu of a surety bond, the applicant may, upon approval by
36 the director, file with the director a certificate of deposit, an
37 irrevocable letter of credit, or such other instrument as approved by
38 the director by rule, drawn in favor of the director for an amount
39 equal to the required bond.

1 (c) In lieu of the surety bond or compliance with (b) of this
2 subsection, an applicant may obtain insurance or coverage from an
3 association comprised of mortgage brokers that is organized as a mutual
4 corporation for the sole purpose of insuring or self-insuring claims
5 that may arise from a violation of this chapter. An applicant may only
6 substitute coverage under this subsection for the requirements of (a)
7 or (b) of this subsection if the director, with the consent of the
8 insurance commissioner, has authorized such association to organize a
9 mutual corporation under such terms and conditions as may be imposed by
10 the director to ensure that the corporation is operated in a
11 financially responsible manner to pay any claims within the financial
12 responsibility limits specified in (a) of this subsection.

13 NEW SECTION. **Sec. 7.** (1) The director shall issue and deliver a
14 mortgage broker license to an applicant if, after investigation, the
15 director makes the following findings:

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

17 (b) The applicant has complied with section 6 of this act;

18 (c) The applicant has not had a license issued under this chapter
19 or any similar state statute suspended or revoked within five years of
20 the filing of the present application;

21 (d) The applicant has not been convicted of a felony within seven
22 years of the filing of the present application;

23 (e) The applicant has at least two years of experience in the
24 residential mortgage loan industry; and

25 (f) The applicant has demonstrated financial responsibility,
26 character, and general fitness such as to command the confidence of the
27 community and to warrant a belief that the business will be operated
28 honestly, fairly, and efficiently within the purposes of this chapter.

29 (2) If the director does not find the conditions of subsection (1)
30 of this section have been met, the director shall not issue the
31 license. The director shall notify the applicant of the denial and
32 return to the applicant the bond or approved alternative and any
33 remaining portion of the license fee that exceeds the departments
34 actual cost to investigate the license.

35 (3) The director may delay the effective date of section 5 of this
36 act for an additional thirty days with respect to an applicant for a
37 mortgage broker license for the purpose of processing the application

1 when the applicant has filed a completed application by October 31,
2 1993.

3 (4) A license issued pursuant to this chapter is valid from the
4 date of issuance.

5 (5) A licensee may surrender a license by delivering to the
6 director written notice of surrender, but the surrender does not affect
7 the licensee's civil or criminal liability arising from acts or
8 omissions occurring before such surrender.

9 NEW SECTION. **Sec. 8.** (1) The director shall enforce all laws and
10 rules relating to the licensing of mortgage brokers, grant or deny
11 licenses to mortgage brokers, and hold hearings. The director may
12 impose any one or more of the following sanctions: Suspend or revoke
13 licenses, deny applications for licenses, or fine violators under this
14 chapter. In addition, the director may issue an order directing a
15 licensee or person subject to this chapter to cease and desist from
16 conducting business in a manner that is injurious to the public or
17 violates any provision of this chapter.

18 (2) The director may take those actions specified in subsection (1)
19 of this section if the director finds any of the following:

20 (a) The licensee has failed to pay a fee due the state of
21 Washington, to maintain in effect the bond or approved alternative
22 required under this chapter, or to comply with any specific order or
23 demand of the director lawfully made and directed to the licensee in
24 accordance with this chapter; or

25 (b) The licensee or person subject to this chapter has violated any
26 provision of this chapter or a rule adopted under this chapter; or

27 (c) The licensee made false statements on the application or
28 omitted material information that, if known, would have allowed the
29 director to deny the application for the original license.

30 (3) The director shall establish by rule standards for licensure of
31 applicants licensed in other jurisdictions.

32 NEW SECTION. **Sec. 9.** In accordance with the administrative
33 procedure act, chapter 34.05 RCW, the director may issue rules to
34 govern the activities of licensed mortgage brokers consistent with this
35 chapter.

1 NEW SECTION. **Sec. 10.** The proceedings for denying license
2 applications, issuing cease and desist orders, and suspending or
3 revoking licenses issued pursuant to this chapter and any appeal
4 therefrom or review thereof shall be governed by the provisions of the
5 administrative procedure act, chapter 34.05 RCW.

6 NEW SECTION. **Sec. 11.** For the purposes of investigating
7 complaints arising under this chapter, the director may at any time,
8 either personally or by a designee, examine the business, including but
9 not limited to the books, accounts, records, and files used therein, of
10 every licensee and of every person engaged in the business of mortgage
11 brokering, whether such a person shall act or claim to act under or
12 without the authority of this chapter. For that purpose the director
13 and designated representatives shall have free access to the offices
14 and places of business, books, accounts, papers, records, files, safes,
15 and vaults of all such persons. The director or designated person may
16 require the attendance of and examine under oath all persons whose
17 testimony may be required about the loans or the business or subject
18 matter of any such investigation.

19 **Sec. 12.** RCW 19.146.030 and 1987 c 391 s 5 are each amended to
20 read as follows:

21 (1) Upon receipt of a loan application and before the receipt of
22 any moneys from a borrower, a mortgage broker shall provide to each
23 borrower a written notice indicating the number of the lenders with
24 whom it maintains a written correspondent or loan brokerage agreement,
25 unless exempt from licensing under this chapter, and make a full
26 written disclosure to each borrower containing an itemization and
27 explanation of all fees and costs that the borrower is required to pay
28 in connection with obtaining a residential mortgage loan. A good faith
29 estimate of a fee or cost shall be provided if the exact amount of the
30 fee or cost is not determinable.

31 (2) The written disclosure shall contain the following information:
32 ((+1)) (a) The annual percentage rate, finance charge, amount
33 financed, total amount of all payments, number of payments, amount of
34 each payment, amount of points or prepaid interest and the conditions
35 and terms under which any loan terms may change between the time of
36 disclosure and closing of the loan; and if a variable rate, the
37 circumstances under which the rate may increase, any limitation on the

1 increase, the effect of an increase, and an example of the payment
2 terms resulting from an increase. Disclosure in compliance with the
3 requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and
4 Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be
5 deemed to comply with the disclosure requirements of this subsection;

6 ((+2)) (b) The itemized costs of any credit report, appraisal,
7 title report, title insurance policy, mortgage insurance, escrow fee,
8 property tax, insurance, structural or pest inspection, and any other
9 third-party provider's costs associated with the residential mortgage
10 loan. Disclosure through good faith estimates of settlement services
11 and special information booklets in compliance with the requirements of
12 the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and
13 Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall
14 be deemed to comply with the disclosure requirements of this
15 subsection;

16 ((+3)) (c) If applicable, the cost, terms, duration, and
17 conditions of ~~((an agreement to lock in or commit the mortgage broker
18 or lender to a specific interest rate or other financing term for any
19 period of time up to and including the time the loan is closed))~~ a
20 lock-in agreement and whether a lock-in agreement has been entered;

21 ((+4)) (d) A statement that if the borrower is unable to obtain a
22 loan for any reason, the mortgage broker must, within five days of a
23 written request by the borrower, give copies of any appraisal, title
24 report, or credit report paid for by the borrower to the borrower, and
25 transmit the appraisal, title report, or credit report to any other
26 mortgage broker or lender to whom the borrower directs the documents to
27 be sent;

28 ((+5)) (e) The name of the lender and the nature of the business
29 relationship between the lender providing the residential mortgage loan
30 and the mortgage broker, if any: PROVIDED, That this disclosure may be
31 made at any time up to the time the borrower accepts the lender's
32 commitment; and

33 ((+6)) (f) A statement providing that moneys paid by the borrower
34 to the mortgage broker for third-party provider services are held in a
35 trust account and any moneys remaining after payment to third-party
36 providers will be refunded.

37 A violation of the Truth-in-Lending Act, Regulation Z, the Real
38 Estate Settlement Procedures Act, and Regulation X is a violation of
39 this section for purposes of this chapter.

1 **Sec. 13.** RCW 19.146.070 and 1987 c 391 s 9 are each amended to
2 read as follows:

3 (1) Except as otherwise permitted by this section, a mortgage
4 broker shall not receive a fee, commission, or compensation of any kind
5 in connection with the preparation, negotiation, and brokering of a
6 residential mortgage loan unless a borrower actually obtains a loan
7 from a lender on the terms and conditions agreed upon by the borrower
8 and mortgage broker.

9 (2) A mortgage broker may:

10 (a) If the mortgage broker has obtained for the borrower a written
11 commitment from a lender for a loan on the terms and conditions agreed
12 upon by the borrower and the mortgage broker, and the borrower fails to
13 close on the loan through no fault of the mortgage broker, charge a fee
14 not to exceed three hundred dollars for services rendered, preparation
15 of documents, or transfer of documents in the borrower's file which
16 were prepared or paid for by the borrower if the fee is not otherwise
17 prohibited by the Truth-in-Lending Act, 15 U.S.C. Sec. 1601, and
18 Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended; or

19 (b) Solicit or receive fees for third party provider goods or
20 services in advance. Fees for any goods or services not provided must
21 be refunded to the borrower and the mortgage broker may not charge more
22 for the goods and services than the actual costs of the goods or
23 services charged by the third party provider.

24 ~~((3) A mortgage broker may not:~~

25 ~~(a) Solicit or enter into a contract with a borrower that provides~~
26 ~~in substance that the mortgage broker may earn a fee or commission~~
27 ~~through the mortgage broker's "best efforts" to obtain a loan even~~
28 ~~though no loan is actually obtained for the borrower; or~~

29 ~~(b) Solicit, advertise, or enter into a contract for specific~~
30 ~~interest rates, points, or other financing terms unless the terms are~~
31 ~~actually available at the time of soliciting, advertising, or~~
32 ~~contracting.))~~

33 NEW SECTION. **Sec. 14.** (1) Any person injured by a violation of
34 this chapter may bring an action against the surety bond or approved
35 alternative of the licensed mortgage broker who committed the violation
36 or who employed the loan originator committing the violation.

37 (2) A person who is damaged by the licensee's violation of this
38 chapter, or rules adopted under this chapter, may bring suit upon the

1 surety bond or approved alternative in the superior court of any county
2 in which jurisdiction over the licensee may be obtained. Jurisdiction
3 shall be exclusively in the superior court. Any such action must be
4 brought not later than one year after the alleged violation of this
5 chapter or rules adopted under this chapter. In the event valid claims
6 against a bond or deposit exceed the amount of the bond or deposit,
7 each claimant shall only be entitled to a pro rata amount, based on the
8 amount of the claim as it is valid against the bond or deposit, without
9 regard to the date of filing of any claim or action. A judgment
10 arising from a violation of this chapter or rule adopted under this
11 chapter shall be entered for actual damages and in no case be less than
12 the amount paid by the borrower to the licensed mortgage broker plus
13 reasonable attorneys' fees and costs. In no event shall the surety
14 bond or approved alternative provide payment for any trebled or
15 punitive damages.

16 (3) The remedies provided under this section are cumulative and
17 nonexclusive and do not affect any other remedy available at law.

18 NEW SECTION. **Sec. 15.** A licensed mortgage broker is liable for
19 any conduct violating this chapter by a loan originator or other
20 licensed mortgage broker while employed by the broker. In addition, a
21 branch office manager is liable for any conduct violating this chapter
22 by a loan originator or other licensed mortgage broker employed at the
23 branch office.

24 NEW SECTION. **Sec. 16.** No license issued under the provisions of
25 this chapter shall authorize any person other than the person to whom
26 it is issued to do any act by virtue thereof nor to operate in any
27 other manner than under his or her own name except:

28 (1) A licensed mortgage broker may operate or advertise under a
29 name other than the one under which the license is issued by obtaining
30 the written consent of the director to do so; and

31 (2) A broker may establish one or more branch offices under a name
32 or names different from that of the main office if the name or names
33 are approved by the director, so long as each branch office is clearly
34 identified as a branch or division of the main office. No broker may
35 establish branch offices under more than three names. Both the name of
36 the branch office and of the main office must clearly appear on the
37 sign identifying the office, if any, and in any advertisement or on any

1 letterhead of any stationery or any forms, or signs used by the
2 mortgage firm on which either the name of the main or branch offices
3 appears.

4 NEW SECTION. **Sec. 17.** Every licensed mortgage broker must have
5 and maintain an office in this state accessible to the public which
6 shall serve as his or her office for the transaction of business. Any
7 office so established must comply with the zoning requirements of city
8 or county ordinances and the broker's license must be prominently
9 displayed therein. In addition, any branch office must comply with the
10 zoning requirements of city or county ordinances.

11 NEW SECTION. **Sec. 18.** A licensed mortgage broker may apply to the
12 director for authority to establish one or more branch offices under
13 the same or different name as the main office upon the payment of a fee
14 as prescribed by the director by rule. The director shall issue a
15 duplicate license for each of the branch offices showing the location
16 of the main office and the particular branch. Each duplicate license
17 shall be prominently displayed in the office for which it is issued.
18 Each branch office shall be required to have a branch manager who shall
19 be a licensed mortgage broker authorized by the mortgage broker to
20 perform the duties of a branch manager.

21 NEW SECTION. **Sec. 19.** All moneys collected under this chapter
22 shall be deposited in the mortgage brokers' licensing account hereby
23 created in the state treasury. Expenditures from the account, subject
24 to appropriation, may be used solely for department costs in
25 administering this chapter.

26 **Sec. 20.** RCW 19.146.110 and 1987 c 391 s 13 are each amended to
27 read as follows:

28 Any person who violates any provision of (~~RCW 19.146.005 through~~
29 ~~19.146.040 or 19.146.060 through 19.146.100~~) this chapter other than
30 RCW 19.146.050 or any rule or order of the director shall be guilty of
31 a misdemeanor punishable under chapter 9A.20 RCW. Any person who
32 violates RCW 19.146.050 shall be guilty of a class C felony under
33 chapter 9A.20 RCW.

NEW SECTION.

Sec. 21.

(1) There is established the mortgage brokerage commission consisting of five commission members who shall act in an advisory capacity to the director on mortgage brokerage issues.

(2) The director shall appoint the members of the commission, weighing the recommendations from professional organizations representing mortgage brokers. At least three of the commission members shall be mortgage brokers required to apply for a mortgage brokers license under this chapter and at least one shall be exempt from licensure under RCW 19.146.020(1) (f) or (g). No commission member shall be appointed who has had less than five years' experience in the business of residential mortgage lending. In addition, the attorney general, or a designee, and the director, or a designee, shall serve as ex officio, nonvoting members of the commission. Voting members of the commission shall serve for two-year terms with three of the initial commission members serving one-year terms. The department shall provide staff support to the commission.

(3) Members of the commission shall be reimbursed for their travel expenses incurred in carrying out the provisions of this chapter in accordance with RCW 43.03.050 and 43.03.060. All costs and expenses associated with the commission shall be paid from the mortgage brokers' licensing account created in section 19 of this act.

(4)(a) The commission shall advise the director on the characteristics and needs of the mortgage brokerage profession. In addition to its advisory capacity, the commission shall review all state and federal provisions governing mortgage brokers and shall prepare a report:

(i) Summarizing state and federal statutes and regulations governing mortgage brokers;

(ii) Identifying the type and magnitude of complaints arising with regard to the practices of mortgage brokers operating in this state;

(iii) Reviewing the detrimental and beneficial effects of state licensing, bonding, training, experience, and educational requirements for mortgage brokers;

(iv) Considering the appropriate location within state government to exercise regulatory authority and administer a licensing program; and

(v) Containing recommended legislation that adopts ongoing state licensing requirements for mortgage brokers.

1 (b) In preparing its report, the commission shall solicit comments
2 from the mortgage broker industry, the department of licensing, the
3 attorney general's office, other state regulators, and residential
4 mortgage loan consumers. The committee shall submit its report to the
5 labor and commerce committee of the senate and the financial
6 institutions and insurance committee of the house of representatives by
7 December 1, 1993.

8 NEW SECTION. **Sec. 22.** The director shall take steps and adopt
9 rules necessary to implement the sections of this act by their
10 effective dates.

11 NEW SECTION. **Sec. 23.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

15 NEW SECTION. **Sec. 24.** Sections 4 through 11, 14 through 19, and
16 21 of this act are each added to chapter 19.146 RCW.

17 NEW SECTION. **Sec. 25.** (1) If the powers, duties, and functions of
18 the division of banking and the division of savings and loan are
19 transferred into a new department, the powers, duties, and functions of
20 the department relating to the administration of chapter 19.146 RCW
21 shall be transferred to the new department. In such event, all
22 references to the director or the department of licensing shall be
23 construed to mean the new department or its director.

24 (2) In the event that the new department is created, all reports,
25 documents, surveys, books, records, files, papers, or other written or
26 electronically stored material in the possession of the department of
27 licensing pertaining to the powers, functions, and duties transferred
28 under subsection (1) of this section shall be delivered to the custody
29 of the new department. All cabinets, furniture, office equipment,
30 motor vehicles, and other tangible property employed by the department
31 of licensing in carrying out the powers, functions, and duties
32 transferred by subsection (1) of this section shall be made available
33 to the new department if such property was purchased from funds
34 deposited in the mortgage brokers' licensing account. All funds
35 contained in the mortgage brokers' licensing account shall be

1 transferred to the appropriate account of the new department for
2 administration of chapter 19.146 RCW and shall be used solely for the
3 costs of administering this chapter. In the event any dispute arises
4 as to the transfer of any personnel, funds, books, documents, records,
5 papers, files, equipment, or other tangible property used or held in
6 the exercise of the powers and the performance of the duties and powers
7 transferred under subsection (1) of this section, the director of
8 financial management shall make a determination as to the proper
9 allocation and certify the same to the state agencies concerned.

10 NEW SECTION. **Sec. 26.** (1) Sections 2 through 4, 9, 13, and 21
11 through 23 of this act are necessary for the immediate preservation of
12 the public peace, health, or safety, or support of the state government
13 and its existing public institutions, and shall take effect
14 immediately.

15 (2) Sections 6 through 8, 10, 18, and 19 of this act shall take
16 effect September 1, 1993.

17 (3) Sections 1, 5, 11, 12, 14 through 17, and 20 of this act shall
18 take effect October 31, 1993. However, the effective date of section
19 5 of this act may be delayed thirty days upon an order of the director
20 of licensing under section 7(3) of this act.

21 NEW SECTION. **Sec. 27.** This act shall expire October 31, 1994,
22 except for section 21 of this act. However, if a licensing program for
23 mortgage brokers is not extended past October 31, 1994, section 21 of
24 this act also shall expire on October 31, 1994.

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