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SENATE BILL 6083

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Moore, Amondson, Prentice and Prince; by request of Attorney General

Read first time 01/12/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to mortgage brokers and loan originators; amending  
2 RCW 19.146.005, 19.146.010, 19.146.020, 19.146.020, 19.146.0201,  
3 19.146.200, 19.146.205, 19.146.210, 19.146.220, 19.146.225, 19.146.230,  
4 19.146.235, 19.146.030, 19.146.040, 19.146.060, 19.146.240, 19.146.245,  
5 19.146.260, 19.146.265, 19.146.100, and 19.146.280; adding new sections  
6 to chapter 19.146 RCW; repealing RCW 19.146.270; repealing 1993 c 468  
7 s 27 (uncodified); prescribing penalties; providing an effective date;  
8 and declaring an emergency.

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

10 **Sec. 1.** RCW 19.146.005 and 1993 c 468 s 1 are each amended to read  
11 as follows:

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

1 dealing with citizens and to preserve public confidence in the lending  
2 and real estate community.

3 NEW SECTION. **Sec. 2.** A new section is added to chapter 19.146 RCW  
4 to read as follows:

5 The director shall have the power and broad administrative  
6 discretion to administer and interpret the provisions of this chapter  
7 to fulfill the intent of the legislature as expressed in RCW  
8 19.146.005.

9 **Sec. 3.** RCW 19.146.010 and 1993 c 468 s 2 are each amended to read  
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in  
12 this section apply throughout this chapter.

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

16 (2) "Borrower" means any person who consults with or retains a  
17 mortgage broker or loan originator in an effort to obtain or seek  
18 advice or information on obtaining or applying to obtain a residential  
19 mortgage loan for himself, herself, or persons including himself or  
20 herself, regardless of whether the person actually obtains such a loan.

21 (3) "Computer loan origination systems" or "CLO system" means the  
22 real estate mortgage financing information system defined by rule of  
23 the director.

24 (~~(3)~~) (4) "Department" means the department of licensing.

25 (~~(4)~~) (5) "Director" means the director of (~~licensing~~)  
26 financial institutions.

27 (~~(5)~~) (6) "Employee" means an individual who has an employment  
28 relationship acknowledged by both the employee and the licensee, and  
29 the individual is treated as an employee by the licensee for purposes  
30 of compliance with federal income tax laws.

31 (7) "Independent contractor" or "person who independently  
32 contracts" means any person that expressly or impliedly contracts to  
33 perform mortgage brokering services for another and that with respect  
34 to its manner or means of performing the services is not subject to the  
35 other's right of control, and that is not treated as an employee by the  
36 other for purposes of compliance with federal income tax laws.

1       (8) "Loan originator" means a (~~natural~~) person employed, either  
2 directly or indirectly, or retained as an independent contractor by a  
3 (~~licensed~~) person required to be licensed as a mortgage broker, or a  
4 natural person who represents a (~~licensed~~) person required to be  
5 licensed as a mortgage broker, in the performance of any act(~~s~~)  
6 specified in subsection (~~(7)~~) (10) of this section.

7       (~~(6)~~) (9) "Lock-in agreement" means an agreement with a borrower  
8 made by a mortgage broker or loan originator, in which the mortgage  
9 broker or loan originator agrees that, for a period of time, a specific  
10 interest rate or other financing terms will be the rate or terms at  
11 which it will make a loan available to that borrower.

12       (~~(7)~~) (10) "Mortgage broker" means any person who for  
13 compensation or gain, or in the expectation of compensation or gain(~~(7~~  
14 ~~directly or indirectly negotiates, places, assists in placement, finds,~~  
15 ~~or offers to negotiate, place, assist in placement, or find residential~~  
16 ~~mortgage loans for others)~~) (a) makes a residential mortgage loan or  
17 assists a person in obtaining or applying to obtain a residential  
18 mortgage loan or (b) holds himself or herself out as being able to make  
19 a residential mortgage loan or assist a person in obtaining or applying  
20 to obtain a residential mortgage loan.

21       (~~(8)~~) (11) "Person" means a natural person, corporation, company,  
22 partnership, or association.

23       (~~(9)~~) (12) "Residential mortgage loan" means any loan primarily  
24 for personal, family, or household use secured by a mortgage or deed of  
25 trust on residential real estate upon which is constructed or intended  
26 to be constructed a single family dwelling or multiple family dwelling  
27 of four or less units.

28       (~~(10)~~) (13) "Third-party provider" means any person other than a  
29 mortgage broker or lender who provides goods or services to the  
30 mortgage broker in connection with the preparation of the borrower's  
31 loan and includes, but is not limited to, credit reporting agencies,  
32 title companies, appraisers, structural and pest inspectors, or escrow  
33 companies.

34       **Sec. 4.** RCW 19.146.020 and 1993 c 468 s 3 are each amended to read  
35 as follows:

36       (1) Except as provided under subsections (2) and (3) of this  
37 section, the following are exempt from all provisions of this chapter:

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

7 (b) An attorney licensed to practice law in this state who is not  
8 principally engaged in the business of negotiating residential mortgage  
9 loans when such attorney renders services in the course of his or her  
10 practice as an attorney;

11 (c) Any person doing any act under order of any court, except for  
12 a person subject to an injunction to comply with any provision of this  
13 chapter or any order of the director issued under this chapter;

14 (d) Any person making or acquiring a residential mortgage loan  
15 solely with his or her own funds for his or her own investment without  
16 intending to resell the residential mortgage loans;

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

22 (f) Any mortgage broker approved and subject to auditing by the  
23 federal national mortgage association, the government national mortgage  
24 association, or the federal home loan mortgage corporation;

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

29 (h) The United States of America, the state of Washington, any  
30 other state, and any Washington city, county, or other political  
31 subdivision, and any agency, division, or corporate instrumentality of  
32 any of the entities in this subsection (1)(h); and

33 (i) A real estate broker who provides only information ~~((only))~~  
34 regarding rates, terms, and lenders in connection with a CLO system,  
35 who ~~((may))~~ receives a fee for providing such information ~~((in an~~  
36 ~~amount approved by the director and))~~, who conforms to all rules of the  
37 director with respect to the providing of such service, and who  
38 discloses on a form approved by the director that to obtain a loan the  
39 borrower must deal directly with a mortgage broker or lender. However,

1 a real estate broker shall not be exempt if he or she does any of the  
2 following:

3 (i) Holds himself or herself out as able to obtain a loan from a  
4 lender;

5 (ii) Accepts a loan application, or submits a loan application to  
6 a lender;

7 (iii) Accepts any deposit for third-party services or any loan fees  
8 from a borrower, whether such fees are paid before, upon, or after the  
9 closing of the loan;

10 (iv) Negotiates rates or terms with a lender on behalf of a  
11 borrower; or

12 (v) Provides the disclosure required by RCW 19.146.030(1).

13 (2) Those persons otherwise exempt under subsection (1) (d), (f),  
14 or (g)(~~, and (i)~~) of this section must comply with RCW 19.146.0201  
15 and shall be subject to the director's authority to issue a cease and  
16 desist order for any violation of RCW 19.146.0201 and shall be subject  
17 to the director's authority to obtain and review books and records that  
18 are relevant to any allegation of such a violation.

19 (3) Any person otherwise exempted from the licensing provisions of  
20 this chapter may voluntarily submit an application to the director for  
21 a mortgage broker's license. The director shall review such  
22 application and may grant or deny licenses to such applicants upon the  
23 same grounds and with the same fees as may be applicable to persons  
24 required to be licensed under this chapter.

25 (a) Upon receipt of a license under this subsection, such an  
26 applicant is required to continue to maintain a valid license, is  
27 subject to all provisions of this chapter, and has no further right to  
28 claim exemption from the provisions of this chapter except as provided  
29 in (b) of this subsection.

30 (b) Any licensee under this subsection who would otherwise be  
31 exempted from the requirements of licensing by RCW 19.146.020 may apply  
32 to the director for exemption from licensing. The director shall adopt  
33 rules for reviewing such applications and shall grant exemptions from  
34 licensing to applications which are consistent with those rules and  
35 consistent with the other provisions of this chapter.

36 **Sec. 5.** RCW 19.146.020 and 1994 c . . . s 4 (section 4 of this  
37 act) are each amended to read as follows:

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

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

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

13 (c) Any person doing any act under order of any court, except for  
14 a person subject to an injunction to comply with any provision of this  
15 chapter or any order of the director issued under this chapter;

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

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

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

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

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

35 ~~((i))~~ (h) A real estate broker who provides only information  
36 regarding rates, terms, and lenders in connection with a CLO system,  
37 who receives a fee for providing such information, who conforms to all  
38 rules of the director with respect to the providing of such service,  
39 and who discloses on a form approved by the director that to obtain a

1 loan the borrower must deal directly with a mortgage broker or lender.  
2 However, a real estate broker shall not be exempt if he or she does any  
3 of the following:

4 (i) Holds himself or herself out as able to obtain a loan from a  
5 lender;

6 (ii) Accepts a loan application, or submits a loan application to  
7 a lender;

8 (iii) Accepts any deposit for third-party services or any loan fees  
9 from a borrower, whether such fees are paid before, upon, or after the  
10 closing of the loan;

11 (iv) Negotiates rates or terms with a lender on behalf of a  
12 borrower; or

13 (v) Provides the disclosure required by RCW 19.146.030(1).

14 (2) Those persons otherwise exempt under subsection (1) (d)(~~(7)~~) or  
15 (f) (~~(e)-(g)~~) of this section must comply with RCW 19.146.0201 and  
16 shall be subject to the director's authority to issue a cease and  
17 desist order for any violation of RCW 19.146.0201 and shall be subject  
18 to the director's authority to obtain and review books and records that  
19 are relevant to any allegation of such a violation.

20 (3) Any person otherwise exempted from the licensing provisions of  
21 this chapter may voluntarily submit an application to the director for  
22 a mortgage broker's license. The director shall review such  
23 application and may grant or deny licenses to such applicants upon the  
24 same grounds and with the same fees as may be applicable to persons  
25 required to be licensed under this chapter.

26 (a) Upon receipt of a license under this subsection, such an  
27 applicant is required to continue to maintain a valid license, is  
28 subject to all provisions of this chapter, and has no further right to  
29 claim exemption from the provisions of this chapter except as provided  
30 in (b) of this subsection.

31 (b) Any licensee under this subsection who would otherwise be  
32 exempted from the requirements of licensing by RCW 19.146.020 may apply  
33 to the director for exemption from licensing. The director shall adopt  
34 rules for reviewing such applications and shall grant exemptions from  
35 licensing to applications which are consistent with those rules and  
36 consistent with the other provisions of this chapter.

37 **Sec. 6.** RCW 19.146.0201 and 1993 c 468 s 4 are each amended to  
38 read as follows:

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

5 (1) Directly or indirectly employ any scheme, device, or artifice  
6 to defraud or mislead borrowers or lenders or to defraud any person;

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

9 (3) Obtain property by fraud or misrepresentation;

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

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

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

23 (7) Make, in any manner, any false or deceptive statement or  
24 representation with regard to the rates, points, or other financing  
25 terms or conditions for a residential mortgage loan or engage in bait  
26 and switch advertising;

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

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

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

38 (11) Advertise any rate of interest without conspicuously  
39 disclosing the annual percentage rate implied by such rate of interest



1 or otherwise fail to comply with ((the)) any requirement((s)) of the  
2 truth-in-lending act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R.  
3 Sec. 226 or the equal credit opportunity act, Regulation B, Sec. 202.9,  
4 202.11, and 202.12, as now or hereafter amended, in ((all)) any  
5 advertising of residential mortgage loans or any other mortgage  
6 brokerage activity;

7 (12) Fail to pay third-party providers no later than thirty days  
8 after the recording of the loan closing documents or ninety days after  
9 completion of the third-party service, whichever comes first, unless  
10 otherwise agreed or unless the third-party service provider has been  
11 notified in writing that a bona fide dispute exists regarding the  
12 performance or quality of the third-party service;

13 (13) Collect, charge, attempt to collect or charge or use or  
14 propose any agreement purporting to collect or charge any fee  
15 prohibited by RCW 19.146.030 or 19.146.070;

16 (14)(a) Except when complying with (b) and (c) of this subsection,  
17 to act as a mortgage broker in any transaction (i) in which the  
18 mortgage broker acts or has acted as a real estate broker or  
19 salesperson or (ii) in which another person doing business under the  
20 same licensed real estate broker acts or has acted as a real estate  
21 broker or salesperson;

22 (b) Prior to providing mortgage broker services to the borrower,  
23 the mortgage broker, in addition to other disclosures required by this  
24 chapter and other laws, shall provide to the borrower the following  
25 written disclosure:

26 THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES  
27 HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON  
28 REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO  
29 YOU. I AM ALSO A LICENSED MORTGAGE BROKER, AND WOULD LIKE TO  
30 PROVIDE MORTGAGE BROKERAGE SERVICES TO YOU IN CONNECTION WITH  
31 YOUR LOAN TO PURCHASE THE PROPERTY.

32 YOU ARE NOT REQUIRED TO USE ME AS A MORTGAGE BROKER IN  
33 CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON  
34 SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT ANY  
35 MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

36 (c) A real estate broker or salesperson licensed under chapter  
37 18.85 RCW who also acts as a mortgage broker shall carry on such  
38 mortgage brokerage business activities and shall maintain such person's

1 mortgage brokerage business records separate and apart from the real  
2 estate brokerage activities conducted pursuant to chapter 18.85 RCW.  
3 Such activities shall be deemed separate and apart even if they are  
4 conducted at an office location with a common entrance and mailing  
5 address, so long as each business is clearly identified by a sign  
6 visible to the public, each business is physically separated within the  
7 office facility, and no deception of the public as to the separate  
8 identities of the brokerage business firms results. This subsection  
9 (14)(c) shall not require a real estate broker or salesperson licensed  
10 under chapter 18.85 RCW who also acts as a mortgage broker to maintain  
11 a physical separation within the office facility for the conduct of its  
12 real estate and mortgage brokerage activities where the director  
13 determines that maintaining such physical separation would constitute  
14 an undue financial hardship upon the mortgage broker and is unnecessary  
15 for the protection of the public; or

16 (15) Fail to comply with any provision of RCW 19.146.030 through  
17 19.146.090 or any rule adopted under those sections.

18 **Sec. 7.** RCW 19.146.200 and 1993 c 468 s 5 are each amended to read  
19 as follows:

20 (1) A person may not engage in the business of a mortgage broker,  
21 except as an employee of a person licensed or exempt from licensing,  
22 without first obtaining and maintaining a license under this chapter.  
23 However, a person who independently contracts with a licensed mortgage  
24 broker need not be licensed if the licensed mortgage broker and the  
25 independent contractor have on file with the director a binding written  
26 agreement under which the licensed mortgage broker assumes  
27 responsibility for the independent contractor's violations of any  
28 provision of this chapter or rules adopted under this chapter; and if  
29 the licensed mortgage broker's bond or other security required under  
30 this chapter runs to the benefit of the state and any person who  
31 suffers loss by reason of the independent contractor's violation of any  
32 provision of this chapter or rules adopted under this chapter.

33 (2) A person may not bring a suit or action for the collection of  
34 compensation as a mortgage broker unless the plaintiff alleges and  
35 proves that he or she was a duly licensed mortgage broker, or exempt  
36 from the license requirement of this chapter, at the time of offering  
37 to perform or performing any such an act or service regulated by this  
38 chapter. This subsection does not apply to suits or actions for the

1 collection or compensation for services performed prior to the  
2 effective date of ~~((this))~~ section 5, chapter 468, Laws of 1993.

3 **Sec. 8.** RCW 19.146.205 and 1993 c 468 s 6 are each amended to read  
4 as follows:

5 (1) Application for a mortgage broker license under this chapter  
6 shall be in writing and in the form prescribed by the director. Unless  
7 waived by the director, the application shall contain at least the  
8 following information:

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

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

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

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

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

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

28 (2) At the time of filing an application for a license under this  
29 chapter, each applicant shall pay to the director the appropriate  
30 ~~((license))~~ application fee in an amount determined by rule of the  
31 director in accordance with RCW 43.24.086 ~~((to be sufficient))~~ to  
32 cover, but not exceed, the ~~((department's costs in administering this  
33 chapter))~~ cost of processing and reviewing the application. The  
34 director shall deposit the moneys in the ~~((mortgage broker fund created  
35 under RCW 19.146.270))~~ banking examination fund, unless the consumer  
36 services account is created as a dedicated, nonappropriated account, in  
37 which case the director shall deposit the moneys in the consumer  
38 services account.

1 (3)(a) Each applicant for a mortgage broker's license shall file  
2 and maintain a surety bond, in an amount of (~~forty~~) not greater than  
3 sixty thousand dollars (~~or such lower amount~~) nor less than twenty  
4 thousand dollars which the director deems adequate to protect the  
5 public interest, executed by the applicant as obligor and by a surety  
6 company authorized to do a surety business in this state as surety.  
7 The bonding requirement as established by the director may take the  
8 form of a uniform bond amount for all licensees or the director may  
9 establish by rule a schedule establishing a range of bond amounts which  
10 shall vary according to the annual average number of loan originators  
11 or independent contractors of a licensee. The bond shall run to the  
12 state of Washington as obligee, and shall run to the benefit of the  
13 state and any person or persons who suffer loss by reason of the  
14 applicant's or its loan originator's violation of any provision of this  
15 chapter or rules adopted under this chapter. The bond shall be  
16 conditioned that the obligor as licensee will faithfully conform to and  
17 abide by this chapter and all rules adopted under this chapter, and  
18 shall reimburse all persons who suffer loss by reason of a violation  
19 of this chapter or rules adopted under this chapter. The bond shall be  
20 continuous and may be canceled by the surety upon the surety giving  
21 written notice to the director of its intent to cancel the bond. The  
22 cancellation shall be effective thirty days after the notice is  
23 received by the director. Whether or not the bond is renewed,  
24 continued, reinstated, reissued, or otherwise extended, replaced, or  
25 modified, including increases or decreases in the penal sum, it shall  
26 be considered one continuous obligation, and the surety upon the bond  
27 shall not be liable in an aggregate or cumulative amount exceeding the  
28 penal sum set forth on the face of the bond. In no event shall the  
29 penal sum, or any portion thereof, at two or more points in time be  
30 added together in determining the surety's liability. The bond shall  
31 not be liable for any penalties imposed on the licensee, including, but  
32 not limited to, any increased damages or attorneys' fees, or both,  
33 awarded under RCW 19.86.090. The applicant may obtain the bond  
34 directly from the surety or through a group bonding arrangement  
35 involving a professional organization comprised of mortgage brokers if  
36 the arrangement provides at least as much coverage as is required under  
37 this subsection.

38 (b) In lieu of a surety bond, the applicant may, upon approval by  
39 the director, file with the director a certificate of deposit, an

1 irrevocable letter of credit, or such other instrument as approved by  
2 the director by rule, drawn in favor of the director for an amount  
3 equal to the required bond.

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

16 NEW SECTION. **Sec. 9.** A new section is added to chapter 19.146 RCW  
17 to read as follows:

18 The director shall establish fees by rule in accordance with RCW  
19 43.24.086 sufficient to cover, but not exceed, the costs of  
20 administering this chapter. These fees may include:

21 (1) An annual assessment paid by each licensee on or before a date  
22 specified by rule;

23 (2) An examination fee to cover the costs of any examination of the  
24 books and records of a licensee or other person subject to this  
25 chapter; and

26 (3) An application fee to cover the costs of processing  
27 applications made to the director under this chapter.

28 All moneys, fees, and penalties collected under the authority of  
29 this chapter shall be deposited into the banking examination fund,  
30 unless the consumer services account is created as a dedicated,  
31 nonappropriated account, in which case all moneys, fees, and penalties  
32 collected under this chapter shall be deposited in the consumer  
33 services account.

34 **Sec. 10.** RCW 19.146.210 and 1993 c 468 s 7 are each amended to  
35 read as follows:

1 (1) The director shall issue and deliver a mortgage broker license  
2 to an applicant if, after investigation, the director makes the follow-  
3 ing findings:

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

5 (b) The applicant has complied with RCW 19.146.205;

6 (c) ~~((The applicant))~~ Neither the applicant nor any of its  
7 principals has ~~((not))~~ had a license issued under this chapter or any  
8 similar state statute suspended or revoked within five years of the  
9 filing of the present application;

10 (d) ~~((The applicant))~~ Neither the applicant nor any of its  
11 principals has ~~((not))~~ been convicted of a gross misdemeanor involving  
12 dishonesty or financial misconduct or a felony within seven years of  
13 the filing of the present application;

14 (e) ~~((The applicant has at least two years of experience in the~~  
15 ~~residential mortgage loan industry))~~ Either the applicant or one of its  
16 principals, who may be designated by the applicant, (i) has at least  
17 two years of experience in the residential mortgage loan industry or  
18 has completed the educational requirements established by rule of the  
19 director and (ii) has passed a written examination whose content shall  
20 be established by rule of the director; and

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

25 (2) If the director does not find the conditions of subsection (1)  
26 of this section have been met, the director shall not issue the  
27 license. The director shall notify the applicant of the denial and  
28 return to the applicant the bond or approved alternative and any  
29 remaining portion of the license fee that exceeds the ~~((departments))~~  
30 department's actual cost to investigate the license.

31 (3) ~~((The director may delay the effective date of section 5 of~~  
32 ~~this act for an additional thirty days with respect to an applicant for~~  
33 ~~a mortgage broker license for the purpose of processing the application~~  
34 ~~when the applicant has filed a completed application by October 31,~~  
35 ~~1993.))~~ The director shall issue a license under this chapter to any  
36 licensee issued a license under chapter 468, Laws of 1993, that has a  
37 valid license and is otherwise in compliance with the provisions of  
38 this chapter.

1 (4) A license issued pursuant to this chapter is valid from the  
2 date of issuance with no fixed date of expiration.

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

7 NEW SECTION. **Sec. 11.** A new section is added to chapter 19.146  
8 RCW to read as follows:

9 Either the applicant or one of its principals, who may be  
10 designated by the applicant, and every branch manager of every licensee  
11 shall complete an annual continuing education requirement, which the  
12 director shall define by rule.

13 **Sec. 12.** RCW 19.146.220 and 1993 c 468 s 8 are each amended to  
14 read as follows:

15 (1) The director shall enforce all laws and rules relating to the  
16 licensing of mortgage brokers, grant or deny licenses to mortgage  
17 brokers, and hold hearings. The director may impose any one or more of  
18 the following sanctions:

19 (a) Suspend or revoke licenses, deny applications for licenses, or  
20 ((fine)) impose penalties upon violators of cease and desist orders  
21 issued under this chapter. The director may impose fines, as  
22 established by rule by the director, for violations of or failure to  
23 comply with any lawful directive, order, or requirement of the  
24 director. Each day's continuance of the violation or failure to comply  
25 is a separate and distinct violation or failure;

26 ((In addition, the director may)) (b) Issue an order directing a  
27 licensee, its employee or loan originator, or other person subject to  
28 this chapter to cease and desist from conducting business in a manner  
29 that is injurious to the public or violates any provision of this  
30 chapter, or to pay restitution to an injured borrower; or

31 (c) Issue an order removing from office or prohibiting from  
32 participation in the conduct of the affairs of a licensed mortgage  
33 broker, or both, any officer, principal, employee, or loan originator,  
34 as the case may be, of any licensed mortgage broker.

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

1 (a) The licensee has failed to pay a fee due the state of  
2 Washington under this chapter or, to maintain in effect the bond or  
3 approved alternative required under this chapter(~~(, or to comply with~~  
4 ~~any specific order or demand of the director lawfully made and directed~~  
5 ~~to the licensee in accordance with this chapter)~~); or

6 (b) The licensee, employee or loan originator of the licensee, or  
7 person subject to the license requirements or prohibited practices of  
8 this chapter has failed to comply with any specific order or demand of  
9 the director lawfully made and directed to the licensee, employee, or  
10 loan originator of the licensee in accordance with this chapter; or

11 (c) The licensee, its employee or loan originator, or other person  
12 subject to this chapter has violated any provision of this chapter or  
13 a rule adopted under this chapter; or

14 ~~((e))~~ (d) The licensee made false statements on the application  
15 or omitted material information that, if known, would have allowed the  
16 director to deny the application for the original license.

17 (3) The director shall establish by rule standards for licensure of  
18 applicants licensed in other jurisdictions. Every licensed mortgage  
19 broker that does not maintain a physical office within the state must  
20 maintain a registered agent within the state to receive service of any  
21 lawful process in any judicial or administrative noncriminal suit,  
22 action, or proceeding, against the licensed mortgage broker which  
23 arises under this chapter or any rule or order under this chapter, with  
24 the same force and validity as if served personally on the licensed  
25 mortgage broker. Service upon the registered agent shall be effective  
26 if the plaintiff, who may be the director in a suit, action, or  
27 proceeding instituted by him or her, sends notice of the service and a  
28 copy of the process by registered mail to the defendant or respondent  
29 at the last address of the respondent or defendant on file with the  
30 director. In any judicial action, suit, or proceeding arising under  
31 this chapter or any rule or order adopted under this chapter between  
32 the department or director and a licensed mortgage broker who does not  
33 maintain a physical office in this state, venue shall be exclusively in  
34 the superior court of Thurston county.

35 NEW SECTION. Sec. 13. A new section is added to chapter 19.146  
36 RCW to read as follows:

37 The director may, at his or her discretion and as provided for in  
38 RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If



1 the person subject to such action does not appear in person or by  
2 counsel at the time and place designated for any administrative hearing  
3 that may be held on the action then the person shall be deemed to  
4 consent to the action. If the person subject to the action consents,  
5 or if after hearing the director finds by a preponderance of the  
6 evidence that any grounds for sanctions under this chapter exist, then  
7 the director may impose any sanction authorized by this chapter.

8 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.146  
9 RCW to read as follows:

10 Whenever the director determines that the public is likely to be  
11 substantially injured by delay in issuing a cease and desist order, the  
12 director may immediately issue a temporary cease and desist order. The  
13 order shall become effective at the time specified in the order. Every  
14 temporary cease and desist order shall include a provision that a  
15 hearing will be held, within fourteen days unless otherwise specified  
16 in chapter 34.05 RCW, upon request to determine whether the order will  
17 become permanent.

18 If it appears that a person has engaged in an act or practice  
19 constituting a violation of a provision of this chapter, or a rule or  
20 order under this chapter, the director, with or without prior  
21 administrative proceedings, may bring an action in the superior court  
22 to enjoin the acts or practices and to enforce compliance with this  
23 chapter or any rule or order under this chapter. Upon proper showing,  
24 injunctive relief or temporary restraining orders shall be granted.  
25 The director shall not be required to post a bond in any court  
26 proceedings.

27 **Sec. 15.** RCW 19.146.225 and 1993 c 468 s 9 are each amended to  
28 read as follows:

29 In accordance with the administrative procedure act, chapter 34.05  
30 RCW, the director may issue rules under this chapter only after seeking  
31 the advice of the mortgage brokerage commission and to govern the  
32 activities of licensed mortgage brokers ((consistent with)) and other  
33 persons subject to this chapter.

34 **Sec. 16.** RCW 19.146.230 and 1993 c 468 s 10 are each amended to  
35 read as follows:

1 The proceedings for denying license applications, issuing cease and  
2 desist orders, ((and)) suspending or revoking licenses, and imposing  
3 civil penalties or other remedies issued pursuant to this chapter and  
4 any appeal therefrom or review thereof shall be governed by the  
5 provisions of the administrative procedure act, chapter 34.05 RCW.

6 **Sec. 17.** RCW 19.146.235 and 1993 c 468 s 11 are each amended to  
7 read as follows:

8 For the purposes of investigating complaints arising under this  
9 chapter, the director may at any time, either personally or by a  
10 designee, examine the business, including but not limited to the books,  
11 accounts, records, and files used therein, of every licensee and of  
12 every person engaged in the business of mortgage brokering, whether  
13 such a person shall act or claim to act under or without the authority  
14 of this chapter. For that purpose the director and designated  
15 representatives shall have ((free)) access during regular business  
16 hours to the offices and places of business, books, accounts, papers,  
17 records, files, safes, and vaults of all such persons. The director or  
18 designated person may require the attendance of and examine under oath  
19 all persons whose testimony may be required about the loans or the  
20 business or subject matter of any such investigation. No person  
21 subject to examination or investigation under this chapter shall  
22 withhold, abstract, remove, mutilate, destroy, or secrete any books,  
23 records, computer records, or other information.

24 Once during the first two years of licensing, the director may  
25 visit, either personally or by designee, the licensee's place or places  
26 of business to conduct a compliance examination. The director may  
27 examine, either personally or by designee, a sample of the licensee's  
28 loan files, interview the licensee or other designated employee or  
29 independent contractor, and undertake such other activities as  
30 necessary to ensure that the licensee is in compliance with the  
31 provisions of this chapter. For those licensees issued licenses prior  
32 to the effective date of this section, the cost of such an examination  
33 shall be considered to have been prepaid in their license fee. After  
34 this one visit within the two-year period subsequent to issuance of a  
35 license, the director or a designee may visit the licensee's place or  
36 places of business only to ensure that corrective action has been taken  
37 or to investigate a complaint.

1       **Sec. 18.** RCW 19.146.030 and 1993 c 468 s 12 are each amended to  
2 read as follows:

3       (1) Upon receipt of a loan application and before the receipt of  
4 any moneys from a borrower, a mortgage broker shall provide to each  
5 borrower a full written (~~(notice indicating the number of the lenders~~  
6 ~~with whom it maintains a written correspondent or loan brokerage~~  
7 ~~agreement, unless exempt from licensing under this chapter, and make a~~  
8 ~~full written~~)) disclosure ((~~to each borrower~~)) containing an  
9 itemization and explanation of all fees and costs that the borrower is  
10 required to pay in connection with obtaining a residential mortgage  
11 loan, and specifying the fee or fees which inure to the benefit of the  
12 mortgage broker and other such disclosures as may be required by rule.  
13 A good faith estimate of a fee or cost shall be provided if the exact  
14 amount of the fee or cost is not determinable. This subsection shall  
15 not be construed to require disclosure of the distribution or breakdown  
16 of loan fees, discount, or points between the mortgage broker and any  
17 lender or investor.

18       (2) The written disclosure shall contain the following information:

19       (a) The annual percentage rate, finance charge, amount financed,  
20 total amount of all payments, number of payments, amount of each  
21 payment, amount of points or prepaid interest and the conditions and  
22 terms under which any loan terms may change between the time of  
23 disclosure and closing of the loan; and if a variable rate, the  
24 circumstances under which the rate may increase, any limitation on the  
25 increase, the effect of an increase, and an example of the payment  
26 terms resulting from an increase. Disclosure in compliance with the  
27 requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and  
28 Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be  
29 deemed to comply with the disclosure requirements of this subsection;

30       (b) The itemized costs of any credit report, appraisal, title  
31 report, title insurance policy, mortgage insurance, escrow fee,  
32 property tax, insurance, structural or pest inspection, and any other  
33 third-party provider's costs associated with the residential mortgage  
34 loan. Disclosure through good faith estimates of settlement services  
35 and special information booklets in compliance with the requirements of  
36 the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and  
37 Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall  
38 be deemed to comply with the disclosure requirements of this  
39 subsection;

1 (c) If applicable, the cost, terms, duration, and conditions of a  
2 lock-in agreement and whether a lock-in agreement has been entered, and  
3 whether the lock-in agreement is guaranteed by the mortgage broker or  
4 lender, and if a lock-in agreement has not been entered, disclosure in  
5 a form approved by the director that the disclosed interest rate and  
6 terms are subject to change;

7 (d) A statement that if the borrower is unable to obtain a loan for  
8 any reason, the mortgage broker must, within five days of a written  
9 request by the borrower, give copies of any appraisal, title report, or  
10 credit report paid for by the borrower to the borrower, and transmit  
11 the appraisal, title report, or credit report to any other mortgage  
12 broker or lender to whom the borrower directs the documents to be sent;

13 (e) The name of the lender and the nature of the business  
14 relationship between the lender providing the residential mortgage loan  
15 and the mortgage broker, if any: PROVIDED, That this disclosure may be  
16 made at any time up to the time the borrower accepts the lender's  
17 commitment; and

18 (f) A statement providing that moneys paid by the borrower to the  
19 mortgage broker for third-party provider services are held in a trust  
20 account and any moneys remaining after payment to third-party providers  
21 will be refunded.

22 (3) If subsequent to the written disclosure being provided under  
23 this section, a mortgage broker enters into a lock-in agreement with a  
24 borrower or represents to the borrower that the borrower has entered  
25 into a lock-in agreement, then no less than three business days  
26 thereafter including Saturdays, the mortgage broker shall deliver or  
27 send by first-class mail to the borrower a written confirmation of the  
28 terms of the lock-in agreement, which shall include a copy of the  
29 disclosure made under subsection (2)(c) of this section.

30 (4) A violation of the Truth-in-Lending Act, Regulation Z, the Real  
31 Estate Settlement Procedures Act, and Regulation X is a violation of  
32 this section for purposes of this chapter.

33 (5) A mortgage broker shall not charge any fee that inures to the  
34 benefit of the mortgage broker if it exceeds the fee disclosed on the  
35 written disclosure pursuant to this section, unless (a) the need to  
36 charge the fee was not reasonably foreseeable at the time the written  
37 disclosure was provided and (b) the mortgage broker has provided to the  
38 borrower, no less than three business days prior to the signing of the  
39 loan closing documents, a clear written explanation of the fee and the

1 reason for charging a fee exceeding that which was previously  
2 disclosed. However, if the borrower's closing costs, excluding prepaid  
3 escrowed costs of ownership as defined by rule, does not exceed the  
4 total closing costs in the most recent good faith estimate, no other  
5 disclosures shall be required by this subsection.

6 **Sec. 19.** RCW 19.146.040 and 1987 c 391 s 6 are each amended to  
7 read as follows:

8 (1) Every contract between a mortgage broker and a borrower shall  
9 be in writing and shall contain the entire agreement of the parties.

10 (2) A mortgage broker shall have a written correspondent or loan  
11 brokerage agreement with a lender before any solicitation of, or  
12 contracting with, the public.

13 **Sec. 20.** RCW 19.146.060 and 1987 c 391 s 8 are each amended to  
14 read as follows:

15 (1) A mortgage broker shall use generally accepted accounting  
16 principles.

17 (2) A mortgage broker shall maintain accurate, current, and readily  
18 available books and records at the mortgage broker's usual business  
19 location until at least (~~six~~) four years have elapsed following the  
20 effective period to which the books and records relate. "Books and  
21 records" includes but is not limited to:

22 (a) Copies of all advertisements placed by or at the request of the  
23 mortgage broker which mention rates or fees. In the case of radio or  
24 television advertisements, or advertisements placed on a telephonic  
25 information line or other electronic source of information including  
26 but not limited to a computer data base or electronic bulletin board,  
27 a mortgage broker shall keep copies of the precise script for the  
28 advertisement. All advertisement records shall include for each  
29 advertisement the date or dates of publication and name of each  
30 periodical, broadcast station, or telephone information line which  
31 published the advertisement or, in the case of a flyer or other  
32 material distributed by the mortgage broker, the dates, methods, and  
33 areas of distribution; and

34 (b) Copies of all documents, notes, computer records if not stored  
35 in printed form, correspondence or memoranda relating to a borrower  
36 from whom the mortgage broker has accepted a deposit or other funds, or  
37 accepted a residential mortgage loan application or with whom the

1 mortgage broker has entered into an agreement to assist in obtaining a  
2 residential mortgage loan.

3 **Sec. 21.** RCW 19.146.240 and 1993 c 468 s 14 are each amended to  
4 read as follows:

5 (1) Any person injured by a violation of this chapter may bring an  
6 action against the surety bond or approved alternative of the licensed  
7 mortgage broker who committed the violation or who employed or engaged  
8 the loan originator (~~((committing))~~) who committed the violation.

9 (2) A person who is damaged by the licensee's or its loan  
10 originator's violation of this chapter, or rules adopted under this  
11 chapter, may bring suit upon the surety bond or approved alternative in  
12 the superior court of any county in which jurisdiction over the  
13 licensee may be obtained. Jurisdiction shall be exclusively in the  
14 superior court. Any such action must be brought not later than one  
15 year after the alleged violation of this chapter or rules adopted under  
16 this chapter. In the event valid claims against a bond or deposit  
17 exceed the amount of the bond or deposit, each claimant shall only be  
18 entitled to a pro rata amount, based on the amount of the claim as it  
19 is valid against the bond or deposit, without regard to the date of  
20 filing of any claim or action. A judgment arising from a violation of  
21 this chapter or rule adopted under this chapter shall be entered for  
22 actual damages and in no case be less than the amount paid by the  
23 borrower to the licensed mortgage broker plus reasonable attorneys'  
24 fees and costs. In no event shall the surety bond or approved  
25 alternative provide payment for any trebled or punitive damages.

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

28 **Sec. 22.** RCW 19.146.245 and 1993 c 468 s 15 are each amended to  
29 read as follows:

30 A licensed mortgage broker is liable for any conduct violating this  
31 chapter by a loan originator or other licensed mortgage broker while  
32 employed or engaged by the licensed mortgage broker. In addition, a  
33 branch office manager is liable for any conduct violating this chapter  
34 by a loan originator or other licensed mortgage broker employed or  
35 engaged at the branch office.

1       **Sec. 23.** RCW 19.146.260 and 1993 c 468 s 17 are each amended to  
2 read as follows:

3       Every licensed mortgage broker must have and maintain an office in  
4 this state, or within thirty miles of the border of this state,  
5 accessible to the public and which shall serve as his or her office for  
6 the transaction of business. (~~Any office so established must comply~~  
7 with the zoning requirements of city or county ordinances and)) The  
8 broker's license must be prominently displayed (~~therein. In addition,~~  
9 ~~any branch office must comply with the zoning requirements of city or~~  
10 ~~county ordinances)). Every licensed mortgage broker that does not  
11 maintain a physical office within the state must maintain a registered  
12 agent within the state to receive service of any lawful process in any  
13 judicial or administrative noncriminal suit, action, or proceeding  
14 against the licensed mortgage broker which arises under this chapter or  
15 any rule or order under this chapter, with the same force and validity  
16 as if served personally on the licensed mortgage broker. Service upon  
17 the registered agent shall not be effective unless the plaintiff, who  
18 may be the director in a suit, action, or proceeding instituted by him  
19 or her, no later than the next business day sends notice of the service  
20 and a copy of the process by registered mail to the defendant or  
21 respondent at the last address of the respondent or defendant on file  
22 with the director.~~

23       **Sec. 24.** RCW 19.146.265 and 1993 c 468 s 18 are each amended to  
24 read as follows:

25       A licensed mortgage broker may apply to the director for authority  
26 to establish one or more branch offices under the same or different  
27 name as the main office upon the payment of a fee as prescribed by the  
28 director by rule. The director shall issue a duplicate license for  
29 each of the branch offices showing the location of the main office and  
30 the particular branch. Each duplicate license shall be prominently  
31 displayed in the office for which it is issued. Each branch office  
32 shall be required to have a branch manager who (~~shall be a licensed~~  
33 ~~mortgage broker authorized by the mortgage broker to perform the duties~~  
34 ~~of a branch manager)) meets the experience and educational requirements  
35 for branch managers as established by rule of the director.~~

36       **Sec. 25.** RCW 19.146.100 and 1987 c 391 s 12 are each amended to  
37 read as follows:

1       (~~The commission by any person of~~) The legislature finds that the  
2 practices governed by this chapter are matters vitally affecting the  
3 public interest for the purpose of applying the consumer protection  
4 act, chapter 19.86 RCW. Any violation of this chapter is not  
5 reasonable in relation to the development and preservation of business  
6 and is an unfair or deceptive act or practice and unfair method of  
7 competition in the conduct of trade or commerce in violation of RCW  
8 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and  
9 not exclusive.

10       **Sec. 26.** RCW 19.146.280 and 1993 c 468 s 21 are each amended to  
11 read as follows:

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

15       (2) The director shall appoint the members of the commission,  
16 weighing the recommendations from professional organizations  
17 representing mortgage brokers. At least three of the commission  
18 members shall be mortgage brokers required to apply for a mortgage  
19 brokers license under this chapter and at least one shall be exempt  
20 from licensure under RCW 19.146.020(1) (f) (~~or (g)~~). No commission  
21 member shall be appointed who has had less than five years' experience  
22 in the business of residential mortgage lending. In addition, (~~the~~  
23 ~~attorney general, or a designee, and~~) the director(~~(7)~~) or a  
24 designee(~~(7)~~) shall serve as an ex officio, nonvoting member(~~(8)~~) of  
25 the commission. Voting members of the commission shall serve for two-  
26 year terms with three of the initial commission members serving one-  
27 year terms. The department shall provide staff support to the  
28 commission.

29       (3) Members of the commission shall be reimbursed for their travel  
30 expenses incurred in carrying out the provisions of this chapter in  
31 accordance with RCW 43.03.050 and 43.03.060. All costs and expenses  
32 associated with the commission shall be paid from the (~~mortgage~~  
33 ~~brokers' licensing account created in RCW 19.146.270~~) banking  
34 examination fund, unless the consumer services account is created as a  
35 dedicated, nonappropriated account, in which case all costs and  
36 expenses shall be paid from the consumer services account.

37       (4)(~~(a)~~) The commission shall advise the director on the  
38 characteristics and needs of the mortgage brokerage profession. (~~In~~



1 addition to its advisory capacity, the commission shall review all  
2 state and federal provisions governing mortgage brokers and shall  
3 prepare a report:

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

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

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

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

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

16 (b) In preparing its report, the commission shall solicit comments  
17 from the mortgage broker industry, the department of licensing, the  
18 attorney general's office, other state regulators, and residential  
19 mortgage loan consumers. The committee shall submit its report to the  
20 labor and commerce committee of the senate and the financial  
21 institutions and insurance committee of the house of representatives by  
22 December 1, 1993.)

23 (5) The department, in consultation with other applicable agencies  
24 of state government, shall conduct a continuing review of the number  
25 and type of consumer complaints arising from residential mortgage  
26 lending in the state. The department shall report its findings to the  
27 senate committee on labor and commerce and house of representatives  
28 committee on financial institutions and insurance along with  
29 recommendations for any changes in the licensing requirements of this  
30 chapter, no later than December 1, 1996.

31 NEW SECTION. Sec. 27. The following acts or parts of acts are  
32 each repealed:

33 (1) RCW 19.146.270 and 1993 c 468 s 19; and

34 (2) 1993 c 468 s 27 (uncodified).

35 NEW SECTION. Sec. 28. If any provision of this act or its  
36 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

3 NEW SECTION. **Sec. 29.** This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately, except section 5 of this act which shall take  
7 effect June 1, 1994.

--- END ---