

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5829**

Chapter 468, Laws of 1993

53rd Legislature  
1993 Regular Session

MORTGAGE BROKERS AND LOAN ORIGINATORS--LICENSING

EFFECTIVE DATE: 7/25/93 - Except Sections 2 through 4, 9, 13, & 21 through 23 which take effect on 5/17/93; Sections 6 through 8, 10, 18, & 19 which take effect on 9/1/93; & Sections 1, 5, 11, 12, 14 through 17 & 20 which take effect on 10/31/93. (Section 5 with the possible exceptions)

Passed by the Senate April 20, 1993  
YEAS 46 NAYS 0

JOEL PRITCHARD

**President of the Senate**

Passed by the House April 15, 1993  
YEAS 96 NAYS 0

BRIAN EBERSOLE

**Speaker of the  
House of Representatives**

Approved May 17, 1993

MIKE LOWRY

**Governor of the State of Washington**

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5829** as passed by the Senate and the House of Representatives on the dates hereon set forth.

MARTY BROWN

**Secretary**

FILED

May 17, 1993 - 2:04 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5829**

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AS AMENDED BY THE HOUSE

Passed Legislature - 1993 Regular Session

**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) "Computer loan origination systems" or "CLO system" means the  
9 real estate mortgage financing information system defined by rule of  
10 the director.

11       (3) "Department" means the department of licensing.

12       (4) "Director" means the director of licensing.

13       (5) "Loan originator" means a natural person employed, either  
14 directly or indirectly, by a licensed mortgage broker, or a natural  
15 person who represents a licensed mortgage broker, in the performance of  
16 any acts specified in subsection (7) of this section.

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

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

29       ((+3)) (8) "Person" means a natural person, corporation, company,  
30 partnership, or association.

31       ((+4)) (9) "Residential mortgage loan" means any loan primarily  
32 for personal, family, or household use secured by a mortgage or deed of  
33 trust on residential real estate upon which is constructed or intended  
34 to be constructed a single family dwelling or multiple family dwelling  
35 of four or less units.

36       ((+5)) (10) "Third-party provider" means any person other than a  
37 mortgage broker or lender who provides goods or services to the  
38 mortgage broker in connection with the preparation of the borrower's  
39 loan and includes, but is not limited to, credit reporting agencies,

1 title companies, appraisers, structural and pest inspectors, or escrow  
2 companies.

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

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

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

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

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

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

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

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

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

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

1       (i) A real estate broker who provides information only in  
2 connection with a CLO system, who may receive a fee for such  
3 information in an amount approved by the director and who conforms to  
4 all rules of the director with respect to the providing of such  
5 service.

6       (2) Those persons otherwise exempt under subsection (1) (f), (g),  
7 and (i) of this section must comply with section 4 of this act.

8       NEW SECTION. Sec. 4. It is unlawful for a loan originator,  
9 mortgage broker required to be licensed under this chapter, or mortgage  
10 broker otherwise exempted from this chapter under RCW 19.146.020(1)  
11 (f), (g), or (i) in connection with a residential mortgage loan to:

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

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

16       (3) Obtain property by fraud or misrepresentation;

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

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

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

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

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

36       (9) Make any payment, directly or indirectly, to any fee appraiser  
37 third party of a property, for the purposes of influencing the

1 independent judgment of the appraiser with respect to the value of the  
2 property;

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

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

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

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

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

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

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

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

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

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

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

8 (2) At the time of filing an application for a license under this  
9 chapter, each applicant shall pay to the director the appropriate  
10 license fee in an amount determined by rule of the director in  
11 accordance with RCW 43.24.086 to be sufficient to cover, but not  
12 exceed, the department's costs in administering this chapter. The  
13 director shall deposit the moneys in the mortgage broker fund created  
14 under section 19 of this act.

15 (3)(a) Each applicant for a mortgage broker's license shall file  
16 and maintain a surety bond, in an amount of forty thousand dollars or  
17 such lower amount the director deems adequate to protect the public  
18 interest, executed by the applicant as obligor and by a surety company  
19 authorized to do a surety business in this state as surety. The bond  
20 shall run to the state of Washington as obligee, and shall run to the  
21 benefit of the state and any person or persons who suffer loss by  
22 reason of the applicant's violation of any provision of this chapter or  
23 rules adopted under this chapter. The bond shall be conditioned that  
24 the obligor as licensee will faithfully conform to and abide by this  
25 chapter and all rules adopted under this chapter, and shall reimburse  
26 all persons who suffer loss by reason of a violation of this chapter  
27 or rules adopted under this chapter. The bond shall be continuous and  
28 may be canceled by the surety upon the surety giving written notice to  
29 the director of its intent to cancel the bond. The cancellation shall  
30 be effective thirty days after the notice is received by the director.  
31 Whether or not the bond is renewed, continued, reinstated, reissued, or  
32 otherwise extended, replaced, or modified, including increases or  
33 decreases in the penal sum, it shall be considered one continuous  
34 obligation, and the surety upon the bond shall not be liable in an  
35 aggregate or cumulative amount exceeding the penal sum set forth on the  
36 face of the bond. In no event shall the penal sum, or any portion  
37 thereof, at two or more points in time be added together in determining  
38 the surety's liability. The bond shall not be liable for any penalties  
39 imposed on the licensee, including, but not limited to, any increased

1 damages or attorneys' fees, or both, awarded under RCW 19.86.090. The  
2 applicant may obtain the bond directly from the surety or through a  
3 group bonding arrangement involving a professional organization  
4 comprised of mortgage brokers if the arrangement provides at least as  
5 much coverage as is required under this subsection.

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

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

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

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

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

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

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

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

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



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

7 (3) The director may delay the effective date of section 5 of this  
8 act for an additional thirty days with respect to an applicant for a  
9 mortgage broker license for the purpose of processing the application  
10 when the applicant has filed a completed application by October 31,  
11 1993.

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

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

18 NEW SECTION. **Sec. 8.** (1) The director shall enforce all laws and  
19 rules relating to the licensing of mortgage brokers, grant or deny  
20 licenses to mortgage brokers, and hold hearings. The director may  
21 impose any one or more of the following sanctions: Suspend or revoke  
22 licenses, deny applications for licenses, or fine violators under this  
23 chapter. In addition, the director may issue an order directing a  
24 licensee or person subject to this chapter to cease and desist from  
25 conducting business in a manner that is injurious to the public or  
26 violates any provision of this chapter.

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

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

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

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

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

3 NEW SECTION. **Sec. 9.** In accordance with the administrative  
4 procedure act, chapter 34.05 RCW, the director may issue rules to  
5 govern the activities of licensed mortgage brokers consistent with this  
6 chapter.

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

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

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

27 (1) Upon receipt of a loan application and before the receipt of  
28 any moneys from a borrower, a mortgage broker shall provide to each  
29 borrower a written notice indicating the number of the lenders with  
30 whom it maintains a written correspondent or loan brokerage agreement,  
31 unless exempt from licensing under this chapter, and make a full  
32 written disclosure to each borrower containing an itemization and  
33 explanation of all fees and costs that the borrower is required to pay  
34 in connection with obtaining a residential mortgage loan. A good faith

1 estimate of a fee or cost shall be provided if the exact amount of the  
2 fee or cost is not determinable.

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

4 ((+1)) (a) The annual percentage rate, finance charge, amount  
5 financed, total amount of all payments, number of payments, amount of  
6 each payment, amount of points or prepaid interest and the conditions  
7 and terms under which any loan terms may change between the time of  
8 disclosure and closing of the loan; and if a variable rate, the  
9 circumstances under which the rate may increase, any limitation on the  
10 increase, the effect of an increase, and an example of the payment  
11 terms resulting from an increase. Disclosure in compliance with the  
12 requirements of the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 and  
13 Regulation Z, 12 C.F.R. Sec. 226, as now or hereafter amended, shall be  
14 deemed to comply with the disclosure requirements of this subsection;

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

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

30 ((+4)) (d) A statement that if the borrower is unable to obtain a  
31 loan for any reason, the mortgage broker must, within five days of a  
32 written request by the borrower, give copies of any appraisal, title  
33 report, or credit report paid for by the borrower to the borrower, and  
34 transmit the appraisal, title report, or credit report to any other  
35 mortgage broker or lender to whom the borrower directs the documents to  
36 be sent;

37 ((+5)) (e) The name of the lender and the nature of the business  
38 relationship between the lender providing the residential mortgage loan  
39 and the mortgage broker, if any: PROVIDED, That this disclosure may be

1 made at any time up to the time the borrower accepts the lender's  
2 commitment; and

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

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

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

12 (1) Except as otherwise permitted by this section, a mortgage  
13 broker shall not receive a fee, commission, or compensation of any kind  
14 in connection with the preparation, negotiation, and brokering of a  
15 residential mortgage loan unless a borrower actually obtains a loan  
16 from a lender on the terms and conditions agreed upon by the borrower  
17 and mortgage broker.

18 (2) A mortgage broker may:

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

28 (b) Solicit or receive fees for third party provider goods or  
29 services in advance. Fees for any goods or services not provided must  
30 be refunded to the borrower and the mortgage broker may not charge more  
31 for the goods and services than the actual costs of the goods or  
32 services charged by the third party provider.

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

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

1       ~~(b) Solicit, advertise, or enter into a contract for specific~~  
2 ~~interest rates, points, or other financing terms unless the terms are~~  
3 ~~actually available at the time of soliciting, advertising, or~~  
4 ~~contracting-))~~

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

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

34       NEW SECTION.   **Sec. 16.** No license issued under the provisions of  
35 this chapter shall authorize any person other than the person to whom

1 it is issued to do any act by virtue thereof nor to operate in any  
2 other manner than under his or her own name except:

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

6 (2) A broker may establish one or more branch offices under a name  
7 or names different from that of the main office if the name or names  
8 are approved by the director, so long as each branch office is clearly  
9 identified as a branch or division of the main office. No broker may  
10 establish branch offices under more than three names. Both the name of  
11 the branch office and of the main office must clearly appear on the  
12 sign identifying the office, if any, and in any advertisement or on any  
13 letterhead of any stationery or any forms, or signs used by the  
14 mortgage firm on which either the name of the main or branch offices  
15 appears.

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

23 NEW SECTION. **Sec. 18.** A licensed mortgage broker may apply to the  
24 director for authority to establish one or more branch offices under  
25 the same or different name as the main office upon the payment of a fee  
26 as prescribed by the director by rule. The director shall issue a  
27 duplicate license for each of the branch offices showing the location  
28 of the main office and the particular branch. Each duplicate license  
29 shall be prominently displayed in the office for which it is issued.  
30 Each branch office shall be required to have a branch manager who shall  
31 be a licensed mortgage broker authorized by the mortgage broker to  
32 perform the duties of a branch manager.

33 NEW SECTION. **Sec. 19.** All moneys collected under this chapter  
34 shall be deposited in the mortgage brokers' licensing account hereby  
35 created in the state treasury. Expenditures from the account, subject

1 to appropriation, may be used solely for department costs in  
2 administering this chapter.

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

5 Any person who violates any provision of (~~RCW 19.146.005 through~~  
6 ~~19.146.040 or 19.146.060 through 19.146.100~~) this chapter other than  
7 RCW 19.146.050 or any rule or order of the director shall be guilty of  
8 a misdemeanor punishable under chapter 9A.20 RCW. Any person who  
9 violates RCW 19.146.050 shall be guilty of a class C felony under  
10 chapter 9A.20 RCW.

11 NEW SECTION. **Sec. 21.** (1) There is established the mortgage  
12 brokerage commission consisting of five commission members who shall  
13 act in an advisory capacity to the director on mortgage brokerage  
14 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, or a designee, shall  
24 serve as ex officio, nonvoting members of the commission. Voting  
25 members of the commission shall serve for two-year terms with three of  
26 the initial commission members serving one-year terms. The department  
27 shall provide staff support to the commission.

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

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

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

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

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

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

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

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

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

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

27 NEW SECTION. **Sec. 24.** Sections 4 through 11, 14 through 19, and  
28 21 of this act are each added to chapter 19.146 RCW.

29 NEW SECTION. **Sec. 25.** (1) If the powers, duties, and functions of  
30 the division of banking and the division of savings and loan are  
31 transferred into a new department, the powers, duties, and functions of  
32 the department relating to the administration of chapter 19.146 RCW  
33 shall be transferred to the new department. In such event, all  
34 references to the director or the department of licensing shall be  
35 construed to mean the new department or its director.



1 (2) In the event that the new department is created, all reports,  
2 documents, surveys, books, records, files, papers, or other written or  
3 electronically stored material in the possession of the department of  
4 licensing pertaining to the powers, functions, and duties transferred  
5 under subsection (1) of this section shall be delivered to the custody  
6 of the new department. All cabinets, furniture, office equipment,  
7 motor vehicles, and other tangible property employed by the department  
8 of licensing in carrying out the powers, functions, and duties  
9 transferred by subsection (1) of this section shall be made available  
10 to the new department if such property was purchased from funds  
11 deposited in the mortgage brokers' licensing account. All funds  
12 contained in the mortgage brokers' licensing account shall be  
13 transferred to the appropriate account of the new department for  
14 administration of chapter 19.146 RCW and shall be used solely for the  
15 costs of administering this chapter. In the event any dispute arises  
16 as to the transfer of any personnel, funds, books, documents, records,  
17 papers, files, equipment, or other tangible property used or held in  
18 the exercise of the powers and the performance of the duties and powers  
19 transferred under subsection (1) of this section, the director of  
20 financial management shall make a determination as to the proper  
21 allocation and certify the same to the state agencies concerned.

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

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

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

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

Passed the Senate April 20, 1993.  
Passed the House April 15, 1993.  
Approved by the Governor May 17, 1993.  
Filed in Office of Secretary of State May 17, 1993.