

SB 6381 - H COMM AMD

By Committee on Insurance, Financial Services & Consumer Protection

ADOPTED 03/04/2008

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

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

16 (b) A mortgage broker must carry out all lawful instructions  
17 provided by the borrower;

18 (c) A mortgage broker must disclose to the borrower all material  
19 facts of which the mortgage broker has knowledge that might reasonably  
20 affect the borrower's rights, interests, or ability to receive the  
21 borrower's intended benefit from the residential mortgage loan;

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

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

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

29 (3) The fiduciary duty in this section does not require a mortgage

1 broker to offer or obtain access to loan products and services other  
2 than those that are available to the mortgage broker at the time of the  
3 transaction.

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

5 Correct the title.

EFFECT: Language regarding other state law requirements for  
fiduciaries is removed. Language prohibiting a broker from  
compromising a borrower's interest is removed. Language requiring the  
disclosure of all interests to the borrower is added. A mortgage  
broker is not required to offer or obtain access to loans or services  
that are not available to the mortgage broker at the time of the  
transaction. The Director of the Department of Financial Institutions  
must adopt rules to implement the section.

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