

CERTIFICATION OF ENROLLMENT

SENATE BILL 6471

Chapter 78, Laws of 2008

60th Legislature
2008 Regular Session

LOAN REGULATION

EFFECTIVE DATE: 06/12/08

Passed by the Senate February 19, 2008
YEAS 47 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 6, 2008
YEAS 93 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 19, 2008, 10:02 a.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6471** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

March 20, 2008

**Secretary of State
State of Washington**

SENATE BILL 6471

Passed Legislature - 2008 Regular Session

State of Washington 60th Legislature 2008 Regular Session

By Senators Weinstein, Kauffman, Tom, Fairley, McAuliffe, Kohl-
Welles, Keiser, and Kline

Read first time 01/17/08. Referred to Committee on Consumer
Protection & Housing.

1 AN ACT Relating to protecting consumers by regulating loans under
2 the consumer loan act and mortgage broker practices act; amending RCW
3 31.04.025, 31.04.035, and 19.146.010; and repealing RCW 31.04.005.

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

5 **Sec. 1.** RCW 31.04.025 and 2001 c 81 s 2 are each amended to read
6 as follows:

7 Each loan made to a resident of this state by a licensee is subject
8 to the authority and restrictions of this chapter, unless such loan is
9 made under the authority of (~~another license issued pursuant to a law
10 of this state or under other authority of a law of this state~~) chapter
11 63.14 RCW. This chapter shall not apply to any person doing business
12 under and as permitted by any law of this state or of the United States
13 relating to banks, savings banks, trust companies, savings and loan or
14 building and loan associations, or credit unions, nor to any
15 pawnbroking business lawfully transacted under and as permitted by any
16 law of this state regulating pawnbrokers, nor to any loan of credit
17 made pursuant to a credit card plan.

1 **Sec. 2.** RCW 31.04.035 and 1991 c 208 s 3 are each amended to read
2 as follows:

3 No person may engage in the business of making secured or unsecured
4 loans of money, credit, or things in action (~~at interest rates~~
5 ~~authorized by this chapter~~) without first obtaining and maintaining a
6 license in accordance with this chapter.

7 **Sec. 3.** RCW 19.146.010 and 2006 c 19 s 2 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

14 (2) "Application" means the same as in Regulation X, Real Estate
15 Settlement Procedures, 24 C.F.R. Sec. 3500.

16 (3) "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 (4) "Computer loan information systems" or "CLI system" means a
22 real estate mortgage financing information system that facilitates the
23 provision of information to consumers by a mortgage broker, loan
24 originator, lender, real estate agent, or other person regarding
25 interest rates and other loan terms available from different lenders.

26 (5) "Department" means the department of financial institutions.

27 (6) "Designated broker" means a natural person designated as the
28 person responsible for activities of the licensed mortgage broker in
29 conducting the business of a mortgage broker under this chapter and who
30 meets the experience and examination requirements set forth in RCW
31 19.146.210(1)(e).

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

33 (8) "Employee" means an individual who has an employment
34 relationship with a mortgage broker, and the individual is treated as
35 an employee by the mortgage broker for purposes of compliance with
36 federal income tax laws.

1 (9) "Independent contractor" or "person who independently
2 contracts" means any person that expressly or impliedly contracts to
3 perform mortgage brokering services for another and that with respect
4 to its manner or means of performing the services is not subject to the
5 other's right of control, and that is not treated as an employee by the
6 other for purposes of compliance with federal income tax laws.

7 (10) "Loan originator" means a natural person who (a) takes a
8 residential mortgage loan application for a mortgage broker, or (b)
9 offers or negotiates terms of a mortgage loan, for direct or indirect
10 compensation or gain, or in the expectation of direct or indirect
11 compensation or gain. "Loan originator" also includes a person who
12 holds themselves out to the public as able to perform any of these
13 activities. "Loan originator" does not mean persons performing purely
14 administrative or clerical tasks for a mortgage broker. For the
15 purposes of this subsection, "administrative or clerical tasks" means
16 the receipt, collection, and distribution of information common for the
17 processing of a loan in the mortgage industry and communication with a
18 borrower to obtain information necessary for the processing of a loan.
19 A person who holds himself or herself out to the public as able to
20 obtain a loan is not performing administrative or clerical tasks.

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

26 (12) "Mortgage broker" means any person who for compensation or
27 gain, or in the expectation of compensation or gain (a) (~~makes a~~
28 ~~residential mortgage loan or~~) assists a person in obtaining or
29 applying to obtain a residential mortgage loan or (b) holds himself or
30 herself out as being able to (~~make a residential mortgage loan or~~)
31 assist a person in obtaining or applying to obtain a residential
32 mortgage loan.

33 (13) "Person" means a natural person, corporation, company, limited
34 liability corporation, partnership, or association.

35 (14) "Principal" means any person who controls, directly or
36 indirectly through one or more intermediaries, or alone or in concert
37 with others, a ten percent or greater interest in a partnership,

1 company, association, or corporation, and the owner of a sole
2 proprietorship.

3 (15) "Residential mortgage loan" means any loan primarily for
4 personal, family, or household use secured by a mortgage or deed of
5 trust on residential real estate upon which is constructed or intended
6 to be constructed a single family dwelling or multiple family dwelling
7 of four or less units.

8 (16) "Third-party provider" means any person other than a mortgage
9 broker or lender who provides goods or services to the mortgage broker
10 in connection with the preparation of the borrower's loan and includes,
11 but is not limited to, credit reporting agencies, title companies,
12 appraisers, structural and pest inspectors, or escrow companies.

13 NEW SECTION. **Sec. 4.** RCW 31.04.005 (Finding--Purpose) and 1991 c
14 208 s 1 are each repealed.

15 NEW SECTION. **Sec. 5.** If any provision of this act or its
16 application to any person or circumstance is held invalid, the
17 remainder of the act or the application of the provision to other
18 persons or circumstances is not affected.

Passed by the Senate February 19, 2008.

Passed by the House March 6, 2008.

Approved by the Governor March 19, 2008.

Filed in Office of Secretary of State March 20, 2008.