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SENATE BILL 5299

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State of Washington                      64th Legislature                      2015 Regular Session

By Senators Benton, Mullet, Fain, Darneille, Hobbs, Angel, and Conway; by request of Department of Financial Institutions

Read first time 01/19/15.            Referred to Committee on Financial Institutions & Insurance.

1            AN ACT Relating to updating, clarifying, and strengthening  
2 department of financial institutions' enforcement, licensing, and  
3 examination statutes relating to residential mortgage lending, and  
4 enhancing the crime of mortgage fraud in the residential mortgage  
5 lending process; amending RCW 18.44.021, 19.144.010, 19.144.080,  
6 19.144.090, 19.146.010, 19.146.020, 19.146.0201, 19.146.030,  
7 19.146.040, 19.146.070, 19.146.205, 19.146.220, 19.146.221,  
8 19.146.227, 19.146.228, 19.146.265, 19.146.300, 19.146.390,  
9 31.04.015, 31.04.027, 31.04.045, 31.04.075, 31.04.093, 31.04.102,  
10 31.04.105, 31.04.145, 31.04.205, 31.04.221, 31.04.224, 31.04.247,  
11 31.04.277, 31.04.290, and 31.04.520; reenacting and amending RCW  
12 31.04.025; adding new sections to chapter 31.04 RCW; repealing RCW  
13 19.146.290 and 19.146.330; and prescribing penalties.

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

15            **Sec. 1.** RCW 18.44.021 and 2012 c 124 s 1 are each amended to  
16 read as follows:

17            It shall be unlawful for any person to engage in business as an  
18 escrow agent by performing escrows or any of the functions of an  
19 escrow agent as described in RCW 18.44.011(7) within this state or  
20 with respect to transactions that involve personal property or real  
21 property located in this state unless such person possesses a valid

1 license issued by the director pursuant to this chapter. The  
2 licensing requirements of this chapter shall not apply to:

3 (1) Any person doing business under the law of this state or the  
4 United States relating to banks, trust companies, mutual savings  
5 banks, savings and loan associations, credit unions, insurance  
6 companies, or any federally approved agency or lending institution  
7 under the national housing act (12 U.S.C. Sec. 1703).

8 (2) Any person licensed to practice law in this state if:

9 (a) All escrow transactions are performed by the lawyer while  
10 engaged in the practice of law, or by employees of the law practice  
11 under the direct supervision of the lawyer while engaged in the  
12 practice of law;

13 (b) All escrow transactions are performed under a legal entity  
14 publicly identified and operated as a law practice; and

15 (c) All escrow funds are deposited to, maintained in, and  
16 disbursed from a trust account in compliance with rules enacted by  
17 the Washington supreme court regulating the conduct of lawyers.

18 (3) Any real estate company, broker, or agent subject to the  
19 jurisdiction of the director of licensing while performing acts in  
20 the course of or incidental to sales or purchases of real or personal  
21 property handled or negotiated by such real estate company, broker,  
22 or agent: PROVIDED, That no compensation is received for escrow  
23 services.

24 (4) Any transaction in which money or other property is paid to,  
25 deposited with, or transferred to a joint control agent for disbursement  
26 or use in payment of the cost of labor, material, services, permits,  
27 fees, or other items of expense incurred in the construction of  
28 improvements upon real property.

29 (5) Any receiver, trustee in bankruptcy, executor, administrator,  
30 guardian, or other person acting under the supervision or order of  
31 any superior court of this state or of any federal court.

32 (6) Title insurance companies having a valid certificate of  
33 authority issued by the insurance commissioner of this state and  
34 title insurance agents having a valid license as a title insurance  
35 agent issued by the insurance commissioner of this state.

36 (7) The director may at his or her discretion waive applicability  
37 of the licensing provisions of this chapter if the director  
38 determines it necessary to facilitate commerce or protect consumers.  
39 The director may adopt rules interpreting this section.

1       **Sec. 2.** RCW 19.144.010 and 2008 c 108 s 2 are each amended to  
2 read as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Adjustable rate mortgage" or "ARM" means a payment option  
6 ARM or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

7       (2) "Application" means the same as in Regulation X, Real Estate  
8 Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application  
9 for a residential mortgage loan.

10       (3) "Borrower" means any person who consults with or retains a  
11 person subject to this chapter in an effort to seek information about  
12 obtaining a residential mortgage loan, regardless of whether that  
13 person actually obtains such a loan.

14       (4) "Department" means the department of financial institutions.

15       (5) "Director" means the director of the department of financial  
16 institutions.

17       (6) "Financial institution" means commercial banks and alien  
18 banks subject to regulation under \*Title 30 RCW, savings banks  
19 subject to regulation under Title 32 RCW, savings associations  
20 subject to regulation under Title 33 RCW, credit unions subject to  
21 regulation under chapter 31.12 RCW, consumer loan companies subject  
22 to regulation under chapter 31.04 RCW, and mortgage brokers and  
23 lenders subject to regulation under chapter 19.146 RCW.

24       (7) "Fully indexed rate" means the index rate prevailing at the  
25 time a residential mortgage loan is made, plus the margin that will  
26 apply after the expiration of an introductory interest rate.

27       (8) "Mortgage lending process" means the process through which a  
28 person seeks or obtains a residential mortgage loan or residential  
29 mortgage loan modification including, but not limited to,  
30 solicitation, application, or origination; negotiation of terms;  
31 third-party provider services; underwriting; signing and closing; and  
32 funding of the loan. Documents involved in the mortgage lending  
33 process include, but shall not be limited to, uniform residential  
34 loan applications or other loan applications, appraisal reports,  
35 settlement statements, supporting personal documentation for loan  
36 applications such as W-2 forms, verifications of income and  
37 employment, bank statements, tax returns, payroll stubs, and any  
38 required disclosures.

39       (9) "Negative amortization" means an increase in the principal  
40 balance of a loan caused when the loan agreement allows the borrower

1 to make payments less than the amount needed to pay all the interest  
2 that has accrued on the loan. The unpaid interest is added to the  
3 loan balance and becomes part of the principal.

4 ~~((9))~~ (10) "Person" means individuals, partnerships,  
5 associations, limited liability companies, limited liability  
6 partnerships, trusts, corporations, and all other legal entities.

7 ~~((10))~~ (11) "Residential mortgage loan" means an extension of  
8 credit secured by residential real property located in this state  
9 upon which is constructed or intended to be constructed, a single-  
10 family dwelling or multiple-family dwelling of four or less units. It  
11 does not include a reverse mortgage or a borrower credit transaction  
12 that is secured by rental property. It does not include a bridge  
13 loan. It does not include loans to individuals making or acquiring a  
14 residential mortgage loan solely with his or her own funds for his or  
15 her own investment. For purposes of this subsection, a "bridge loan"  
16 is any temporary loan, having a maturity of one year or less, for the  
17 purpose of acquisition or construction of a dwelling intended to  
18 become the borrower's principal dwelling.

19 ~~((11))~~ (12) "Residential mortgage loan modification" means a  
20 change in one or more of a residential mortgage loan's terms or  
21 conditions. Changes to a residential mortgage loan's terms or  
22 conditions include, but are not limited to, forbearances; repayment  
23 plans; changes in interest rates, loan terms, or loan types;  
24 capitalizations of arrearages; or principal reductions.

25 (13) "The interagency guidance on nontraditional mortgage product  
26 risks" means the guidance document issued in September 2006 by the  
27 office of the comptroller of the currency, the board of governors of  
28 the federal reserve system, the federal deposit insurance  
29 corporation, the office of thrift supervision, and the national  
30 credit union administration, and the guidance on nontraditional  
31 mortgage product risks released in November 2006 by the conference of  
32 state bank supervisors and the American association of residential  
33 mortgage regulators.

34 ~~((12))~~ (14) "The statement on subprime mortgage lending" means  
35 the guidance document issued in June 2007 by the office of the  
36 comptroller of the currency, the board of governors of the federal  
37 reserve system, the federal deposit insurance corporation, the office  
38 of thrift supervision, and the national credit union administration,  
39 and the statement on subprime mortgage lending released in July 2007  
40 by the conference of state bank supervisors, the American association

1 of residential mortgage regulators, and the national association of  
2 consumer credit administrators.

3 **Sec. 3.** RCW 19.144.080 and 2010 c 35 s 12 are each amended to  
4 read as follows:

5 (1) It is unlawful for any person in connection with ~~((making,~~  
6 ~~brokering, obtaining, or modifying a residential))~~ the mortgage  
7 ~~((loan))~~ lending process to directly or indirectly:

8 ~~((1))~~ (a)(i) Employ any scheme, device, or artifice to defraud  
9 or materially mislead any borrower during the lending process;  
10 ~~((b))~~ (ii) defraud or materially mislead any lender, defraud or  
11 materially mislead any person, or engage in any unfair or deceptive  
12 practice toward any person ~~((in))~~ related to the mortgage lending  
13 process; or ~~((e))~~ (iii) obtain property by fraud or material  
14 misrepresentation ~~((in))~~ during the mortgage lending process;

15 ~~((2))~~ (b) Knowingly make any misstatement, misrepresentation,  
16 or omission ~~((during))~~ related to the mortgage lending process  
17 knowing that it may be relied on by a mortgage lender, borrower, or  
18 any other party related to the mortgage lending process;

19 ~~((3))~~ (c) Use or facilitate the use of any misstatement,  
20 misrepresentation, or omission, knowing the same to contain a  
21 misstatement, misrepresentation, or omission, ~~((during))~~ related to  
22 the mortgage lending process with the intention that it be relied on  
23 by a mortgage lender, borrower, or any other party related to the  
24 mortgage lending process; ~~((e~~

25 ~~(4))~~ (d) Receive any proceeds or anything of value in connection  
26 with a residential mortgage closing that such person knew resulted  
27 from a violation of subsection (1), (2), or (3) of this section;

28 (e) File or cause to be filed with the county recorder or the  
29 official registrar of deeds of any county of this state any document  
30 such person knows to contain a material misstatement,  
31 misrepresentation, or omission;

32 (f) Violate RCW 31.04.297(3); or

33 (g) Knowingly alter, destroy, shred, mutilate, or conceal a  
34 record, document, or other object, or attempt to do so, with the  
35 intent to impair the investigation and prosecution of this crime. A  
36 person who violates this subsection (1)(g) is guilty of a class B  
37 felony punishable under RCW 9A.20.021(1)(b).

1 (2) Each crime prosecuted under this section shall be punished  
2 separately under chapter 9.94 RCW, unless it is the same criminal  
3 conduct as any other crime under RCW 9.94A.589.

4 (3) Every person who, in the commission of mortgage fraud as  
5 described in this section, commits any other crime may be punished  
6 for that other crime in addition to mortgage fraud, and may be  
7 prosecuted for each crime separately.

8 **Sec. 4.** RCW 19.144.090 and 2008 c 108 s 10 are each amended to  
9 read as follows:

10 (1) Any person who knowingly violates RCW 19.144.080 or who  
11 knowingly aids or abets in the violation of RCW 19.144.080 is guilty  
12 of a class B felony punishable under RCW 9A.20.021(1)(b). Mortgage  
13 fraud is a serious level III offense per chapter 9.94A RCW.

14 ~~((Any person who knowingly alters, destroys, shreds,~~  
15 ~~mutilates, or conceals a record, document, or other object, or~~  
16 ~~attempts to do so, with the intent to impair the investigation and~~  
17 ~~prosecution of this crime is guilty of a class B felony punishable~~  
18 ~~under RCW 9A.20.021(1)(b).~~

19 ~~(3))~~) No information may be returned more than (a) five years  
20 after the violation, or (b) three years after the actual discovery of  
21 the violation, whichever date of limitation is later.

22 (3) For purposes of venue under this chapter, any violation of  
23 RCW 19.144.080 and 31.04.297(3), is considered to have been  
24 committed: (a) In the county in which the residential property for  
25 which a residential mortgage loan is being sought is located; (b) in  
26 any county in which any act was performed in furtherance of the  
27 violation; or (c) in any county in which a document containing a  
28 misstatement, misrepresentation, or omission of a material fact is  
29 filed with the county recorder or the official registrar of deeds.

30 (4) Any person who violates this chapter is subject to civil  
31 forfeiture statutes.

32 (5) Any person who violates RCW 19.144.080 or 31.04.297(3) is  
33 liable for civil damages of five thousand dollars or actual damages,  
34 whichever is greater, including costs to repair the victim's credit  
35 record and quiet title on the residential property that is involved  
36 in the prosecution, and reasonable attorneys' fees as determined by  
37 the court.

38 (6) In a proceeding under RCW 19.144.080 in which there has been  
39 a conviction, the sentencing court may issue such orders as necessary

1 to correct a public record that contains false information resulting  
2 from a violation of the referenced sections.

3 **Sec. 5.** RCW 19.146.010 and 2013 c 30 s 1 are each amended to  
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in  
6 this section apply throughout this chapter.

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

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

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

19 ~~((4))~~ (3) "Computer loan information systems" or "CLI system"  
20 means a real estate mortgage financing information system that  
21 facilitates the provision of information to consumers by a mortgage  
22 broker, loan originator, lender, real estate agent, or other person  
23 regarding interest rates and other loan terms available from  
24 different lenders.

25 ~~((5))~~ (4) "Department" means the state department of financial  
26 institutions.

27 ~~((6))~~ (5) "Designated broker" means ~~((a natural person))~~ an  
28 individual designated as the person responsible for activities of the  
29 licensed mortgage broker in conducting the business of a mortgage  
30 broker under this chapter and who meets the experience and  
31 examination requirements set forth in RCW 19.146.210(1)(e).

32 ~~((7))~~ (6) "Director" means the director of financial  
33 institutions.

34 ~~((8))~~ (7) "Employee" means an individual who has an employment  
35 relationship with a mortgage broker, and the individual is treated as  
36 an employee by the mortgage broker for purposes of compliance with  
37 federal income tax laws.

38 ~~((9))~~ (8) "Federal banking agencies" means the board of  
39 governors of the federal reserve system, comptroller of the currency,

1 director of the office of thrift supervision, national credit union  
2 administration, and federal deposit insurance corporation.

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

9 ~~(11))~~ (9) "License" means a single license issued under the  
10 authority of this chapter.

11 (10) "Licensee" means a person to whom one or more licenses have  
12 been issued. "Licensee" also means any person, whether located within  
13 or outside of this state, who fails to obtain a license required by  
14 this chapter.

15 (11)(a) "Loan originator" means ((a natural person)) an  
16 individual who for direct or indirect compensation or gain, or in the  
17 expectation of direct or indirect compensation or gain (i) takes a  
18 residential mortgage loan application (~~for a mortgage broker~~), or  
19 (ii) offers or negotiates terms of a residential mortgage loan. "Loan  
20 originator" also includes a person who holds themselves out to the  
21 public as able to perform any of these activities. "Loan originator"  
22 does not mean persons performing purely administrative or clerical  
23 tasks for a mortgage broker. For the purposes of this subsection,  
24 "administrative or clerical tasks" means the receipt, collection, and  
25 distribution of information common for the processing of a loan in  
26 the mortgage industry and communication with a borrower to obtain  
27 information necessary for the processing of a residential mortgage  
28 loan. A person who holds himself or herself out to the public as able  
29 to obtain a residential mortgage loan is not performing  
30 administrative or clerical tasks.

31 (b) "Loan originator" also includes ~~((a natural person))~~ an  
32 individual who for direct or indirect compensation or gain or in the  
33 expectation of direct or indirect compensation or gain performs  
34 residential mortgage loan modification services or holds himself or  
35 herself out as being able to perform residential mortgage loan  
36 modification services.

37 (c) "Loan originator" does not include a person or entity that  
38 only performs real estate brokerage activities and is licensed or  
39 registered in accordance with applicable state law, unless the person  
40 or entity is compensated by a lender, a mortgage broker, or other



1 mortgage loan originator or by any agent of such a lender, mortgage  
2 broker, or other mortgage loan originator. For purposes of this  
3 chapter, the term "real estate brokerage activity" means any activity  
4 that involves offering or providing real estate brokerage services to  
5 the public, including:

6 (i) Acting as a real estate agent or real estate broker for a  
7 buyer, seller, lessor, or lessee of real property;

8 (ii) Bringing together parties interested in the sale, purchase,  
9 lease, rental, or exchange of real property;

10 (iii) Negotiating, on behalf of any party, any portion of a  
11 contract relating to the sale, purchase, lease, rental, or exchange  
12 of real property, other than in connection with providing financing  
13 with respect to such a transaction;

14 (iv) Engaging in any activity for which a person engaged in the  
15 activity is required to be registered or licensed as a real estate  
16 agent or real estate broker under any applicable law; and

17 (v) Offering to engage in any activity, or act in any capacity,  
18 described in (c)(i) through (iv) of this subsection.

19 (d) "Loan originator" does not include a person or entity solely  
20 involved in extensions of credit relating to timeshare plans, as that  
21 term is defined in section 101(53D) of Title 11, United States Code.

22 (e) This subsection does not apply to employees of a housing  
23 counseling agency approved by the United States department of housing  
24 and urban development unless the employees of a housing counseling  
25 agency are required under federal law to be licensed individually as  
26 loan originators.

27 (12) "Loan processor" means an individual who performs clerical  
28 or support duties as an employee at the direction of and subject to  
29 the supervision and instruction of a person licensed, or exempt from  
30 licensing, under this chapter.

31 (13) "Lock-in agreement" means an agreement with a borrower made  
32 by a mortgage broker or loan originator, in which the mortgage broker  
33 or loan originator agrees that, for a period of time, a specific  
34 interest rate or other financing terms will be the rate or terms at  
35 which it will make a residential mortgage loan available to that  
36 borrower.

37 (14) "Mortgage broker" means any person who for direct or  
38 indirect compensation or gain, or in the expectation of direct or  
39 indirect compensation or gain (a) assists a person in obtaining or  
40 applying to obtain a residential mortgage loan or performs

1 residential mortgage loan modification services or (b) holds himself  
2 or herself out as being able to assist a person in obtaining or  
3 applying to obtain a residential mortgage loan or provide residential  
4 mortgage loan modification services.

5 (15) "Mortgage loan originator" has the same meaning as "loan  
6 originator."

7 (16) "Nationwide mortgage licensing system and registry" means a  
8 mortgage licensing system developed and maintained by the conference  
9 of state bank supervisors (~~(and the American association of~~  
10 ~~residential mortgage regulators for the)~~) for licensing and  
11 registration (~~(of mortgage loan originators)~~).

12 (17) "Person" means (~~(a natural person)~~) an individual,  
13 corporation, company, limited liability (~~(corporation)~~) company,  
14 partnership, ((or)) association, and all other legal entities.

15 (18) "Principal" means any person who controls, directly or  
16 indirectly through one or more intermediaries, or alone or in concert  
17 with others, a ten percent or greater interest in a partnership,  
18 company, association, (~~(or))~~ corporation, limited liability company,  
19 and the owner of a sole proprietorship.

20 (19) "Residential mortgage loan" means any loan primarily for  
21 personal, family, or household use secured by a mortgage (~~(or)~~),  
22 deed of trust (~~(or)~~) or other consensual security interest on a dwelling  
23 as defined in the truth in lending act, or residential real estate  
24 upon which is constructed or intended to be constructed a (~~(single-~~  
25 ~~family))~~ dwelling (~~(or multiple family dwelling of four or less~~  
26 ~~units)~~).

27 (20) "Residential mortgage loan modification" means a change in  
28 one or more of a residential mortgage loan's terms or conditions.  
29 Changes to a residential mortgage loan's terms or conditions include  
30 but are not limited to forbearances; repayment plans; changes in  
31 interest rates, loan terms, or loan types; capitalizations of  
32 arrearages; or principal reductions.

33 (21) "Residential mortgage loan modification services" includes  
34 negotiating, attempting to negotiate, arranging, attempting to  
35 arrange, or otherwise offering to perform a residential mortgage loan  
36 modification. "Residential mortgage loan modification services" also  
37 includes the collection of data for submission to any entity  
38 performing mortgage loan modification services.

39 (22) "S.A.F.E. act" means the secure and fair enforcement for  
40 mortgage licensing act of 2008, or Title V of the housing and

1 economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July  
2 30, 2008, codified at 12 U.S.C. Sec. 5101 et seq.

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

9 (24) "Third-party residential mortgage loan modification  
10 services" means residential mortgage loan modification services  
11 offered or performed by any person other than the owner or servicer  
12 of the loan.

13 (25) "Unique identifier" means a number or other identifier  
14 assigned by protocols established by the nationwide mortgage  
15 licensing system and registry.

16 **Sec. 6.** RCW 19.146.020 and 2013 c 30 s 2 are each amended to  
17 read as follows:

18 (1) The following are exempt from all provisions of this chapter:

19 (a) Any person doing business under the laws of the state of  
20 Washington or the United States, and any federally insured depository  
21 institution doing business under the laws of any other state,  
22 relating to commercial banks, bank holding companies, savings banks,  
23 trust companies, savings and loan associations, credit unions,  
24 insurance companies, or real estate investment trusts as defined in  
25 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service  
26 corporations thereof;

27 (b) Any person doing business under the consumer loan act is  
28 exempt from this chapter only for that business conducted under the  
29 authority and coverage of the consumer loan act;

30 (c) An attorney licensed to practice law in this state. However,  
31 (i) all mortgage broker or loan originator services must be performed  
32 by the attorney while engaged in the practice of law; (ii) all  
33 mortgage broker or loan originator services must be performed under a  
34 business that is publicly identified and operated as a law practice;  
35 and (iii) all funds associated with the transaction and received by  
36 the attorney must be deposited in, maintained in, and disbursed from  
37 a trust account to the extent required by rules enacted by the  
38 Washington supreme court regulating the conduct of attorneys;

1 (d) Any person doing any act under order of any court, except for  
2 a person subject to an injunction to comply with any provision of  
3 this chapter or any order of the director issued under this chapter;

4 (e) A real estate broker or salesperson licensed by the state who  
5 obtains financing for a real estate transaction involving a bona fide  
6 sale of real estate in the performance of his or her duties as a real  
7 estate broker and who receives only the customary real estate  
8 broker's or salesperson's commission in connection with the  
9 transaction;

10 (f) The United States of America, the state of Washington, any  
11 other state, and any Washington city, county, or other political  
12 subdivision, and any agency, division, or corporate instrumentality  
13 of any of the entities in this subsection (1)(f);

14 (g) A real estate broker who provides only information regarding  
15 rates, terms, and lenders in connection with a CLI system, who  
16 receives a fee for providing such information, who conforms to all  
17 rules of the director with respect to the providing of such service,  
18 and who discloses on a form approved by the director that to obtain a  
19 loan the borrower must deal directly with a mortgage broker or  
20 lender. However, a real estate broker shall not be exempt if he or  
21 she does any of the following:

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

24 (ii) Accepts a loan application, or submits a loan application to  
25 a lender;

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

29 (iv) Negotiates rates or terms with a lender on behalf of a  
30 borrower; or

31 (v) Provides the disclosure required by RCW 19.146.030(1);

32 (h) Registered mortgage loan originators, or any individual  
33 required to be registered; (~~and~~)

34 (i) A manufactured or modular home retailer employee who performs  
35 purely administrative or clerical tasks and who receives only the  
36 customary salary or commission from the employer in connection with  
37 the transaction; and

38 (j) Nonprofit housing organizations brokering residential  
39 mortgage loans under housing programs that are funded in whole or in  
40 part by federal or state programs if the primary purpose of the

1 programs is to assist low-income borrowers with purchasing,  
2 repairing, or otherwise providing housing for low-income Washington  
3 state residents.

4 (2) Any person otherwise exempted from the licensing provisions  
5 of this chapter may voluntarily submit an application to the director  
6 for a mortgage broker's license. The director shall review such  
7 application and may grant or deny licenses to such applicants upon  
8 the same grounds and with the same fees as may be applicable to  
9 persons required to be licensed under this chapter.

10 (a) Upon receipt of a license under this subsection, the licensee  
11 is required to continue to maintain a valid license, is subject to  
12 all provisions of this chapter, and has no further right to claim  
13 exemption from the provisions of this chapter except as provided in  
14 (b) of this subsection.

15 (b) Any licensee under this subsection who would otherwise be  
16 exempted from the requirements of licensing by this section may apply  
17 to the director for exemption from licensing. The director shall  
18 adopt rules for reviewing such applications and shall grant  
19 exemptions from licensing to applications which are consistent with  
20 those rules and consistent with the other provisions of this chapter.

21 **Sec. 7.** RCW 19.146.0201 and 2013 c 30 s 3 are each amended to  
22 read as follows:

23 It is a violation of this chapter for ((a)) loan originators  
24 ((~~or~~)), mortgage brokers, ((required to be licensed under)) officers,  
25 directors, employees, independent contractors, or any other person  
26 subject to this chapter to:

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

29 (2) Directly or indirectly engage in any unfair or deceptive  
30 practice toward any person;

31 (3) Directly or indirectly obtain property by fraud or  
32 misrepresentation;

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

37 (5) Solicit, advertise, or enter into a contract for specific  
38 interest rates, points, or other financing terms unless the terms are  
39 actually available at the time of soliciting, advertising, or

1 contracting from a person exempt from licensing under RCW  
2 19.146.020(1)(f) or a lender with whom the mortgage broker maintains  
3 a written correspondent or loan broker agreement under RCW  
4 19.146.040;

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

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

12 (8) Negligently make any false statement or knowingly and  
13 willfully make any omission of material fact in connection with any  
14 reports filed by a (~~mortgage broker~~) licensee or in connection with  
15 any investigation conducted by the department;

16 (9) Make any payment, directly or indirectly, to any appraiser of  
17 a property, for the purposes of influencing the independent judgment  
18 of the appraiser with respect to the value of the property;

19 (10) Advertise any rate of interest without conspicuously  
20 disclosing the annual percentage rate implied by such rate of  
21 interest;

22 (11) Fail to comply with state and federal laws applicable to the  
23 activities governed by this chapter;

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

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

33 (14)(a) Except when complying with (b) and (c) of this  
34 subsection, act as a loan originator in any transaction (i) in which  
35 the loan originator acts or has acted as a real estate broker or  
36 salesperson or (ii) in which another person doing business under the  
37 same licensed real estate broker acts or has acted as a real estate  
38 broker or salesperson;

39 (b) Prior to providing mortgage services to the borrower, a loan  
40 originator, in addition to other disclosures required by this chapter

1 and other laws, (~~shall~~) must provide to the borrower the following  
2 written disclosure:

3 THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES  
4 HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON  
5 REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO  
6 YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE  
7 MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO  
8 PURCHASE THE PROPERTY.

9 YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN  
10 CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON  
11 SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT  
12 ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

13 (c) A real estate broker or salesperson licensed under chapter  
14 18.85 RCW who also acts as a mortgage broker (~~shall~~) must carry on  
15 such mortgage broker business activities and (~~shall~~) must maintain  
16 such person's mortgage broker business records separate and apart  
17 from the real estate broker activities conducted pursuant to chapter  
18 18.85 RCW. Such activities (~~shall be deemed~~) are separate and apart  
19 even if they are conducted at an office location with a common  
20 entrance and mailing address, so long as each business is clearly  
21 identified by a sign visible to the public, each business is  
22 physically separated within the office facility, and no deception of  
23 the public as to the separate identities of the broker business firms  
24 results. This subsection (14)(c) (~~shall~~) does not require a real  
25 estate broker or salesperson licensed under chapter 18.85 RCW who  
26 also acts as a mortgage broker to maintain a physical separation  
27 within the office facility for the conduct of its real estate and  
28 mortgage broker activities where the director determines that  
29 maintaining such physical separation would constitute an undue  
30 financial hardship upon the mortgage broker and is unnecessary for  
31 the protection of the public; (~~or~~)

32 (15) Fail to comply with any provision of RCW 19.146.030 through  
33 19.146.080 or any rule adopted under those sections;

34 (16) Originate loans from any unlicensed location;

35 (17) Solicit or accept from any borrower at or near the time a  
36 loan application is taken, and in advance of any foreclosure of the  
37 borrower's existing residential mortgage loan or loans, any  
38 instrument of conveyance of any interest in the borrower's primary

1 dwelling that is the subject of the residential mortgage loan or  
2 loans; or

3 (18) Make a residential mortgage loan unless the loan is table  
4 funded.

5 **Sec. 8.** RCW 19.146.030 and 2006 c 19 s 5 are each amended to  
6 read as follows:

7 (1) Within three business days following receipt of a loan  
8 application (~~(or any moneys)~~) from a borrower, a mortgage broker or  
9 loan originator (~~(on behalf of the mortgage broker shall)~~) must  
10 provide to (~~(each)~~) the borrower a full written disclosure containing  
11 an itemization and explanation of all fees and costs that the  
12 borrower is required to pay in connection with obtaining a  
13 residential mortgage loan, and specifying the fee or fees which inure  
14 to the benefit of the mortgage broker and other such disclosures as  
15 may be required by rule. A good faith estimate of a fee or cost  
16 (~~(shall)~~) must be provided if the exact amount of the fee or cost is  
17 not determinable. (~~(This subsection shall not be construed to require~~  
18 ~~disclosure of the distribution or breakdown of loan fees, discount,~~  
19 ~~or points between the mortgage broker and any lender or investor.)~~)

20 (2) The written disclosure (~~(shall)~~) must contain the following  
21 information:

22 (a) The annual percentage rate, finance charge, amount financed,  
23 total amount of all payments, number of payments, amount of each  
24 payment, amount of points or prepaid interest and the conditions and  
25 terms under which any loan terms may change between the time of  
26 disclosure and closing of the loan; and if a variable rate, the  
27 circumstances under which the rate may increase, any limitation on  
28 the increase, the effect of an increase, and an example of the  
29 payment terms resulting from an increase. Disclosure in compliance  
30 with the requirements of the truth-in-lending act, 15 U.S.C. Sec.  
31 1601 and Regulation Z, 12 C.F.R. (~~(See 226)~~) Part 1026, as now or  
32 hereafter amended, (~~(shall be deemed to comply)~~) is in compliance  
33 with the disclosure requirements of this subsection;

34 (b) The itemized costs of any credit report, appraisal, title  
35 report, title insurance policy, mortgage insurance, escrow fee,  
36 property tax, insurance, structural or pest inspection, and any other  
37 third-party provider's costs associated with the residential mortgage  
38 loan. Disclosure through good faith estimates of settlement services  
39 and special information booklets in compliance with the requirements



1 of the real estate settlement procedures act, 12 U.S.C. Sec. 2601,  
2 and Regulation X, 24 C.F.R. ((~~Sec. 3500~~)) Part 1024, as now or  
3 hereafter amended, ((~~shall be deemed to comply~~)) is in compliance  
4 with the disclosure requirements of this subsection;

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

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

18 (e) Whether and under what conditions any lock-in fees are  
19 refundable to the borrower; and

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

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

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

1 the loan closing documents, a clear written explanation of the fee  
2 and the reason for charging a fee exceeding that which was previously  
3 disclosed. However, if the borrower's closing costs on the final  
4 settlement statement, excluding prepaid escrowed costs of ownership  
5 as defined by rule, does not exceed the total closing costs in the  
6 most recent good faith estimate, excluding prepaid escrowed costs of  
7 ownership as defined by rule, no other disclosures (~~shall be~~) are  
8 required by this subsection.

9 **Sec. 9.** RCW 19.146.040 and 2006 c 19 s 6 are each amended to  
10 read as follows:

11 (1) Every contract between a mortgage broker, or a loan  
12 originator, and a borrower (~~shall~~) must be in writing and (~~shall~~)  
13 contain the entire agreement of the parties.

14 (2) Any contract under this section entered by a loan originator  
15 (~~shall be~~) is binding on the mortgage broker.

16 (3) A mortgage broker (~~shall~~) must have a written  
17 (~~correspondent or~~) loan broker agreement with a lender before any  
18 solicitation of, or contracting with, the public.

19 **Sec. 10.** RCW 19.146.070 and 2006 c 19 s 8 are each amended to  
20 read as follows:

21 (1) Except as otherwise permitted by this section, a mortgage  
22 broker (~~shall~~) must not receive a fee, commission, or compensation  
23 of any kind in connection with the preparation, negotiation, and  
24 brokering of a residential mortgage loan unless a borrower actually  
25 obtains a loan from a lender on the terms and conditions agreed upon  
26 by the borrower and mortgage broker. A loan originator may not accept  
27 a fee, commission, or compensation of any kind from borrowers in  
28 connection with the preparation, negotiation, and brokering of a  
29 residential mortgage loan.

30 (2) A mortgage broker may:

31 (a) If the mortgage broker has obtained for the borrower a  
32 written commitment from a lender for a loan on the terms and  
33 conditions agreed upon by the borrower and the mortgage broker, and  
34 the borrower fails to close on the loan through no fault of the  
35 mortgage broker, charge a fee not to exceed three hundred dollars for  
36 services rendered, preparation of documents, or transfer of documents  
37 in the borrower's file which were prepared or paid for by the  
38 borrower if the fee is not otherwise prohibited by the Truth-in-

1 Lending Act, 15 U.S.C. Sec. 1601, and Regulation Z, 12 C.F.R. ((~~See-~~  
2 ~~226~~)) Part 1026, as now or hereafter amended; or

3 (b) Solicit or receive fees for third party provider goods or  
4 services in advance. Fees for any goods or services not provided must  
5 be refunded to the borrower and the mortgage broker may not charge  
6 more for the goods and services than the actual costs of the goods or  
7 services charged by the third party provider.

8 (3) A loan originator may not solicit or receive fees for a  
9 third-party provider of goods or services except that a loan  
10 originator may transfer funds from a borrower to a licensed mortgage  
11 broker, exempt mortgage broker, or third-party provider, if the loan  
12 originator does not deposit, hold, retain, or use the funds for any  
13 purpose other than the payment of bona fide fees to third-party  
14 providers.

15 **Sec. 11.** RCW 19.146.205 and 2009 c 528 s 4 are each amended to  
16 read as follows:

17 (1) Application for a mortgage broker license under this chapter  
18 must be made to the nationwide mortgage licensing system and registry  
19 and in the form prescribed by the director. The application ((~~shall~~))  
20 must contain at least the following information:

21 (a) The name, address, date of birth, and social security number  
22 of the applicant, and any other names, dates of birth, or social  
23 security numbers previously used by the applicant, unless waived by  
24 the director;

25 (b) If the applicant is a partnership ((~~or~~)), association, or  
26 limited liability company the name, address, date of birth, and  
27 social security number of each general partner ((~~or~~)), principal, or  
28 member of the association, and any other names, dates of birth, or  
29 social security numbers previously used by the members, unless waived  
30 by the director;

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

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

1 (e) The name, address, date of birth, and social security number  
2 of the applicant's designated broker, and any other names, dates of  
3 birth, or social security numbers previously used by the designated  
4 broker and a complete set of the designated broker's fingerprints  
5 taken by an authorized law enforcement officer; and

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

9 (ii) The director may waive one or more requirements of this  
10 section or permit an applicant to submit other information in lieu of  
11 the required information.

12 (2) As a part of or in connection with an application for any  
13 license under this section, or periodically upon license renewal, the  
14 applicant (~~shall~~) must furnish information concerning his or her  
15 identity, including fingerprints for submission to the Washington  
16 state patrol, the federal bureau of investigation, the nationwide  
17 mortgage licensing system and registry, or any governmental agency or  
18 entity authorized to receive this information for a state and  
19 national criminal history background check; personal history;  
20 experience; business record; purposes; and other pertinent facts, as  
21 the director may reasonably require. As part of or in connection with  
22 an application for a license under this chapter, the director is  
23 authorized to receive criminal history record information that  
24 includes nonconviction data as defined in RCW 10.97.030. The  
25 department may only disseminate nonconviction data obtained under  
26 this section to criminal justice agencies. This section does not  
27 apply to financial institutions regulated under chapters 31.12 and  
28 31.13 RCW and Titles 30A, 32, and 33 RCW.

29 (3) In order to reduce the points of contact which the federal  
30 bureau of investigation may have to maintain, the director may use  
31 the nationwide mortgage licensing system and registry as a channeling  
32 agent for requesting information from and distributing information to  
33 the department of justice or any governmental agency.

34 (4) In order to reduce the points of contact which the director  
35 may have to maintain, the director may use the nationwide mortgage  
36 licensing system and registry as a channeling agent for requesting  
37 and distributing information to and from any source so directed by  
38 the director.

39 (5) At the time of filing an application for a license under this  
40 chapter, each applicant (~~shall~~) must pay to the director through

1 the nationwide mortgage licensing system and registry the appropriate  
2 application fee in an amount determined by rule of the director in  
3 accordance with RCW 43.24.086 to cover, but not exceed, the cost of  
4 processing and reviewing the application. The director (~~shall~~) must  
5 deposit the moneys in the financial services regulation fund, unless  
6 the consumer services account is created as a dedicated,  
7 nonappropriated account, in which case the director (~~shall~~) must  
8 deposit the moneys in the consumer services account.

9 (6)(a) Except as provided in (b) of this subsection, each  
10 applicant for a mortgage broker's license (~~shall~~) must file and  
11 maintain a surety bond, in an amount which the director deems  
12 adequate to protect the public interest, executed by the applicant as  
13 obligor and by a surety company authorized to do a surety business in  
14 this state as surety. The bonding requirement as established by the  
15 director (~~shall~~) must take the form of a range of bond amounts  
16 which (~~shall~~) vary according to the annual loan origination volume  
17 of the licensee. The bond (~~shall~~) must run to the state of  
18 Washington as obligee, and (~~shall~~) must run first to the benefit of  
19 the borrower and then to the benefit of the state and any person or  
20 persons who suffer loss by reason of the applicant's or its loan  
21 originator's violation of any provision of this chapter or rules  
22 adopted under this chapter. The bond (~~shall~~) must be conditioned  
23 that the obligor as licensee will faithfully conform to and abide by  
24 this chapter and all rules adopted under this chapter, and (~~shall~~)  
25 must reimburse all persons who suffer loss by reason of a violation  
26 of this chapter or rules adopted under this chapter. Borrowers  
27 (~~shall~~) must be given priority over the state and other persons.  
28 The state and other third parties (~~shall~~) must be allowed to  
29 receive distribution pursuant to a valid claim against the remainder  
30 of the bond. In the case of claims made by any person or entity who  
31 is not a borrower, no final judgment may be entered prior to one  
32 hundred eighty days following the date the claim is filed. The bond  
33 (~~shall~~) must be continuous and may be canceled by the surety upon  
34 the surety giving written notice to the director of its intent to  
35 cancel the bond. The cancellation (~~shall~~) must be effective thirty  
36 days after the notice is received by the director. Whether or not the  
37 bond is renewed, continued, reinstated, reissued, or otherwise  
38 extended, replaced, or modified, including increases or decreases in  
39 the penal sum, it (~~shall-be~~) is considered one continuous  
40 obligation, and the surety upon the bond (~~shall-not-be~~) is not

1 liable in an aggregate or cumulative amount exceeding the penal sum  
2 set forth on the face of the bond. In no event (~~shall~~) is the penal  
3 sum, or any portion thereof, at two or more points in time be added  
4 together in determining the surety's liability. The bond (~~shall~~) is  
5 not be liable for any penalties imposed on the licensee, including,  
6 but not limited to, any increased damages or attorneys' fees, or  
7 both, awarded under RCW 19.86.090. The applicant may obtain the bond  
8 directly from the surety or through a group bonding arrangement  
9 involving a professional organization comprised of mortgage brokers  
10 if the arrangement provides at least as much coverage as is required  
11 under this subsection.

12 (b) If the director determines that the bond required in (a) of  
13 this subsection is not reasonably available, the director (~~shall~~)  
14 must waive the requirements for such a bond. The mortgage recovery  
15 fund account is created in the custody of the state treasurer. The  
16 director is authorized to charge fees to fund the account. All fees  
17 charged under this section, except those retained by the director for  
18 administration of the (~~fund—[account]~~) account, must be deposited  
19 into the mortgage recovery fund account. Expenditures from the  
20 account may be used only for the same purposes as the surety bond as  
21 described in (a) of this subsection. Only the director or the  
22 director's designee may authorize expenditures from the account. The  
23 account is subject to allotment procedures under chapter 43.88 RCW,  
24 but an appropriation is not required for expenditures. A person  
25 entitled to receive payment from the mortgage recovery (~~fund~~  
26 ~~[account]~~) account may only receive reimbursement after a court of  
27 competent jurisdiction has determined the actual damages caused by  
28 the licensee. The director may determine by rule the procedure for  
29 recovery; the amount each mortgage broker must pay through the  
30 nationwide mortgage licensing system and registry for deposit in the  
31 mortgage recovery (~~fund—[account]~~) account; and the amount  
32 necessary to administer the (~~fund—[account]~~) account.

33 **Sec. 12.** RCW 19.146.220 and 2014 c 36 s 2 are each amended to  
34 read as follows:

35 (1) The director may enforce all laws and rules relating to the  
36 licensing of mortgage brokers and loan originators, grant or deny  
37 licenses to mortgage brokers and loan originators, and hold hearings.

38 (2) The director may impose fines (~~or~~) and order restitution  
39 and refunds against licensees (~~or~~), employees, independent

1 contractors, agents of licensees, and other persons subject to this  
2 chapter, ~~(( $\emptyset$ ))~~ and may deny, condition, suspend, decline to renew,  
3 decline to reactivate, or revoke licenses for:

4 (a) Violations of orders, including cease and desist orders;

5 (b) False statements or omission of material information on the  
6 application that, if known, would have allowed the director to deny  
7 the application for the original license;

8 (c) Failure to pay a fee required by the director or maintain the  
9 required bond;

10 (d) Failure to comply with any directive, order, or subpoena of  
11 the director; or

12 (e) Any violation of this chapter.

13 (3) ~~((The director may impose fines on an employee, loan  
14 originator, independent contractor, or agent of the licensee, or  
15 other person subject to this chapter for:~~

16 ~~(a) Any violations of this chapter; or~~

17 ~~(b) Failure to comply with any directive or order of the  
18 director.~~

19 ~~(4))~~ The director may issue orders directing a licensee, its  
20 employee, loan originator, independent contractor, agent, or other  
21 person subject to this chapter to cease and desist from conducting  
22 business or take such other affirmative action as is necessary to  
23 comply with this chapter.

24 ~~((5))~~ (4) The director may issue orders removing from office or  
25 prohibiting from participation in the conduct of the affairs of a  
26 licensed mortgage broker, or both, any officer, principal, employee,  
27 or loan originator of any licensed mortgage broker or any person  
28 subject to licensing under this chapter for:

29 (a) Any violation of this chapter;

30 (b) False statements or omission of material information on the  
31 application that, if known, would have allowed the director to deny  
32 the application for the original license;

33 (c) Conviction of a gross misdemeanor involving dishonesty or  
34 financial misconduct or a felony after obtaining a license; or

35 (d) Failure to comply with any directive or order of the  
36 director.

37 ~~((6))~~ (5) Each day's continuance of a violation or failure to  
38 comply with any directive or order of the director is a separate and  
39 distinct violation or failure.

1        ~~((7))~~ (6) The statute of limitations on actions not subject to  
2 RCW 4.16.160 that are brought under this chapter by the director is  
3 five years.

4        ~~((8))~~ (7) The director ~~((shall))~~ must establish by rule  
5 standards for licensure of applicants licensed in other  
6 jurisdictions.

7        ~~((9))~~ (8) The director ~~((shall))~~ must immediately suspend the  
8 license or certificate of a person who has been certified pursuant to  
9 RCW 74.20A.320 by the department of social and health services as a  
10 person who is not in compliance with a support order. If the person  
11 has continued to meet all other requirements for reinstatement during  
12 the suspension, reissuance of the license or certificate ~~((shall be))~~  
13 is automatic upon the director's receipt of a release issued by the  
14 department of social and health services stating that the licensee is  
15 in compliance with the order.

16        **Sec. 13.** RCW 19.146.221 and 1994 c 33 s 13 are each amended to  
17 read as follows:

18        (1) The director may, at his or her discretion ~~((and as provided~~  
19 ~~for in RCW 19.146.220(2))~~, take any action ~~((specified in RCW~~  
20 ~~19.146.220(1))~~ as provided for in this chapter to enforce this  
21 chapter. If the person subject to such action does not appear in  
22 person or by counsel at the time and place designated for any  
23 administrative hearing that may be held on the action then the person  
24 shall be deemed to consent to the action. If the person subject to  
25 the action consents, or if after hearing the director finds by a  
26 preponderance of the evidence that any grounds for sanctions under  
27 this chapter exist, then the director may impose any sanction  
28 authorized by this chapter.

29        (2) The director may recover the state's costs and expenses for  
30 prosecuting violations of this chapter including staff time spent  
31 preparing for and attending administrative hearings and reasonable  
32 attorneys' fees, unless, after a hearing, the director determines no  
33 violation occurred.

34        **Sec. 14.** RCW 19.146.227 and 1994 c 33 s 14 are each amended to  
35 read as follows:

36        Whenever the director determines that the public is likely to be  
37 substantially injured by delay in issuing a cease and desist order,  
38 the director may immediately issue a temporary cease and desist



1 order. The order may direct the licensee to discontinue any violation  
2 of this chapter and take such affirmative action as is necessary to  
3 comply with this chapter, may include a summary suspension of the  
4 licensee's license, and may order the licensee to immediately cease  
5 the conduct of business under this chapter. The order (~~shall~~)  
6 becomes effective at the time specified in the order. Every temporary  
7 cease and desist order (~~shall~~) must include a provision that a  
8 hearing will be held, within fourteen days unless otherwise specified  
9 in chapter 34.05 RCW, upon request to determine whether the order  
10 will become permanent.

11 If it appears that a person has engaged in an act or practice  
12 constituting a violation of a provision of this chapter, or a rule or  
13 order under this chapter, the director, with or without prior  
14 administrative proceedings, may bring an action in the superior court  
15 to enjoin the acts or practices and to enforce compliance with this  
16 chapter or any rule or order under this chapter. Upon proper showing,  
17 injunctive relief or temporary restraining orders (~~shall~~) must be  
18 granted. The director (~~shall not be~~) is not required to post a bond  
19 in any court proceedings.

20 **Sec. 15.** RCW 19.146.228 and 2009 c 528 s 5 are each amended to  
21 read as follows:

22 The director (~~shall~~) must establish fees sufficient to cover,  
23 but not exceed, the costs of administering this chapter. These fees  
24 may include:

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

27 (2) An investigation fee to cover the costs of any investigation  
28 of the books and records of a licensee or other person subject to  
29 this chapter; and

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

32 Mortgage brokers (~~and~~), loan originators (~~shall~~), and any  
33 person subject to licensing under this chapter must not be charged  
34 investigation fees for the processing of complaints when the  
35 investigation determines that no violation of this chapter occurred  
36 or when the mortgage broker or loan originator provides a remedy  
37 satisfactory to the complainant and the director and no order of the  
38 director is issued. All moneys, fees, and penalties collected under  
39 the authority of this chapter (~~shall~~) must be deposited into the

1 financial services regulation fund, unless the consumer services  
2 account is created as a dedicated, nonappropriated account, in which  
3 case all moneys, fees, and penalties collected under this chapter  
4 (~~shall~~) must be deposited in the consumer services account.

5 **Sec. 16.** RCW 19.146.265 and 1997 c 106 s 19 are each amended to  
6 read as follows:

7 A licensed mortgage broker may apply to the director for  
8 authority to establish one or more branch offices under the same or  
9 different name as the main office upon the payment of a fee as  
10 prescribed by the director by rule. (~~Provided that~~) The applicant  
11 (~~is~~) must be in good standing with the department, as defined in  
12 rule by the director, and the director (~~shall~~) must promptly issue  
13 a (~~duplicate~~) license for each of the branch offices showing the  
14 location of the main office and the particular branch. (~~Each~~  
15 ~~duplicate license shall be prominently displayed in the office for~~  
16 ~~which it is issued.~~)

17 **Sec. 17.** RCW 19.146.300 and 2009 c 528 s 9 are each amended to  
18 read as follows:

19 (1) Application for a loan originator license under this chapter  
20 must be made to the nationwide mortgage licensing system and registry  
21 and in the form prescribed by the director. The application (~~shall~~)  
22 must contain at least the following information:

23 (a) The name, address, date of birth, and social security number  
24 of the loan originator applicant, and any other names, dates of  
25 birth, or social security numbers previously used by the loan  
26 originator applicant, unless waived by the director; and

27 (b) Such other information regarding the loan originator  
28 applicant's background, experience, character, and general fitness as  
29 the director may require by rule or as deemed necessary by the  
30 nationwide mortgage licensing system and registry.

31 (2)(a) As part of or in connection with an application for any  
32 license under this section, or periodically upon license renewal, the  
33 loan originator applicant (~~shall~~) must furnish information  
34 concerning his or her identity, including fingerprints for submission  
35 to the Washington state patrol, the federal bureau of investigation,  
36 the nationwide mortgage licensing system and registry, or any  
37 governmental agency or entity authorized to receive this information  
38 for a state and national criminal history background check; personal

1 history; experience; business record; purposes; and other pertinent  
2 facts, as the director may reasonably require. As part of or in  
3 connection with an application for a license under this chapter, or  
4 periodically upon license renewal, the director is authorized to  
5 receive criminal history record information that includes  
6 nonconviction data as defined in RCW 10.97.030. The department may  
7 only disseminate nonconviction data obtained under this section to  
8 criminal justice agencies. This section does not apply to financial  
9 institutions regulated under chapters 31.12 and 31.13 RCW and Titles  
10 30A, 32, and 33 RCW.

11 (b) In order to reduce the points of contact which the federal  
12 bureau of investigation may have to maintain, the director may use  
13 the nationwide mortgage licensing system and registry as a channeling  
14 agent for requesting information from and distributing information to  
15 the department of justice or any governmental agency.

16 (c) In order to reduce the points of contact which the director  
17 may have to maintain, the director may use the nationwide mortgage  
18 licensing system and registry as a channeling agent for requesting  
19 and distributing information to and from any source so directed by  
20 the director.

21 (d) As part of or in connection with an application for a license  
22 under this section, the loan originator applicant must furnish to the  
23 nationwide mortgage licensing system and registry personal history  
24 and experience in a form prescribed by the nationwide mortgage  
25 licensing system and registry, including the submission of  
26 authorization for the nationwide mortgage licensing system and  
27 registry and the director to obtain:

28 (i) An independent credit report obtained from a consumer  
29 reporting agency described in section 603(p) of the federal fair  
30 credit reporting act; and

31 (ii) Information related to any administrative, civil, or  
32 criminal findings by any governmental jurisdiction.

33 (3) At the time of filing an application for a license under this  
34 chapter, each loan originator applicant (~~shall~~) must pay to the  
35 director the appropriate application fee in an amount determined by  
36 rule of the director in accordance with RCW 19.146.228 to cover the  
37 cost of processing and reviewing the application. The director  
38 (~~shall~~) must deposit the moneys in the financial services  
39 regulation fund.

1 (4) The director must establish by rule procedures for accepting  
2 and processing incomplete applications.

3 **Sec. 18.** RCW 19.146.390 and 2009 c 528 s 17 are each amended to  
4 read as follows:

5 Each mortgage broker licensee (~~shall~~) must submit (~~to~~) call  
6 reports through the nationwide mortgage licensing system and registry  
7 (~~reports of condition, which must be in the~~) in a form and (~~must~~  
8 ~~contain~~) containing the information as prescribed by the director or  
9 as deemed necessary by the nationwide mortgage licensing system and  
10 registry (~~may require~~).

11 **Sec. 19.** RCW 31.04.015 and 2013 c 29 s 1 are each amended to  
12 read as follows:

13 The definitions set forth in this section apply throughout this  
14 chapter unless the context clearly requires a different meaning.

15 (1) "Add-on method" means the method of precomputing interest  
16 payable on a loan whereby the interest to be earned is added to the  
17 principal balance and the total plus any charges allowed under this  
18 chapter is stated as the loan amount, without further provision for  
19 the payment of interest except for failure to pay according to loan  
20 terms. The director may adopt by rule a more detailed explanation of  
21 the meaning and use of this method.

22 (2) "Applicant" means a person applying for a license under this  
23 chapter.

24 (3) "Borrower" means any person who consults with or retains a  
25 licensee or person subject to this chapter in an effort to obtain, or  
26 who seeks information about obtaining a loan, regardless of whether  
27 that person actually obtains such a loan. "Borrower" includes a  
28 person who consults with or retains a licensee or person subject to  
29 this chapter in an effort to obtain, or who seeks information about  
30 obtaining a residential mortgage loan modification, regardless of  
31 whether that person actually obtains a residential mortgage loan  
32 modification.

33 (4) "Depository institution" has the same meaning as in section 3  
34 of the federal deposit insurance act on July 26, 2009, and includes  
35 credit unions.

36 (5) "Director" means the director of financial institutions.

37 (6) "Federal banking agencies" means the board of governors of  
38 the federal reserve system, comptroller of the currency, director of

1 the office of thrift supervision, national credit union  
2 administration, and federal deposit insurance corporation.

3 (7) "Individual servicing a mortgage loan" means a person on  
4 behalf of a lender or servicer licensed by this state, who collects  
5 or receives payments including payments of principal, interest,  
6 escrow amounts, and other amounts due, on existing obligations due  
7 and owing to the licensed lender or servicer for a residential  
8 mortgage loan when the borrower is in default, or in reasonably  
9 foreseeable likelihood of default, working with the borrower and the  
10 licensed lender or servicer, collects data and makes decisions  
11 necessary to modify either temporarily or permanently certain terms  
12 of those obligations, or otherwise finalizing collection through the  
13 foreclosure process.

14 (8) "Insurance" means life insurance, disability insurance,  
15 property insurance, involuntary unemployment insurance, and such  
16 other insurance as may be authorized by the insurance commissioner.

17 (9) "License" means a single license issued under the authority  
18 of this chapter (~~(with respect to a single place of business)~~).

19 (10) "Licensee" means a person to whom one or more licenses have  
20 been issued. "Licensee" also means any person, whether located within  
21 or outside of this state, who fails to obtain a license required by  
22 this chapter.

23 (11) "Loan" means a transfer of a sum of money (~~(lent at interest~~  
24 ~~or for a fee or other charge)~~) with an expectation of repayment of an  
25 amount in excess of the amount transferred and includes both open-end  
26 and closed-end loan transactions.

27 (12) "Loan processor or underwriter" means an individual who  
28 performs clerical or support duties as an employee at the direction  
29 of and subject to the supervision and instruction of a person  
30 licensed, or exempt from licensing, under this chapter.

31 (13) "Making a loan" means advancing, offering to advance, or  
32 making a commitment to advance funds to a borrower for a loan.

33 (14) "Mortgage broker" means the same as defined in RCW  
34 19.146.010, except that for purposes of this chapter, a licensee or  
35 person subject to this chapter cannot receive compensation as both a  
36 consumer loan licensee making the loan and as a consumer loan  
37 licensee acting as the mortgage broker in the same loan transaction.

38 (15)(a) "Mortgage loan originator" means an individual who for  
39 compensation or gain (i) takes a residential mortgage loan  
40 application, or (ii) offers or negotiates terms of a residential

1 mortgage loan. "Mortgage loan originator" also includes individuals  
2 who hold themselves out to the public as able to perform any of these  
3 activities. "Mortgage loan originator" does not include any  
4 individual who performs purely administrative or clerical tasks; and  
5 does not include a person or entity solely involved in extensions of  
6 credit relating to timeshare plans, as that term is defined in  
7 section 101(53D) of Title 11, United States Code. For the purposes of  
8 this definition, administrative or clerical tasks means the receipt,  
9 collection, and distribution of information common for the processing  
10 of a loan in the mortgage industry and communication with a consumer  
11 to obtain information necessary for the processing of a residential  
12 mortgage loan.

13 (b) "Mortgage loan originator" also includes an individual who  
14 for direct or indirect compensation or gain performs residential  
15 mortgage loan modification services or holds himself or herself out  
16 as being able to perform residential mortgage loan modification  
17 services.

18 (c) "Mortgage loan originator" does not include a person or  
19 entity that only performs real estate brokerage activities and is  
20 licensed or registered in accordance with applicable state law,  
21 unless the person or entity is compensated by a lender, a mortgage  
22 broker, or other mortgage loan originator or by any agent of such a  
23 lender, mortgage broker, or other mortgage loan originator. For the  
24 purposes of chapter 120, Laws of 2009, the term "real estate  
25 brokerage activity" means any activity that involves offering or  
26 providing real estate brokerage services to the public, including:

27 (i) Acting as a real estate agent or real estate broker for a  
28 buyer, seller, lessor, or lessee of real property;

29 (ii) Bringing together parties interested in the sale, purchase,  
30 lease, rental, or exchange of real property;

31 (iii) Negotiating, on behalf of any party, any portion of a  
32 contract relating to the sale, purchase, lease, rental, or exchange  
33 of real property, other than in connection with providing financing  
34 with respect to such a transaction;

35 (iv) Engaging in any activity for which a person engaged in the  
36 activity is required to be registered or licensed as a real estate  
37 agent or real estate broker under any applicable law; and

38 (v) Offering to engage in any activity, or act in any capacity,  
39 described in (c)(i) through (iv) of this subsection.

1 (d) This subsection does not apply to employees of a housing  
2 counseling agency approved by the United States department of housing  
3 and urban development unless the employees of a housing counseling  
4 agency are required under federal law to be individually licensed as  
5 mortgage loan originators.

6 (16) "Nationwide (~~((multistate))~~) mortgage licensing system" means  
7 a licensing system developed and maintained by the conference of  
8 state bank supervisors (~~((and the American association of residential  
9 mortgage regulators for the))~~) for licensing and registration (~~((of  
10 mortgage loan originators and other licensing types))~~).

11 (17) "Officer" means an official appointed by the company for the  
12 purpose of making business decisions or corporate decisions.

13 (18) "Person" includes individuals, partnerships, associations,  
14 limited liability companies, limited liability partnerships, trusts,  
15 corporations, and all other legal entities.

16 (19) "Principal" means any person who controls, directly or  
17 indirectly through one or more intermediaries, alone or in concert  
18 with others, a ten percent or greater interest in a partnership;  
19 company; association or corporation; or a limited liability company,  
20 and the owner of a sole proprietorship.

21 (20) "Registered mortgage loan originator" means any individual  
22 who meets the definition of mortgage loan originator and is an  
23 employee of a depository institution; a subsidiary that is owned and  
24 controlled by a depository institution and regulated by a federal  
25 banking agency; or an institution regulated by the farm credit  
26 administration and is registered with, and maintains a unique  
27 identifier through, the nationwide (~~((multistate))~~) mortgage licensing  
28 system.

29 (21) "Residential mortgage loan" means any loan primarily for  
30 personal, family, or household use that is secured by a mortgage,  
31 deed of trust, or other (~~((equivalent))~~) consensual security interest  
32 on a dwelling, as defined in (~~((section 103(v) of))~~) the truth in  
33 lending act, or residential real estate upon which is constructed or  
34 intended to be constructed a dwelling.

35 (22) "Residential mortgage loan modification" means a change in  
36 one or more of a residential mortgage loan's terms or conditions.  
37 Changes to a residential mortgage loan's terms or conditions include  
38 but are not limited to forbearances; repayment plans; changes in  
39 interest rates, loan terms, or loan types; capitalizations of  
40 arrearages; or principal reductions.

1 (23) "Residential mortgage loan modification services" includes  
2 negotiating, attempting to negotiate, arranging, attempting to  
3 arrange, or otherwise offering to perform a residential mortgage loan  
4 modification for compensation or gain. "Residential mortgage loan  
5 modification services" also includes the collection of data for  
6 submission to an entity performing mortgage loan modification  
7 services.

8 (24) "S.A.F.E. act" means the secure and fair enforcement for  
9 mortgage licensing act of 2008, Title V of the housing and economic  
10 recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

11 (25) "Senior officer" means an officer of a licensee at the vice  
12 president level or above.

13 (26) "Service or servicing a loan" means on behalf of the lender  
14 or investor of a residential mortgage loan: (a) Collecting or  
15 receiving payments on existing obligations due and owing to the  
16 lender or investor, including payments of principal, interest, escrow  
17 amounts, and other amounts due; (b) collecting fees due to the  
18 servicer; (c) working with the borrower and the licensed lender or  
19 servicer to collect data and make decisions necessary to modify  
20 certain terms of those obligations either temporarily or permanently;  
21 (d) otherwise finalizing collection through the foreclosure process;  
22 or (e) servicing a reverse mortgage loan.

23 (27) "Service or servicing a reverse mortgage loan" means,  
24 pursuant to an agreement with the owner of a reverse mortgage loan:  
25 Calculating, collecting, or receiving payments of interest or other  
26 amounts due; administering advances to the borrower; and providing  
27 account statements to the borrower or lender.

28 (28) "Simple interest method" means the method of computing  
29 interest payable on a loan by applying the annual percentage interest  
30 rate or its periodic equivalent to the unpaid balances of the  
31 principal of the loan outstanding for the time outstanding.

32 (a) On a nonresidential loan each payment is applied first to any  
33 unpaid penalties, fees, or charges, then to accumulated interest, and  
34 the remainder of the payment applied to the unpaid balance of the  
35 principal until paid in full. In using such method, interest  
36 (~~shall~~) must not be payable in advance nor compounded. The  
37 prohibition on compounding interest does not apply to reverse  
38 mortgage loans made in accordance with the Washington state reverse  
39 mortgage act. The director may adopt by rule a more detailed  
40 explanation of the meaning and use of this method.



1 (b) On a residential mortgage loan payments are applied as  
2 determined in the security instrument.

3 (29) "Third-party residential mortgage loan modification  
4 services" means residential mortgage loan modification services  
5 offered or performed by any person other than the owner or servicer  
6 of the loan.

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

14 (31) "Unique identifier" means a number or other identifier  
15 assigned by protocols established by the nationwide (~~multistate~~)  
16 mortgage licensing system.

17 (32) "Affiliate" means any person who directly or indirectly  
18 through one or more intermediaries, controls, or is controlled by, or  
19 is under common control with another person.

20 (33) "Department" means the state department of financial  
21 institutions.

22 **Sec. 20.** RCW 31.04.025 and 2013 c 64 s 2 and 2013 c 29 s 2 are  
23 each reenacted and amended to read as follows:

24 (1) Each loan made to a resident of this state by a licensee, or  
25 persons subject to this chapter, is subject to the authority and  
26 restrictions of this chapter.

27 (2) This chapter does not apply to the following:

28 (a) Any person doing business under, and as permitted by, any law  
29 of this state or of the United States relating to banks, savings  
30 banks, trust companies, savings and loan or building and loan  
31 associations, or credit unions;

32 (b) Entities making loans under chapter 19.60 RCW (pawnbroking);

33 (c) Entities conducting transactions under chapter 63.14 RCW  
34 (retail installment sales of goods and services), unless credit is  
35 extended to purchase merchandise certificates, coupons, open or  
36 closed loop stored value, or other similar items issued and  
37 redeemable by a retail seller other than the retail seller extending  
38 the credit;

1 (d) Entities making loans under chapter 31.45 RCW (check cashers  
2 and sellers);

3 (e) Any person making a loan primarily for business, commercial,  
4 or agricultural purposes unless the loan is secured by a lien on the  
5 borrower's primary (~~residence~~) dwelling;

6 (f) Any person selling property owned by that person who provides  
7 financing for the sale when the property does not contain a dwelling  
8 and when the property serves as security for the financing. This  
9 exemption is available for five or fewer transactions in a calendar  
10 year. This exemption is not available to individuals subject to the  
11 federal S.A.F.E. act or any person in the business of constructing or  
12 acting as a contractor for the construction of residential dwellings.

13 (g) Any person making loans made to government or government  
14 agencies or instrumentalities or making loans to organizations as  
15 defined in the federal truth in lending act;

16 (~~g~~) (h) Entities making loans under chapter 43.185 RCW  
17 (housing trust fund);

18 (~~h~~) (i) Entities making loans under programs of the United  
19 States department of agriculture, department of housing and urban  
20 development, or other federal government program that provides  
21 funding or access to funding for single-family housing developments  
22 or grants to low-income individuals for the purchase or repair of  
23 single-family housing;

24 (~~i~~) (j) Nonprofit housing organizations making loans, or  
25 loans made, under housing programs that are funded in whole or in  
26 part by federal or state programs if the primary purpose of the  
27 programs is to assist low-income borrowers with purchasing or  
28 repairing housing or the development of housing for low-income  
29 Washington state residents;

30 (~~j~~) (k) Entities making loans which are not residential  
31 mortgage loans under a credit card plan;

32 (~~k~~) (l) Individuals employed by a licensed residential  
33 mortgage loan servicing company engaging in activities related to  
34 servicing, unless (~~se~~) licensing is required by federal law or  
35 regulation; and

36 (~~l~~) (m) Entities licensed under chapter 18.44 RCW that  
37 process payments on seller-financed loans secured by liens on real or  
38 personal property.

39 (3) The director may, at his or her discretion, waive  
40 applicability of the consumer loan company licensing provisions of

1 this chapter to other persons, not including individuals subject to  
2 the S.A.F.E. act, making or servicing loans when the director  
3 determines it necessary to facilitate commerce and protect consumers.  
4 (~~The director may adopt rules interpreting this section.~~)

5 (4) The burden of proving the application for an exemption or  
6 exception from a definition, or a preemption of a provision of this  
7 chapter, is upon the person claiming the exemption, exception, or  
8 preemption.

9 (5) The director may adopt rules interpreting this section.

10 **Sec. 21.** RCW 31.04.027 and 2013 c 29 s 3 are each amended to  
11 read as follows:

12 It is a violation of this chapter for a licensee, its officers,  
13 directors, employees, or independent contractors, or any other person  
14 subject to this chapter to:

15 (1) Directly or indirectly employ any scheme, device, or artifice  
16 to defraud or mislead any borrower, to defraud or mislead any lender,  
17 or to defraud or mislead any person;

18 (2) Directly or indirectly engage in any unfair or deceptive  
19 practice toward any person;

20 (3) Directly or indirectly obtain property by fraud or  
21 misrepresentation;

22 (4) Solicit or enter into a contract with a borrower that  
23 provides in substance that the consumer loan company may earn a fee  
24 or commission through the consumer loan company's best efforts to  
25 obtain a loan even though no loan is actually obtained for the  
26 borrower;

27 (5) Solicit, advertise, or enter into a contract for specific  
28 interest rates, points, or other financing terms unless the terms are  
29 actually available at the time of soliciting, advertising, or  
30 contracting;

31 (6) Fail to make disclosures to loan applicants as required by  
32 RCW 31.04.102 and any other applicable state or federal law;

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

37 (8) Negligently make any false statement or knowingly and  
38 willfully make any omission of material fact in connection with any

1 reports filed with the department by a licensee or in connection with  
2 any investigation conducted by the department;

3 (9) Make any payment, directly or indirectly, to any appraiser of  
4 a property, for the purposes of influencing the independent judgment  
5 of the appraiser with respect to the value of the property;

6 (10) Accept from any borrower at or near the time a loan is made  
7 and in advance of any default an execution of, or induce any borrower  
8 to execute, any instrument of conveyance, not including a mortgage or  
9 deed of trust, to the lender of any ownership interest in the  
10 borrower's primary (~~residence~~) dwelling that is the security for  
11 the borrower's loan;

12 (11) Obtain at the time of closing a release of future damages  
13 for usury or other damages or penalties provided by law or a waiver  
14 of the provisions of this chapter;

15 (12) Advertise any rate of interest without conspicuously  
16 disclosing the annual percentage rate implied by that rate of  
17 interest;

18 (13) Violate any applicable state or federal law relating to the  
19 activities governed by this chapter; or

20 (14) Make or originate loans from any unlicensed location.

21 **Sec. 22.** RCW 31.04.045 and 2014 c 36 s 5 are each amended to  
22 read as follows:

23 (1) Application for a license under this chapter must be made to  
24 the nationwide mortgage licensing system and registry or in the form  
25 prescribed by the director. The application must contain at least the  
26 following information:

27 (a) The name and the business addresses of the applicant;

28 (b) If the applicant is a partnership, limited liability company,  
29 or association, the name of every member;

30 (c) If the applicant is a corporation, the name, residence  
31 address, and telephone number of each officer and director;

32 (d) The street address, county, and municipality from which  
33 business is to be conducted; and

34 (e) Such other information as the director may require by rule.

35 (2) As part of or in connection with an application for any  
36 license under this section, or periodically upon license renewal,  
37 each officer, director, and owner applicant (~~shall~~) must furnish  
38 information concerning his or her identity, including fingerprints  
39 for submission to the Washington state patrol, the federal bureau of

1 investigation, or any governmental agency or entity authorized to  
2 receive this information for a state and national criminal history  
3 background check; personal history; experience; business record;  
4 purposes; and other pertinent facts, as the director may reasonably  
5 require. As part of or in connection with an application for a  
6 license under this chapter, or periodically upon license renewal, the  
7 director is authorized to receive criminal history record information  
8 that includes nonconviction data as defined in RCW 10.97.030. The  
9 department may only disseminate nonconviction data obtained under  
10 this section to criminal justice agencies. This section does not  
11 apply to financial institutions regulated under chapters 31.12 and  
12 31.13 RCW and Titles 30A, 32, and 33 RCW.

13 (3) At the time of filing an application for a license under this  
14 chapter, each applicant shall pay to the director or through the  
15 nationwide mortgage licensing system and registry an investigation  
16 fee and the license fee in an amount determined by rule of the  
17 director to be sufficient to cover the director's costs in  
18 administering this chapter.

19 (4) Each applicant (~~shall~~) must file and maintain a surety  
20 bond, approved by the director, executed by the applicant as obligor  
21 and by a surety company authorized to do a surety business in this  
22 state as surety, whose liability as such surety (~~shall~~) must not  
23 exceed in the aggregate the penal sum of the bond. The penal sum of  
24 the bond (~~shall~~) must be a minimum of thirty thousand dollars and  
25 based on the annual dollar amount of loans originated or residential  
26 mortgage loans serviced. The bond (~~shall~~) must run to the state of  
27 Washington as obligee for the use and benefit of the state and of any  
28 person or persons who may have a cause of action against the obligor  
29 under this chapter. The bond (~~shall~~) must be conditioned that the  
30 obligor as licensee will faithfully conform to and abide by this  
31 chapter and all the rules adopted under this chapter. The bond will  
32 pay to the state and any person or persons having a cause of action  
33 against the obligor all moneys that may become due and owing to the  
34 state and those persons under and by virtue of this chapter. The bond  
35 must be continuous and may be canceled by the surety upon the surety  
36 giving written notice to the director of its intent to cancel the  
37 bond. The cancellation is effective forty-five days after the notice  
38 is received by the director. In lieu of a surety bond, if the  
39 applicant is a Washington business corporation, the applicant may  
40 maintain unimpaired capital, surplus, and long-term subordinated debt

1 in an amount that at any time its outstanding promissory notes or  
2 other evidences of debt (other than long-term subordinated debt) in  
3 an aggregate sum do not exceed three times the aggregate amount of  
4 its unimpaired capital, surplus, and long-term subordinated debt. The  
5 director may define qualifying "long-term subordinated debt" for  
6 purposes of this section.

7 (5) The director may waive one or more requirements of this  
8 section or permit an applicant to submit other information in lieu of  
9 the required information.

10 **Sec. 23.** RCW 31.04.075 and 2001 c 81 s 6 are each amended to  
11 read as follows:

12 The licensee may not maintain more than one place of business  
13 under the same license, but the director may issue more than one  
14 license to the same licensee upon application by the licensee in a  
15 form and manner established by the director.

16 Whenever a licensee wishes to change the place of business to a  
17 street address other than that (~~designated in the license~~) reported  
18 in the nationwide mortgage licensing system and registry, the  
19 licensee (~~shall~~) must give prior written notice to the director  
20 (~~as required by rule~~), pay the (~~license~~) fee, and obtain the  
21 director's approval.

22 **Sec. 24.** RCW 31.04.093 and 2014 c 36 s 6 are each amended to  
23 read as follows:

24 (1) The director (~~shall~~) must enforce all laws and rules  
25 relating to the licensing and regulation of licensees and persons  
26 subject to this chapter.

27 (2) The director may deny applications for licenses for:

28 (a) Failure of the applicant to demonstrate within its  
29 application for a license that it meets the requirements for  
30 licensing in RCW 31.04.045 and 31.04.055;

31 (b) Violation of an order issued by the director under this  
32 chapter or another chapter administered by the director, including  
33 but not limited to cease and desist orders and temporary cease and  
34 desist orders;

35 (c) Revocation or suspension of a license to conduct lending or  
36 residential mortgage loan servicing, or to provide settlement  
37 services associated with lending or residential mortgage loan  
38 servicing, by this state, another state, or by the federal government

1 within five years of the date of submittal of a complete application  
2 for a license; or

3 (d) Filing an incomplete application when that incomplete  
4 application has been filed with the department for sixty or more  
5 days, provided that the director has given notice to the licensee  
6 that the application is incomplete, informed the applicant why the  
7 application is incomplete, and allowed at least twenty days for the  
8 applicant to complete the application.

9 (3) The director may condition, suspend, or revoke a license  
10 issued under this chapter if the director finds that:

11 (a) The licensee has failed to pay any fee due the state of  
12 Washington, has failed to maintain in effect the bond or permitted  
13 substitute required under this chapter, or has failed to comply with  
14 any specific order or demand of the director lawfully made and  
15 directed to the licensee in accordance with this chapter;

16 (b) The licensee, either knowingly or without the exercise of due  
17 care, has violated any provision of this chapter or any rule adopted  
18 under this chapter; ((~~or~~))

19 (c) A fact or condition exists that, if it had existed at the  
20 time of the original application for the license, clearly would have  
21 allowed the director to deny the application for the original  
22 license(~~(. The director may revoke or suspend only the particular~~  
23 ~~license with respect to which grounds for revocation or suspension~~  
24 ~~may occur or exist unless the director finds that the grounds for~~  
25 ~~revocation or suspension are of general application to all offices or~~  
26 ~~to more than one office operated by the licensee, in which case, the~~  
27 ~~director may revoke or suspend all of the licenses issued to the~~  
28 ~~licensee)); or~~

29 (d) The licensee failed to comply with any directive, order, or  
30 subpoena issued by the director under this chapter.

31 The director may condition, revoke, or suspend only the particular  
32 license with respect to which grounds for conditioning, revocation,  
33 or suspension may occur or exist or the director may condition,  
34 revoke, or suspend all of the licenses issued to the licensee.

35 (4) The director may impose fines of up to one hundred dollars  
36 per day, per violation, upon the licensee, its employee or loan  
37 originator, or other person subject to this chapter for:

38 (a) Any violation of this chapter; or

39 (b) Failure to comply with any directive, order, or subpoena  
40 issued by the director under this chapter.

1 (5) The director may issue an order directing the licensee, its  
2 employee or loan originator, or other person subject to this chapter  
3 to:

4 (a) Cease and desist from conducting business in a manner that is  
5 injurious to the public or violates any provision of this chapter;

6 (b) Take such affirmative action as is necessary to comply with  
7 this chapter; ((~~or~~))

8 (c) Make a refund or restitution to a borrower or other person  
9 who is damaged as a result of a violation of this chapter;

10 (d) Refund all fees received through any violation of this  
11 chapter.

12 (6) The director may issue an order removing from office or  
13 prohibiting from participation in the affairs of any licensee, or  
14 both, any officer, principal, employee or mortgage loan originator,  
15 or any person subject to this chapter for:

16 (a) False statements or omission of material information from an  
17 application for a license that, if known, would have allowed the  
18 director to deny the original application for a license;

19 (b) Conviction of a gross misdemeanor involving dishonesty or  
20 financial misconduct or a felony;

21 (c) Suspension or revocation of a license to engage in lending or  
22 residential mortgage loan servicing, or perform a settlement service  
23 related to lending or residential mortgage loan servicing, in this  
24 state or another state;

25 (d) Failure to comply with any order or subpoena issued under  
26 this chapter;

27 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or  
28 31.04.221; or

29 (f) Failure to obtain a license for activity that requires a  
30 license.

31 (7) Except to the extent prohibited by another statute, the  
32 director may engage in informal settlement of complaints or  
33 enforcement actions including, but not limited to, payment to the  
34 department for purposes of financial literacy and education programs  
35 authorized under RCW 43.320.150. If any person subject to this  
36 chapter makes a payment to the department under this section, the  
37 person may not advertise such payment.

38 (8) Whenever the director determines that the public is likely to  
39 be substantially injured by delay in issuing a cease and desist  
40 order, the director may immediately issue a temporary cease and



1 desist order. The order may direct the licensee to discontinue any  
2 violation of this chapter, to take such affirmative action as is  
3 necessary to comply with this chapter, and may include a summary  
4 suspension of the licensee's license and may order the licensee to  
5 immediately cease the conduct of business under this chapter. The  
6 order (~~shall~~) becomes effective at the time specified in the order.  
7 Every temporary cease and desist order (~~shall~~) must include a  
8 provision that a hearing will be held upon request to determine  
9 whether the order will become permanent. Such hearing (~~shall~~) must  
10 be held within fourteen days of receipt of a request for a hearing  
11 unless otherwise specified in chapter 34.05 RCW.

12 (9) A licensee may surrender a license by delivering to the  
13 director written notice of surrender, but the surrender does not  
14 affect the licensee's civil or criminal liability, if any, for acts  
15 committed before the surrender, including any administrative action  
16 initiated by the director to suspend or revoke a license, impose  
17 fines, compel the payment of restitution to borrowers or other  
18 persons, or exercise any other authority under this chapter. The  
19 statute of limitations on actions not subject to RCW 4.16.160 that  
20 are brought under this chapter by the director is five years.

21 (10) The revocation, suspension, or surrender of a license does  
22 not impair or affect the obligation of a preexisting lawful contract  
23 between the licensee and a borrower.

24 (11) Every license issued under this chapter remains in force and  
25 effect until it has been surrendered, revoked, or suspended in  
26 accordance with this chapter. However, the director may on his or her  
27 own initiative reinstate suspended licenses or issue new licenses to  
28 a licensee whose license or licenses have been revoked if the  
29 director finds that the licensee meets all the requirements of this  
30 chapter.

31 (12) A license issued under this chapter expires upon the  
32 licensee's failure to comply with the annual assessment requirements  
33 in RCW 31.04.085, and the rules. The department must provide notice  
34 of the expiration to the address of record provided by the licensee.  
35 On the 15th day after the department provides notice, if the  
36 assessment remains unpaid, the license expires. The licensee must  
37 receive notice prior to expiration and have the opportunity to stop  
38 the expiration as set forth in rule.

1        NEW SECTION.    **Sec. 25.**    A new section is added to chapter 31.04  
2 RCW to read as follows:

3        (1) A residential mortgage loan servicer licensee must maintain  
4 liquidity, operating reserves, and a tangible net worth in accordance  
5 with generally accepted accounting principles as determined by the  
6 director. The director may adopt rules to interpret this subsection.

7        (2) A residential mortgage loan servicer that is a Fannie Mae or  
8 Freddie Mac-approved servicer meets the requirements of subsection  
9 (1) of this section if the liquidity, operating reserves, and  
10 tangible net worth each meet the standards of the government-  
11 sponsored enterprise for which they are approved. For loans serviced  
12 that would not otherwise be subject to the liquidity, operating  
13 reserves, and tangible net worth requirements of Fannie Mae or  
14 Freddie Mac, the residential mortgage loan servicer must maintain  
15 liquidity, operating reserves, and tangible net worth consistent with  
16 the highest standards of the government-sponsored entity or entities  
17 for which they are approved.

18        (3) If a licensee's liquidity, operating reserves, or tangible  
19 net worth fall below the amount required under subsection (1) or (2)  
20 of this section, the director or the director's designee may initiate  
21 an action.

22        NEW SECTION.    **Sec. 26.**    A new section is added to chapter 31.04  
23 RCW to read as follows:

24        Upon application by the director and upon a showing that the  
25 interests of borrowers or creditors so requires, the superior court  
26 may appoint a receiver to take over, operate, or liquidate any  
27 residential mortgage loan servicer.

28        **Sec. 27.**    RCW 31.04.102 and 2013 c 29 s 6 are each amended to  
29 read as follows:

30        (1) For all loans made by a licensee that are not secured by a  
31 lien on real property, the licensee must make disclosures in  
32 compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and  
33 regulation Z, 12 C.F.R. Part ((226)) 1026, and all other applicable  
34 federal laws and regulations.

35        (2) For all loans made by a licensee that are secured by a lien  
36 on real property, the licensee ((shall)) must provide to each  
37 borrower within three business days following receipt of a loan  
38 application a written disclosure containing an itemized estimation

1 and explanation of all fees and costs that the borrower is required  
2 to pay in connection with obtaining a loan from the licensee. A good  
3 faith estimate of a fee or cost (~~shall~~) must be provided if the  
4 exact amount of the fee or cost is not available when the disclosure  
5 is provided. Disclosure in a form which complies with the  
6 requirements of the truth in lending act, 15 U.S.C. Sec. 1601 and  
7 regulation Z, 12 C.F.R. Part (~~226~~) 1026, the real estate settlement  
8 procedures act and regulation X, 24 C.F.R. (~~Sec. 3500~~) Part 1024,  
9 and all other applicable federal laws and regulations, as now or  
10 hereafter amended, (~~shall be deemed to~~) constitutes compliance with  
11 this disclosure requirement. Each licensee (~~shall~~) must comply with  
12 all other applicable federal and state laws and regulations.

13 (3) In addition, for all loans made by the licensee that are  
14 secured by a lien on real property, the licensee must provide to the  
15 borrower an estimate of the annual percentage rate on the loan and a  
16 disclosure of whether or not the loan contains a prepayment penalty  
17 within three days of receipt of a loan application. The annual  
18 percentage rate must be calculated in compliance with the truth in  
19 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part  
20 (~~226~~) 1024. If a licensee provides the borrower with a disclosure  
21 in compliance with the requirements of the truth in lending act  
22 within three business days of receipt of a loan application, then the  
23 licensee has complied with this subsection. If the director  
24 determines that the federal government has required a disclosure that  
25 substantially meets the objectives of this subsection, then the  
26 director may make a determination by rule that compliance with this  
27 federal disclosure requirement constitutes compliance with this  
28 subsection.

29 (4) In addition for all consumer loans made by the licensee that  
30 are secured by a lien on real property, the licensee must comply with  
31 RCW 19.144.020.

32 **Sec. 28.** RCW 31.04.105 and 2013 c 29 s 7 are each amended to  
33 read as follows:

34 Every licensee may:

35 (1) Lend money at a rate that does not exceed twenty-five percent  
36 per annum as determined by the simple interest method of calculating  
37 interest owed;

38 (2) In connection with the making of a loan, charge the borrower  
39 a nonrefundable, prepaid, loan origination fee not to exceed four

1 percent of the first twenty thousand dollars and two percent  
2 thereafter of the principal amount of the loan advanced to or for the  
3 direct benefit of the borrower, which fee may be included in the  
4 principal balance of the loan;

5 (3) Agree with the borrower for the payment of fees to third  
6 parties other than the licensee who provide goods or services to the  
7 licensee in connection with the preparation of the borrower's loan,  
8 including, but not limited to, credit reporting agencies, title  
9 companies, appraisers, structural and pest inspectors, and escrow  
10 companies, when such fees are actually paid by the licensee to a  
11 third party for such services or purposes and may include such fees  
12 in the amount of the loan. However, no charge may be collected unless  
13 a loan is made, except for reasonable fees properly incurred for a  
14 credit report and in connection with the appraisal of property by a  
15 qualified, independent, professional, third-party appraiser selected  
16 by the borrower and approved by the lender or in the absence of  
17 borrower selection, selected by the lender;

18 (4) In connection with the making of a loan secured by real  
19 estate, when the borrower actually obtains a loan, agree with the  
20 borrower to pay a fee to a mortgage broker that is not owned by the  
21 licensee or under common ownership with the licensee and that  
22 performed services in connection with the origination of the loan. A  
23 licensee may not receive compensation as a mortgage broker in  
24 connection with any loan made by the licensee;

25 (5) Collect at the time of the loan closing up to but not  
26 exceeding forty-five days of prepaid interest;

27 (6) Charge and collect a penalty of not more than ten percent of  
28 any installment payment delinquent ten days or more;

29 (7) Collect from the debtor reasonable attorneys' fees, actual  
30 expenses, and costs incurred in connection with the collection of a  
31 delinquent debt, a repossession, or a foreclosure when a debt is  
32 referred for collection to an attorney who is not a salaried employee  
33 of the licensee;

34 (8) Make open-end loans as provided in this chapter;

35 (9) Charge and collect a fee for dishonored checks in an amount  
36 approved by the director; and

37 (10) In accordance with Title 48 RCW, sell insurance covering  
38 real and personal property, covering the life or disability or both  
39 of the borrower, and covering the involuntary unemployment of the  
40 borrower.

1       **Sec. 29.** RCW 31.04.145 and 2012 c 17 s 5 are each amended to  
2 read as follows:

3       (1) For the purpose of discovering violations of this chapter or  
4 securing information lawfully required under this chapter, the  
5 director may at any time, either personally or by designees,  
6 investigate or examine the loans and business and, wherever located,  
7 the books, accounts, records, papers, documents, files, and other  
8 information used in the business of every licensee and of every  
9 person who is engaged in the business making or assisting in the  
10 making of loans at interest rates authorized by this chapter, whether  
11 the person acts or claims to act as principal or agent, or under or  
12 without the authority of this chapter. The director or designated  
13 representative:

14       (a) (~~shall~~) Must have free access to the employees, offices,  
15 and places of business, books, accounts, papers, documents, other  
16 information, records, files, safes, and vaults of all such persons  
17 during normal business hours;

18       (b) May require the attendance of and examine under oath all  
19 persons whose testimony may be required about the loans or the  
20 business or the subject matter of any investigation, examination, or  
21 hearing and may require such person to produce books, accounts,  
22 papers, records, files, and any other information the director or  
23 designated persons deem relevant to the inquiry;

24       (c) May require by directive, subpoena, or any other lawful means  
25 the production of original books, accounts, papers, records, files,  
26 and other information; may require that such original books,  
27 accounts, papers, records, files, and other information be copied; or  
28 may make copies of such original books, accounts, papers, records,  
29 files, or other information;

30       (d) May issue a subpoena or subpoena duces tecum requiring  
31 attendance by any person identified in this section or compelling  
32 production of any books, accounts, papers, records, files, or other  
33 documents or information identified in this section.

34       (2) The director (~~shall~~) must make such periodic examinations  
35 of the affairs, business, office, and records of each licensee as  
36 determined by rule.

37       (3) Every licensee examined or investigated by the director or  
38 the director's designee (~~shall~~) must pay to the director the cost  
39 of the examination or investigation of each licensed place of  
40 business as determined by rule by the director.

1 (4) In order to carry out the purposes of this section, the  
2 director may:

3 (a) Retain attorneys, accountants, or other professionals and  
4 specialists as examiners, auditors, or investigators to conduct or  
5 assist in the conduct of examinations or investigations;

6 (b) Enter into agreements or relationships with other government  
7 officials or regulatory associations in order to improve efficiencies  
8 and reduce regulatory burden by sharing resources, standardized or  
9 uniform methods or procedures, and documents, records, information,  
10 or evidence obtained under this section;

11 (c) Use, hire, contract, or employ public or privately available  
12 analytical systems, methods, or software to examine or investigate  
13 the licensee, individual, or person subject to chapter 120, Laws of  
14 2009;

15 (d) Accept and rely on examination or investigation reports made  
16 by other government officials, within or without this state;

17 (e) Accept audit reports made by an independent certified public  
18 accountant for the licensee, individual, or person subject to chapter  
19 120, Laws of 2009 in the course of that part of the examination  
20 covering the same general subject matter as the audit and may  
21 incorporate the audit report in the report of the examination, report  
22 of investigation, or other writing of the director; or

23 (f) Assess the licensee, individual, or person subject to chapter  
24 120, Laws of 2009 the cost of the services in (a) of this subsection.

25 **Sec. 30.** RCW 31.04.205 and 2001 c 81 s 16 are each amended to  
26 read as follows:

27 (1) The director or designated persons may, at his or her  
28 discretion, take such action as provided for in this chapter to  
29 enforce this chapter. If the person subject to such action does not  
30 appear in person or by counsel at the time and place designated for  
31 any administrative hearing that may be held on the action, then the  
32 person (~~shall be~~) is deemed to consent to the action. If the person  
33 subject to the action consents, or if after hearing the director  
34 finds by a preponderance of the evidence that any grounds for  
35 sanctions under this chapter exist, then the director may impose any  
36 sanction authorized by this chapter.

37 (2) The director may recover the state's costs and expenses for  
38 prosecuting violations of this chapter including staff time spent  
39 preparing for and attending administrative hearings and reasonable

1 attorneys' fees unless, after a hearing, the director determines no  
2 violation occurred.

3 **Sec. 31.** RCW 31.04.221 and 2013 c 29 s 9 are each amended to  
4 read as follows:

5 An individual defined as a mortgage loan originator (~~shall~~)  
6 must not engage in the business of a mortgage loan originator without  
7 first obtaining and maintaining annually a license under this  
8 chapter. Each licensed mortgage loan originator must register with  
9 and maintain a valid unique identifier issued by the nationwide  
10 (~~multistate~~) mortgage licensing system.

11 **Sec. 32.** RCW 31.04.224 and 2012 c 17 s 6 are each amended to  
12 read as follows:

13 The following are exempt from licensing as mortgage loan  
14 originators under this chapter:

15 (1) Registered mortgage loan originators, or any individual  
16 required to be registered while actively employed by a covered  
17 financial institution as defined in regulation G, 12 C.F.R. Part  
18 1007.102;

19 (2) (~~A licensed~~) An attorney licensed in Washington who  
20 negotiates the terms of a residential mortgage loan on behalf of a  
21 client as an ancillary matter to the attorney's representation of the  
22 client, unless the attorney is compensated by a lender, a mortgage  
23 broker, or other mortgage loan originator or by any agent of a  
24 lender, mortgage broker, or other mortgage loan originator;

25 (3) Any individual who offers or negotiates terms of a  
26 residential mortgage loan with or on behalf of an immediate family  
27 member; or

28 (4) Any individual who offers or negotiates terms of a  
29 residential mortgage loan secured by a dwelling that served as the  
30 individual's residence.

31 **Sec. 33.** RCW 31.04.247 and 2009 c 120 s 18 are each amended to  
32 read as follows:

33 (1) The director (~~shall~~) must issue and deliver a mortgage loan  
34 originator license if, after investigation, the director makes at a  
35 minimum the following findings:

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

37 (b) The applicant has met the requirements of this chapter;

1 (c) The applicant has never had a mortgage loan originator  
2 license revoked in any governmental jurisdiction, except that, for  
3 the purposes of this subsection, a subsequent formal vacation of such  
4 revocation is not a revocation;

5 (d) The applicant has not been convicted of a gross misdemeanor  
6 involving dishonesty or financial misconduct or has not been  
7 convicted of, or pled guilty or nolo contendere to, a felony in a  
8 domestic, foreign, or military court (i) during the seven-year period  
9 preceding the date of the application for licensing and registration;  
10 or (ii) at any time preceding the date of application, if the felony  
11 involved an act of fraud, dishonesty, breach of trust, or money  
12 laundering;

13 (e) The applicant has demonstrated financial responsibility,  
14 character, and general fitness such as to command the confidence of  
15 the community and to warrant a determination that the mortgage loan  
16 originator will operate honestly, fairly, and efficiently within the  
17 purposes of chapter 120, Laws of 2009. For the purposes of this  
18 section, an applicant has not demonstrated financial responsibility  
19 when the applicant shows disregard in the management of his or her  
20 financial condition. A determination that an individual has shown  
21 disregard in the management of his or her financial condition may  
22 include, but is not limited to, an assessment of: Current outstanding  
23 judgments, except judgments solely as a result of medical expenses;  
24 current outstanding tax liens or other government liens and filings;  
25 foreclosures within the last three years; or a pattern of seriously  
26 delinquent accounts within the past three years;

27 (f) The applicant has completed the prelicensing education  
28 requirement as required by this chapter;

29 (g) The applicant has passed a written test that meets the test  
30 requirement as required by this chapter;

31 (h) The consumer loan licensee that the applicant works for has  
32 met the surety bond requirement as required by this chapter;

33 (i) The applicant has not been found to be in violation of this  
34 chapter or rules adopted under this chapter;

35 (j) The mortgage loan originator licensee has completed, during  
36 the calendar year preceding a licensee's annual license renewal date,  
37 continuing education as required by this chapter.

38 (2) If the director finds the conditions of this section have not  
39 been met, the director (~~shall~~) must not issue the mortgage loan  
40 originator license. The director (~~shall~~) must notify the applicant



1 of the denial and return to the mortgage loan originator applicant  
2 any remaining portion of the license fee that exceeds the  
3 department's actual cost to investigate the license.

4 **Sec. 34.** RCW 31.04.277 and 2010 c 35 s 8 are each amended to  
5 read as follows:

6 Each consumer loan company licensee who makes, services, or  
7 brokers a loan secured by real property (~~(shall)~~) must submit (~~(to)~~)  
8 call reports through the nationwide mortgage licensing system and  
9 registry (~~(reports of condition, which must be in the)~~) in a form and  
10 (~~(must contain)~~) containing the information (~~(as)~~) prescribed by the  
11 director or as deemed necessary by the nationwide mortgage licensing  
12 system and registry (~~(may require)~~).

13 **Sec. 35.** RCW 31.04.290 and 2013 c 29 s 10 are each amended to  
14 read as follows:

15 (1) A residential mortgage loan servicer must comply with the  
16 following requirements:

17 (a) (~~(The requirements of chapter 19.148 RCW;~~

18 ~~(b))~~) Any fee that is assessed by a servicer must be assessed  
19 within forty-five days of the date on which the fee was incurred and  
20 must be explained clearly and conspicuously in a statement mailed to  
21 the borrower at the borrower's last known address no more than thirty  
22 days after assessing the fee;

23 (~~(c))~~) (b) All amounts received by a servicer on a residential  
24 mortgage loan at the address where the borrower has been instructed  
25 to make payments must be accepted and credited, or treated as  
26 credited, within one business day of the date received, provided that  
27 the borrower has provided sufficient information to credit the  
28 account. If a servicer uses the scheduled method of accounting, any  
29 regularly scheduled payment made prior to the scheduled due date must  
30 be credited no later than the due date. If any payment is received  
31 and not credited, or treated as credited, the borrower must be  
32 notified of the disposition of the payment within ten business days  
33 by mail at the borrower's last known address. The notification must  
34 identify the reason the payment was not credited or treated as  
35 credited to the account, as well as any actions the borrower must  
36 take to make the residential mortgage loan current;

37 (~~(d))~~) (c) Any servicer that exercises the authority to collect  
38 escrow amounts on a residential mortgage loan held for the borrower

1 for payment of insurance, taxes, and other charges with respect to  
2 the property (~~shall~~) must collect and make all such payments from  
3 the escrow account and ensure that no late penalties are assessed or  
4 other negative consequences result for the borrower;

5 (~~(e)~~) (d) The servicer (~~shall~~) must make reasonable attempts  
6 to comply with a borrower's request for information about the  
7 residential mortgage loan account and to respond to any dispute  
8 initiated by the borrower about the loan account. The servicer:

9 (i) Must maintain written or electronic records of each written  
10 request for information regarding a dispute or error involving the  
11 borrower's account until the residential mortgage loan is paid in  
12 full, sold, or otherwise satisfied; and

13 (ii) Must provide a written statement to the borrower within  
14 fifteen business days of receipt of a written request from the  
15 borrower. The borrower's request must include the name and account  
16 number, if any, of the borrower, a statement that the account is or  
17 may be in error, and sufficient detail regarding the information  
18 sought by the borrower to permit the servicer to comply. At a  
19 minimum, the servicer's response to the borrower's request must  
20 include the following information:

21 (A) Whether the account is current or, if the account is not  
22 current, an explanation of the default and the date the account went  
23 into default;

24 (B) The current balance due on the residential mortgage loan,  
25 including the principal due, the amount of funds, if any, held in a  
26 suspense account, the amount of the escrow balance known to the  
27 servicer, if any, and whether there are any escrow deficiencies or  
28 shortages known to the servicer;

29 (C) The identity, address, and other relevant information about  
30 the current holder, owner, or assignee of the residential mortgage  
31 loan; and

32 (D) The telephone number and mailing address of a servicer  
33 representative with the information and authority to answer questions  
34 and resolve disputes; and

35 (~~(f)~~) (e) Promptly correct any errors and refund any fees  
36 assessed to the borrower resulting from the servicer's error.

37 (2) In addition to the statement in subsection (1)(~~(e)~~) (d)(ii)  
38 of this section, a borrower may request more detailed information  
39 from a servicer, and the servicer must provide the information within  
40 fifteen business days of receipt of a written request from the

1 borrower. The request must include the name and account number, if  
2 any, of the borrower, a statement that the account is or may be in  
3 error, and provide sufficient detail to the servicer regarding  
4 information sought by the borrower. If requested by the borrower this  
5 statement must include:

6 (a) A copy of the original note, or if unavailable, an affidavit  
7 of lost note; and

8 (b) A statement that identifies and itemizes all fees and charges  
9 assessed under the loan transaction and provides a full payment  
10 history identifying in a clear and conspicuous manner all of the  
11 debits, credits, application of and disbursement of all payments  
12 received from or for the benefit of the borrower, and other activity  
13 on the residential mortgage loan including escrow account activity  
14 and suspense account activity, if any. The period of the account  
15 history (~~shall~~) must cover at a minimum the two-year period prior  
16 to the date of the receipt of the request for information. If the  
17 servicer has not serviced the residential mortgage loan for the  
18 entire two-year time period the servicer (~~shall~~) must provide the  
19 information going back to the date on which the servicer began  
20 servicing the home loan, and identify the previous servicer, if  
21 known. If the servicer claims that any delinquent or outstanding sums  
22 are owed on the home loan prior to the two-year period or the period  
23 during which the servicer has serviced the residential mortgage loan,  
24 the servicer (~~shall~~) must provide an account history beginning with  
25 the month that the servicer claims any outstanding sums are owed on  
26 the residential mortgage loan up to the date of the request for the  
27 information. The borrower may request annually one statement free of  
28 charge.

29 **Sec. 36.** RCW 31.04.520 and 2009 c 149 s 4 are each amended to  
30 read as follows:

31 The borrower in a proprietary reverse mortgage transaction has  
32 the same right to rescind the transaction as provided in the truth in  
33 lending act, Regulation Z, 12 C.F.R. (~~Sec. 226~~) Part 1026.

34 NEW SECTION. **Sec. 37.** The following acts or parts of acts are  
35 each repealed:

36 (1) RCW 19.146.290 (Licensee to provide director with annual  
37 report of mortgage broker activity) and 2006 c 19 s 18; and

1           (2) RCW 19.146.330 (Loan originator—Limit on applications taken)  
2 and 2006 c 19 s 22.

--- END ---