

WAC 30-44-020 Program purpose. The governor's arts awards recognizes those individuals and organizations who have contributed significantly to the arts and cultural development of the state of Washington. The governor's heritage awards recognizes those individuals and organizations who have contributed significantly to the cultural heritage and traditional arts of the state of Washington.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-44-020, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-44-020, filed 5/7/87.]

WAC 30-44-030 Eligibility. In order for the commission to consider an individual or organization for a governor's arts or heritage award, the nominee must:

(1) Be a current resident of the state of Washington, or have been a resident of the state of Washington during the time the contributions were made and/or achievements accomplished;

(2) Not have been a previous recipient.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-44-030, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-44-030, filed 5/7/87.]

WAC 30-44-040 Nomination form. (1) Public notice of nominations will be made through the media and in other agency publications. Nomination forms are available from the commission and published with the program guidelines.

(2) Nomination forms shall be sent by direct mail to every Washington address on the agency mailing list, and to those who request a nomination form.

(3) All nomination forms must be completed and submitted in the format prescribed by the commission. Nominations must be submitted by the deadline determined by the commission.

(4) The commission may recommend individuals or organizations not nominated in a current year, but who have been nominated in past years.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-44-040, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-44-040, filed 5/7/87.]

WAC 30-44-050 Nomination review process. (1) An ad hoc committee of commissioners and/or panel advisors will review the nominations and will present their recommendations to the commission.

(2) The commission will review the committee's recommendations for nominations and advise the governor of its decisions. The governor has final approval authority.

(3) Following the governor's approval of the award recipients, the staff will make arrangements for the presentation of the awards and notify the recipients of the time and place.

(4) Each year the commission will present to the recipients a certificate, medallion, or work of art in token of their achievement.

(5) The governor's arts awards may be suspended for a period of time due to circumstances beyond the commission's control.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-44-050, filed 7/12/95, effective 8/12/95; 87-11-001 (Order 2, Resolution No. 87-1), § 30-44-050, filed 5/7/87.]

WAC 30-44-060 Nomination review criteria.

Nominations will be reviewed according to the current guideline criteria to ensure that significant contributions, and/or artistic accomplishments, and/or preservational and promotional achievements are demonstrated.

[Statutory Authority: RCW 43.46.040. 95-15-040, § 30-44-060, filed 7/12/95, effective 8/12/95.]

Chapter 30-48 WAC

COMMUNITY DEVELOPMENT PROGRAM

WAC

30-48-010 through 30-48-070 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

30-48-010 Purpose. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-010, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-020 Definitions. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-020, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-030 Program purpose and goals. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-030, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-040 Eligibility. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-040, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-050 Application review process—Technical assistance. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-050, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-060 Application—Community challenge award. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-060, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

30-48-070 Evaluation methods. [Statutory Authority: RCW 43.46.040. 87-11-001 (Order 2, Resolution No. 87-1), § 30-48-070, filed 5/7/87.] Repealed by 95-15-040, filed 7/12/95, effective 8/12/95. Statutory Authority: RCW 43.46.040.

WAC 30-48-010 through 30-48-070 Repealed. See Disposition Table at beginning of this chapter.

Title 50 WAC

FINANCIAL INSTITUTIONS, DEPARTMENT OF (BANKING, DIVISION OF)

Chapters

**50-60 Mortgage brokers and loan originators—
Licensing.**

Chapter 50-60 WAC
MORTGAGE BROKERS AND LOAN
ORIGINATORS—LICENSING

WAC

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50-60-040	Experience requirements.
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50-60-050	Demand for criminal history information.
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50-60-120	Employees and independent contractors of licensees.
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50-60-150	Disclosure of significant developments.
50-60-160	License application denial or condition; license suspension or revocation.
50-60-165	Fines and penalties for violation of the Mortgage Broker Practices Act.
50-60-180	Repealed.
50-60-190	Prohibited practices—Improperly influencing appraisals.
50-60-200	Mortgage broker fees allowed.
50-60-210	Mortgage brokerage commission.

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

50-60-180	Licensing of independent contractors to conduct mortgage brokering. [Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-180, filed 1/7/94, effective 2/7/94.] Repealed by 95-13-091, filed 6/21/95, effective 7/22/95. Statutory Authority: RCW 19.146.225.
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WAC 50-60-010 Definitions. As used in this chapter, the following definitions apply, unless the context otherwise requires:

(1) "Advertising material" means any form of sales or promotional materials to be used in connection with the mortgage broker business.

(2) "Affiliate" means any person who controls, is controlled by, or is under common control with, another person.

(3) "Application deposit" means a deposit in immediately available funds consisting of three hundred fifty dollars for each license applied for and one hundred seventy-five

dollars for each branch office certificate applied for. For example, an applicant requesting a license and two branch office certificates must submit an application deposit of seven hundred dollars (calculated by adding three hundred fifty dollars to the product of two times one hundred seventy-five dollars).

(4) "Approved examination" means a written examination approved by the director.

(5) "Approved licensing or continuing education course" means a licensing or continuing education course approved by the director.

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

(7) "Branch office" means a fixed physical location such as an office, separate from the principal place of business of the licensee, where the licensee holds itself out as a mortgage broker.

(8) "Branch office certificate" means a branch office license issued by the director to engage in the mortgage broker business as the branch office indicated in the certificate, pursuant to RCW 19.146.265.

(9) "Certificate of passing an approved examination" means a certificate signed by the examination administrator verifying that the individual performed with a satisfactory score or higher on an approved licensing examination.

(10) "Certificate of satisfactory completion of an approved continuing education course" means a certificate signed by the course provider verifying that the individual has attended an approved continuing education course.

(11) "Certificate of satisfactory completion of an approved licensing course" means a certificate signed by the course provider verifying that the individual has attended at least forty hours of class of an approved licensing course.

(12) "Consumer Protection Act" means chapter 19.86 RCW.

(13) A person "controls" an entity if the person, directly or indirectly through one or more intermediaries, alone or in concert with others, owns, controls, or holds the power to vote twenty-five percent or more of the outstanding stock or voting power of the controlled entity.

(14) A person is "convicted" of a crime, irrespective of the pronouncement or suspension of sentence, if the person:

- Is convicted of the crime in any jurisdiction;
- Is convicted of a crime which, if committed within this state would constitute such a crime under the laws of this state;
- Has plead guilty or no contest or nolo contendere or stipulated to facts that are sufficient to justify a finding of guilt to such a charge before a court or federal magistrate; or
- Has been found guilty of such a crime by the decision or judgment of a court or federal magistrate or by the verdict of a jury.

(15) "Department" means the department of financial institutions.

(16) "Designated broker" means a natural person designated by the applicant for a license or licensee who

meets the experience, education, and examination requirements set forth in RCW 19.146.210(e).

(17) "Director" means the director of financial institutions.

(18) "Employee" means any natural person who:

- Has an employment relationship, acknowledged by both the employee and the mortgage broker; and

- Is treated as an employee by the mortgage broker for purposes of compliance with federal income tax laws.

(19) "Financial institution" means a federally insured bank, savings bank, savings and loan association, or credit union, whether state or federally chartered, authorized to conduct business in this state.

(20) "Financial misconduct" means without limitation:

- Any conduct prohibited by the Mortgage Broker Practices Act;

- Any similar conduct prohibited by statutes governing mortgage brokers in other states; and

- Any similar conduct prohibited by statutes governing other segments of the financial services industry, including but not limited to the Consumer Protection Act, statutes governing the conduct of securities broker dealers, financial advisers, escrow officers, title insurance companies, limited practice officers, trust companies, and other licensed or chartered financial service providers.

(21) A person "holds oneself out" by advertising or otherwise informing the public that the person engages in any of the activities indicated, including without limit through the use of business cards, stationery, brochures, rate lists or other promotional items.

(22) "Independent contractor" or "person who independently contracts" means any person that:

- Expressly or impliedly contracts to perform mortgage broker activities for a licensee;

- With respect to its manner or means of performing the activities, is not subject to the licensee's right of control; and

- Is not treated as an employee by the licensee for purposes of compliance with federal income tax laws.

(23) "License" means a license issued by the director to engage in the mortgage broker business.

(24) "Licensee" or "licensed mortgage broker" means:

- A mortgage broker licensed by the director; and

- Any person required to be licensed pursuant to RCW 19.146.200 and 19.146.020.

(25) "Loan originator" means a natural person:

- Who is a mortgage broker employee who performs any mortgage broker activities; or

- Who is retained as an independent contractor by a mortgage broker, or represents a mortgage broker, in the performance of any mortgage broker activities.

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

(27) "Material litigation" means any conviction in the prior seven years for a felony, or for a gross misdemeanor involving dishonesty or financial misconduct, and any litigation pending at any time during the prior seven years that would be relevant to the director's ruling on an applica-

tion for a license, including but not limited to, the following types of litigation:

- Criminal actions involving felony charges.

- Criminal or civil actions involving dishonesty or financial misconduct.

(28) "Mortgage broker" means any person that for compensation or gain, or in the expectation of compensation or gain:

- Makes a residential mortgage loan or assists a person in obtaining a residential mortgage loan; or

- Holds himself or herself out as being able to do so.

(29) "Mortgage Broker Practices Act" means chapter 19.146 RCW and chapter 50-60 WAC.

(30) "Out-of-state applicant or licensee" means an applicant for a license or licensee that does not maintain a physical office within this state.

(31) "Person" means a natural person, corporation, company, partnership, or association.

(32) "Prepaid escrowed costs of ownership," as used in RCW 19.146.030(5), means any amounts prepaid by the borrower for the payment of taxes, property insurance, interim interest, and similar items in regard to the security property.

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

(34) "RCW" means the *Revised Code of Washington*.

(35) "Real Estate Settlement Procedures Act" means the Real Estate Settlement Procedures Act, 12 U.S.C. Sections 2601 et seq., and Regulation X, 24 C.F.R. Sections 3500 et seq.

(36) "Registered agent" means a person or persons located within this state that is appointed to accept service of process for an out-of-state licensee.

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

(38) "Subsidiary" means a corporation, company, partnership, or association that is controlled by another.

(39) "Third-party provider" means any third party, other than a mortgage broker or lender, that provides goods or services to the mortgage broker in connection with the preparation of a borrower's loan and includes, but is not limited to, credit reporting agencies, title insurance companies, appraisers, structural and pest inspectors, or escrow companies. However, "third-party provider" does include a third-party lender, to the extent it provides lock-in arrangements to the mortgage broker in connection with the preparation of a borrower's loan.

(40) "Transfer" means a sale, transfer, assignment, or other disposition, whether by operation of law in a merger or otherwise.

(41) "Truth in Lending Act" means the Truth in Lending Act, 15 U.S.C. Sections 1601 et seq., and Regulation Z, 12 C.F.R. Sections 226 et seq.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-010, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-010, filed 1/7/94, effective 2/7/94.]

WAC 50-60-020 Statutory exemptions. (1) The following persons are exempt from all provisions of the Mortgage Broker Practices Act:

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

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

(c) Any person doing any act under order of any court;

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

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

(f) A real estate broker who:

(i) In connection with a CLO system, provides only information regarding rates, terms, and lenders;

(ii) Receives a fee for providing such information;

(iii) Conforms to these rules with respect to the providing of such information; and

(iv) Discloses on a form approved by the director that to obtain a loan the borrower must deal directly with a mortgage broker or lender.

However, a real estate broker is not exempt from the Mortgage Broker Practices Act if he or she does any of the following:

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

(B) Accepts a loan application, or submits a loan application to a lender;

(C) Accepts any deposits for payment to a third-party provider, or accepts any loan fees from a borrower, whether such fees are paid before, upon, or after the closing of the loan;

(D) Negotiates rates or terms with a lender on behalf of a borrower; or

(E) Provides the disclosures required by RCW 19.146.030(1).

(2)(a) The persons described in (b) and (c) of this subsection are exempt from the Mortgage Broker Practices Act except that they:

(i) Must comply with RCW 19.146.0201 through 19.146.090, Part D of chapter 50-60 WAC, and WAC 50-60-125, 50-60-130, 50-60-140, 50-60-165, 50-60-190, and 50-60-200;

(ii) Are subject to the director's authority to take enforcement action for any violation of applicable provisions of the Mortgage Broker Practices Act, pursuant to RCW 19.146.220, 19.146.221, and 19.146.227; and

(iii) Are subject to the director's authority to obtain and review books and records that are relevant to any investigation of such a violation pursuant to the first paragraph of RCW 19.146.235, and WAC 50-60-060(4).

(b) Any person making or acquiring a residential mortgage loan solely with his or her own funds for his or her own investment without intending to resell the mortgage loan.

(c) Any mortgage broker approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-020, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-020, filed 1/7/94, effective 2/7/94.]

WAC 50-60-030 Application procedure for mortgage broker license. (1) Each person required to have a license must apply to the director by filing the following:

(a) An application in the form prescribed by the director, including without limit the information required by RCW 19.146.205 (1)(a) through (d).

(b) A surety bond and related power of attorney, or approved alternative to the bond, in accordance with RCW 19.146.205 (3) and WAC 50-60-080 and 50-60-08010.

(c) The application deposit.

(d) In regard to each principal, designated broker, and any branch office manager of the applicant:

(i) Biographical information including complete and accurate employment history and a description of any material litigation involving the person;

(ii) An independent credit report obtained from a recognized credit reporting agency;

(iii) A signed authorization for a background investigation on a form provided by the department;

(iv) Completed fingerprint cards accepted by the Washington state patrol (this requirement does not apply to branch office managers);

(v) A signed authorization for verification of the existence of a trust account on a form provided by the department;

(vi) A certificate of passing an approved examination (this requirement does not apply to branch office managers); and

(vii) A certificate of satisfactory completion of an approved licensing course, or satisfactory proof of at least two years of experience in accordance with WAC 50-60-040.

(e) A signed certificate of compliance and authorization to examine trust accounts on a form provided by the department;

(f) Information to support any required branch office certificate, as required by WAC 50-60-070.

(g) Information in regard to each independent contractor retained by the applicant, in accordance with RCW 19.146.200(1).

(h) A copy of any written agreement with a lender or licensee, in accordance with RCW 19.146.040(2).

(i) A copy of any form to be approved by the director in accordance with WAC 50-60-130(2).

(j) If the applicant's principal office is located out-of-state, information in regard to the applicant's registered agent, in accordance with RCW 19.146.220(3).

(2) Notwithstanding any other provision of these rules, the director may deny an application as incomplete if the applicant fails within ten business days to meet a second request from the director for information, except that the director may grant an extension to the applicant when good cause is shown. An example of good cause may include, but is not limited to, death or incapacitating illness of the preparer, or other catastrophic occurrence. Failure to file requested information under such circumstances will not affect new applications filed after the denial. An applicant may reapply upon submission of a new application and an additional application deposit.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-030, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-030, filed 1/7/94, effective 2/7/94.]

WAC 50-60-035 Interim licenses. In the director's discretion, the director may issue interim licenses, subject to such conditions as may be determined by the director, in regard to an application which satisfies the requirements of WAC 50-60-030 (1)(a), (b), (c), (d)(i) through (v), (e), (f), (g), (h), (i), and (j). An interim license expires on the date indicated in the license, unless extended by the director.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-035, filed 6/21/95, effective 7/22/95.]

WAC 50-60-040 Experience requirements. (1) A designated broker or branch office manager may use the following experience to satisfy the experience requirements of RCW 19.146.210 (1)(e) and 19.146.265:

(a) As a mortgage broker, or as a designated broker, or branch office manager, of a mortgage broker business;

(b) As a mortgage banker, or responsible individual or branch manager, of a mortgage banking business;

(c) As a loan officer, with responsibility primarily for loans secured by a lien on real estate;

(d) As a branch manager of a lender, with responsibility primarily for loans secured by a lien on real estate.

(e) As a mortgage broker with a mortgage broker (or similar) license from another state where the licensing standards are substantially similar to those in this state, as determined by the director.

(2) Satisfactory proof of two years of experience may include valid copies of W-2 or 1099 tax forms verifying employment for the two-year period, valid copies of form 1120 corporate tax returns for the two-year period signed by the broker or manager as owner of the business for the two-year period, or signed letters from a lender on the lender's letterhead verifying that the broker or manager has originated mortgage loans for the two-year period.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-040, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-040, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-040, filed 1/7/94, effective 2/7/94.]

WAC 50-60-042 Continuing education requirement.

(1) The principal or designated broker and each branch office manager of a licensee must satisfactorily complete an approved continuing education course annually. Each licensee must file annually a certificate of satisfactory completion of an approved continuing education course by the licensee's principal or designated broker and each branch office manager, no later than the last business day of the month in which the anniversary date of the issuance of the licensee's license occurs.

(2) This section applies to each licensee beginning on the first anniversary date of the issuance of the licensee's license which occurs after December 31, 1995. (For example, if a licensee's license was issued on January 10, 1994, then the licensee must submit its first certificate of satisfactory completion of an approved continuing education course no later than the last business day of January 1996.)

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-042, filed 6/21/95, effective 7/22/95.]

WAC 50-60-045 Approval of courses and examinations. (1) In order to receive approval of a licensing or continuing education course, the course provider must file an application with the director, which includes the following items:

(a) A description of the course provider's experience in teaching this type of course;

(b) A complete listing of all instructors for the course, including their qualifications and experience teaching courses similar to this course;

(c) A valid certification as a vocational instructor issued by the state of Washington;

(d) In connection with approval of a licensing course, all course materials and lesson plans on a session-by-session basis, which must cover at least the following subjects to be taught:

(i) The Mortgage Broker Practices Act;

(ii) The Consumer Protection Act;

(iii) The Escrow Agent Registration Act, chapter 18.44 RCW;

(iv) The federal Real Estate Settlement Procedures Act, Truth in Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Housing Act, Home Mortgage Disclosure Act, and Community Reinvestment Act, and the regulations promulgated pursuant to these acts.

(v) Trust account and recordkeeping requirements provided in the Mortgage Broker Practices Act;

(vi) Mortgage, deed of trust, and real estate contract statutes set forth in Title 61 RCW;

(vii) Washington principal and agent law;

(viii) Real estate and appraisal law, including without limitation, the provisions of chapters 18.85 and 18.140 RCW;

(ix) Arithmetical computations common to mortgage lending including without limitation, the computation of annual percentage rate, finance charge, amount financed, payment and amortization;

(x) Ethics in the mortgage industry; and

(e) In connection with a continuing education course, all course materials and lesson plans on a session-by-session

basis, which cover all relevant changes to the laws and matters described in (d) of this subsection.

(2) In order to receive approval of an examination, the examination administrator must file an application with the director, including the following items:

(a) A description of the examination administrator's experience in administering this type of examination; and

(b) A copy of any examinations to be used in determining satisfactory comprehension of the contents of the course and the grading scale to be used. Any new or revised examinations or grading scales to be used must be submitted to the director for approval prior to their use.

(3) The director shall review the applications filed with the department and determine whether to approve or deny the proposed course or examination. If the director approves the course or examination, the director shall issue a certificate of approval that will be effective for two years from the date of its issuance.

(4) The director shall publish annually a list of approved courses and approved examinations.

(5) A course provider or examination administrator that desires to renew the certificate of approval must apply to the director and file the items required in subsection (1) of this section no later than forty-five days before the certificate expires.

(6) The director may audit an approved course or examination at any time. If the course provider or examination administrator has not complied with the requirements of this section, the director may suspend or terminate approval and require the surrender of the certificate of approval.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-045, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-045, filed 11/8/94, effective 12/9/94.]

WAC 50-60-050 Demand for criminal history information. (1) In regard to the principal or designated broker of an applicant for a license or a licensee, the director may obtain and review the criminal conviction record of the individual that is maintained by any federal, state or local law enforcement agency. For this purpose, the director may require the applicant or licensee to provide completed fingerprint cards accepted by the Washington state patrol, recent photograph, and signed authorization for background investigation on a form provided by the department.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-050, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-050, filed 1/7/94, effective 2/7/94.]

WAC 50-60-060 Department's fees and assessments.

(1) Upon completion of processing and reviewing an application for a license or branch office certificate, the department will prepare a billing, regardless of whether a license or certificate has been issued, calculated at the rate of thirty-five dollars per hour that each staff person devoted to processing and reviewing the application. The application deposit will be applied against this bill. Any amount left owing to the department will be billed to and paid promptly by the applicant, while any balance remaining from the deposit will be refunded promptly to the applicant.

(2) Upon completion of any examination of the books and records of a licensee, the department will furnish to the

licensee a billing to cover the cost of the examination. The examination charge will be calculated at the rate of forty-five dollars per hour that each staff person devoted to the examination. The examination billing will be paid by the licensee promptly upon receipt. Licensees that were issued licenses prior to March 21, 1994, have prepaid in their initial license fee the cost of the first compliance examination of the licensee conducted by the department during the first two years after the date of issuance of the license.

(3) Each licensee shall pay to the director an annual assessment of five hundred dollars for each license, and five hundred dollars for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-five dollars per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-060, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-060, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-060, filed 1/7/94, effective 2/7/94.]

WAC 50-60-070 Branch office application procedure. Each applicant for a license or licensee required to obtain a branch office certificate shall apply to the director by filing the following:

(1) An application in the form prescribed by the director.

(2) The application deposit.

(3) In regard to each branch office manager:

(a) Biographical information including complete and accurate employment history and a description of any material litigation involving the manager;

(b) A signed authorization for background investigation on a form provided by the director; and

(c) A certificate of satisfactory completion of an approved licensing course, or satisfactory proof of at least two years' experience in accordance with WAC 50-60-040.

A different natural person must serve as manager for each branch office. A branch office application may be submitted simultaneously with a license application, however no branch office certificate will be issued prior to the issuance of the license.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-070, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-070, filed 1/7/94, effective 2/7/94.]

WAC 50-60-080 Surety bond and approved alternatives—General requirements. (1) Each applicant for a license and licensee must file and maintain on file with the director:

(a) A surety bond in the required amount and related power of attorney issued by a bonding company or insurance company authorized to do business in this state; or

(b) An approved alternative to a surety bond in the required amount in accordance with WAC 50-60-08010.

The required amount of the surety bond or approved alternative ranges from twenty thousand dollars to sixty thousand dollars and is based on the applicant's or licensee's monthly average number of loan originators calculated in accordance with subsection (2) of this section. The surety bond or approved alternative is subject to claims in accordance with RCW 19.146.240.

(2) The monthly average number of loan originators is calculated as follows:

(a) If the applicant or licensee has not been in the mortgage broker business at any time during the preceding twelve months, the monthly average number of loan originators is determined by adding up the projected number of loan originators to be employed or engaged each month for the first twelve months during which the applicant or licensee will do business, and dividing this total by twelve. The projected number of loan originators must reflect at least the actual number of originators at the inception of business.

(b) If the applicant or licensee has not been in the mortgage broker business at least some portion of each of the preceding twelve months, the monthly average number of loan originators is calculated by adding up the number of loan originators employed or engaged each month (or part thereof) for the number of months the applicant or licensee has been in business during the twelve-month period, and the projected number of loan originators to be employed or engaged each month for any additional months necessary to comprise a total of twelve months (or part thereof), and dividing this total by twelve.

(c) Otherwise, the monthly average number of loan originators as calculated by adding up the number of loan originators employed or engaged each month (or part thereof) for the previous twelve months, and dividing this total by twelve.

(3) Based upon the monthly average number of loan originators, the required surety bond amount is indicated by the following table:

Monthly Average Number of Loan Originators	Minimum Required Bond Amount
up to 3.0	\$20,000
more than 3.0, up to 6.0	\$30,000
more than 6.0, up to 9.0	\$40,000
more than 9.0, up to 15.0	\$50,000
more than 15.0	\$60,000

When calculating the required bond amount, an applicant or licensee shall use the worksheet form approved by the director.

(4) At least forty-five days prior to each anniversary of the issuance of the surety bond or approved alternative, each licensee shall calculate its required bond amount in accordance with subsections (2) and (3) of this section. If the required surety bond amount has changed, then the licensee shall within thirty days of the date of the calculation, file a new surety bond or approved alternative in the required amount or file documentation showing a change in the amount of the existing bond or alternative to the required amount.

(5) Each licensee shall use the bond form, assignment of certificate of deposit form, or irrevocable letter of credit form approved by the director.

[Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-080, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-080, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-080, filed 1/7/94, effective 2/7/94.]

WAC 50-60-08005 Alternatives to the surety bond.

(1) In lieu of a surety bond, an applicant for a license or licensee may with the approval of the director:

(a) File with the director an assignment of a certificate of deposit in the required surety bond amount, drawn in favor of the director. The depositor shall be entitled to receive all interest and dividends on the certificate of deposit.

(b) File with the director an irrevocable letter of credit in the required surety bond amount and drawn in favor of the director. The letter of credit must provide the same measure of protection as a surety bond provides to consumers and others who may have reason to make claim on the instrument. This means, in part, that the letter of credit must be available under its terms for one year after its expiration or suspension to pay claims arising out of violations while it was in effect. The letter of credit must be issued by a financial institution approved by the director. The licensee and the financial institution that issued the letter of credit must notify the director within two business days of any suspension, expiration, or material change in the protection provided by the letter of credit.

(2) A licensee may request in writing that an assignment of a certificate of deposit or a letter of credit be released. The director may release the assignment or letter of credit when a sufficient period of time has passed, not to exceed one year after filing a surety bond or approved alternative, or after the licensee has ceased business, to allow for claims to be presented against the certificate of deposit or letter of credit.

To ensure protection for consumers and others, the director may require that the licensee file with the director, prior to the release of the assignment or letter of credit:

(a) A surety bond or an approved alternative, in the required amount, if the licensee intends to continue in the mortgage broker business under its license;

(b) All of the licensee's licenses and branch office certificates, if the licensee intends to no longer engage in the mortgage broker business, or if the licensee intends to continue in the business but has become exempt from licensing under the Mortgage Broker Practices Act. In the latter case, the director may also require the licensee to provide proof of exemption from licensing;

(c) Copies of any agreements between the licensee and the financial institutions that issued the certificate of deposit or letter of credit;

(d) Copies of any agreements between the licensee and any third party which represents an outstanding claim, potential claim, or settlement of any claim against the licensee which could diminish the protection enjoyed by consumers or others that may have reason to make a claim against the licensee;

(e) An audited financial statement for the licensee's mortgage broker business;

(f) Copies of any notes, secured or unsecured, or other forms of debt that are outstanding to any parties not mentioned in (a) through (e) of this subsection; and

(g) Any other information the director may deem necessary under the circumstances.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08005, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08010 Establishment of trust account for borrower funds to pay third-party providers. Each mortgage broker shall as trustee hold all funds received from borrowers for payment to third-party providers. The funds may not be used for the benefit of the mortgage broker or any person not entitled to such benefit, except as may be expressly permitted by the Mortgage Broker Practices Act. Each mortgage broker shall establish a trust account(s) for the funds in a financial institution's branch located in this state. Each mortgage broker is responsible for depositing, holding, disbursing, accounting for, and otherwise dealing with the funds, in accordance with the act.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08010, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08015 Designation of trust account(s). Each account holding borrower funds to pay third-party providers must be designated as a trust account in the name of the mortgage broker as it appears on its license, or if exempt from licensing, in the name of the exempt broker. All checks must be prenumbered by the supplier (printer) and bear upon the front of the check the identifying words, "trust account." Any interest earned on a borrower's subaccount shall be refunded or credited to the borrower either at closing or upon withdrawal or denial of the borrower's loan application.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08015, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08020 Required trust account records and procedures. Each mortgage broker shall establish and maintain a system of records and procedures for trust accounts as provided in the Mortgage Broker Practices Act. Any alternative records or procedures proposed for use by the mortgage broker shall be approved in advance by the director or his or her designee.

Each mortgage broker shall maintain as part of its books and records:

(1) A trust account deposit register and copies of all validated deposit slips or signed deposit receipts for each deposit to the trust account;

(2) A ledger for each trust account. Each ledger must contain a separate subaccount ledger sheet for each borrower from whom funds are received for payment of third-party providers. Each receipt and disbursement pertaining to such funds must be posted to the ledger sheet at the time the receipt or disbursement occurs. Entries to each ledger sheet must show the date of deposit, identifying check or instrument number, amount and name of remitter. Offsetting entries to each ledger sheet must show the date of check, check number, amount of check, name of payee and invoice number if any. Canceled or closed ledger sheets must be

identified by time period and borrower name or loan number;

(3) A trust account check register consisting of a record of all deposits to and disbursements from the trust account;

(4) Reconciled trust account bank statements;

(5) A monthly trial balance of the ledger of trust accounts, and a reconciliation of the ledger of trust accounts with the related bank statement(s) and the related check register(s).

The reconciled balance of the trust account(s) must at all times equal the sum of:

(a) The outstanding amount of funds received from borrowers for payment of third-party providers; and

(b) The outstanding amount of any deposits into the trust fund of the mortgage broker's own funds in accordance with WAC 50-60-08025(4).

(6) A printed and dated source document file to support any changes to existing accounting records.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08020, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08025 Trust account deposit requirements. (1) All funds received from borrowers or on behalf of borrowers for the payment of third-party providers, whether specifically identified as such or not, and regardless of when they are received, must be deposited in the trust account(s) prior to the end of the next business day following receipt. In order to satisfy this requirement in regard to the deposit of a check or money order, the mortgage broker must within one business day after receipt of the check or money order:

(a) Endorse the check or money order "for deposit only" with the broker's trust account number and mail the check postage prepaid to its financial institution; or

(b) Endorse the check or money order "for deposit only" with the mortgage broker's trust account deposit number and mail the check or money order postage prepaid to the main office of the broker. The main office shall, in turn, deposit the check or money order in its financial institution prior to the end of the next business day after receipt of the check or money order in the main office; or

(c) Deposit the check or money order into its trust account by depositing it directly at the branch where its trust account is held or at an ATM of its financial institution.

(2) All deposits to the trust account(s) must be documented by a bank deposit slip which has been validated by bank imprint, or by an attached deposit receipt which bears the signature of an authorized representative of the mortgage broker indicating that the funds were actually deposited into the proper account(s).

(3) Receipt of funds by wire transfer or any means other than cash, check, or money order, must be posted in the same manner as other receipts. Any such transfer of funds must include a traceable identifying name or number supplied by the financial institution or transferring entity. The mortgage broker must also retain a receipt for the deposit of the funds which must contain the traceable identifying name or number supplied by the financial institution or transferring entity.

(4) Deposits to the trust account(s) must be limited to funds delivered to the mortgage broker for payment to third-party providers, except a mortgage broker may deposit its

own funds into the trust account(s) to prevent a disbursement in excess of an individual borrower's subaccount, provided that the exact sum of deficiency is deposited and detailed records of the deposit and its purpose are maintained in the trust ledger and the trust account(s) check register. Any deposits of the mortgage broker's own funds into the trust account(s) must be held in trust in the same manner as funds paid by borrowers for the payment of third-party providers and treated accordingly in compliance with the Mortgage Broker Practices Act.

If a mortgage broker has deposited its own funds into its trust account, the mortgage broker may receive reimbursement for such deposit at closing into its general business bank account provided:

(a) All third-party provider's charges associated with the mortgage broker's deposit have been paid;

(b) The HUD 1 Settlement Statement provided to the borrower clearly reflects the line item, "deposit paid by broker," and the amount deposited;

(c) The HUD 1 Settlement Statement provided to the borrower clearly reflects the line item, "reimbursement to broker for funds advances," and the amount reimbursed; and

(d) Any funds disbursed by escrow at closing to the mortgage broker for payment of unpaid third-party providers' expenses charged or to be charged to the mortgage broker are deposited into the borrower's subaccount of the mortgage broker's trust account.

[Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-08025, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08030 Trust account disbursement requirements. (1) Each mortgage broker is responsible for the disbursement of all trust account funds, whether disbursed by personal signature, signature plate, or signature of another person authorized to act on the mortgage broker's behalf.

(2) All disbursements of trust funds must be made by check, drawn on the trust account, and identified on the check as pertaining to a specific third-party provider transaction or borrower refund, except as specified in this section. The number of each check, amount, date, and payee must be shown in the trust account(s) check ledger as written on the check.

(3) Disbursements may be made from the trust account(s) for the payment of bona fide third-party providers' services rendered in the course of the borrower's loan origination, if the borrower has consented in writing to the payment. Such consent may be given at any time during the application process and in any written form, provided that it contains sufficient detail to verify the borrower's consent to the use of trust funds. No disbursement on behalf of the borrower may be made from the trust account until the borrower's or broker's deposit of sufficient funds into the trust account(s) is available for withdrawal.

(4) If a borrower has more than one loan application pending with a mortgage broker, the mortgage broker shall maintain a separate subaccount ledger for each loan application. The borrower must consent to any transfer of trust account funds between the individual subaccounts associated with these pending loan applications. The consent must be

maintained in the borrower's loan file and referenced in the borrower's subaccount ledger sheets.

(5) Among other prohibited disbursements, no disbursement may be made from a borrower's subaccount:

(a) In excess of the amount held in the borrower's subaccount (commonly referred to as a disbursement in excess);

(b) In payment of a fee owed to any employee of the mortgage broker or in payment of any business expense of the mortgage broker;

(c) For payment of any service charges related to the management or administration of the trust account(s);

(d) For payment of any fees owed to the mortgage broker by the borrower, or to transfer funds from the subaccount to any other account; and

(e) For the payment of fees owed to the broker under RCW 19.146.070 (2)(a).

(6) A mortgage broker may, in the case of a closed and funded transaction, transfer excess funds remaining in the individual borrower's subaccount into the mortgage broker's general business bank account upon determination that all third-party providers' expenses have been accurately reported in the loan closing documents and have been paid in full, and that the borrower has received credit in the loan closing documents for all funds deposited in the trust account.

Each mortgage broker shall maintain a detailed audit trail for any disbursements from the borrower's subaccount(s) into the mortgage broker's general business bank account, including documentation in the form of a final HUD-1 Settlement Statement form showing that credit has been received by the borrower in the closing and funding of the transaction. The disbursements must be made by a check drawn on the trust account and deposited directly into the mortgage broker's general business bank account.

(7) Borrower funds held by the mortgage broker must be remitted to the borrower within five business days of the determination that all payments to third-party providers owed by the borrower have been satisfied.

(8) Any trust funds held by the mortgage broker for a borrower who cannot be located must be remitted in compliance with the Uniform Unclaimed Property Act of 1983, chapter 63.29 RCW.

[Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-08030, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08035 Computerized accounting system requirements. The following requirements apply to computerized accounting systems:

(1) The system must provide the capability to back-up data files;

(2) Each computer generated trust account deposit register, trust account check register, and each trial balance ledger must be printed at least once per month and retained as part of a mortgage broker's books and records. Each borrower subaccount ledger must also be printed at the closure of each subaccount and retained as part of a mortgage broker's books and records; and

(3) Computer generated reconciliations of the trust account, as described in WAC 50-60-08020(5), must be performed and printed at least once each month and retained as a part of a mortgage broker's books and records.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08035, filed 6/21/95, effective 7/22/95.]

WAC 50-60-08040 Automated check writing systems. If a mortgage broker uses a program which has the ability to write checks:

- (1) The check number must be pre-printed by the supplier (printer) on the check and on the voucher copy;
- (2) The program may assign suffixes or subaccount codes before or after the check number for identification purposes;
- (3) The check number must appear in the magnetic coding which also identifies the account number for readability by financial institution computers; and
- (4) All checks written must be included within the computer accounting system.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08040, filed 6/21/95, effective 7/22/95.]

WAC 50-60-09005 Registered agent and agent's office. (1) Each out-of-state applicant or licensee must continuously maintain in this state a registered agent for service of process, notice, or demand in any judicial or administrative noncriminal suit, action, or proceeding against the licensee which arises under the Mortgage Broker Practices Act, with the same force and validity as if served personally on the licensee.

(2) Each out-of-state applicant or licensee must file with the director the agent's name, office mailing address, and consent to appointment. The agent's office address must include the number, if any, and street or building address or rural route, or, if a commonly known street or rural route address does not exist, a legal description. A registered agent's office may not be identified in the records of the department by post office box number, or a street address and box number of a private mail box company which creates the illusion of a physical office location where none in fact exists, or other nongeographic address. The address must accurately identify the actual location of the agent's office.

(3) An out-of-state applicant or licensee may not appoint a registered agent without the agent's prior written consent. In the event any person has been appointed agent without consent, that person may file a notarized statement attesting to that fact, and the agent's name will promptly be removed from the records of the department.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-09005, filed 6/21/95, effective 7/22/95.]

WAC 50-60-09010 Change of registered agent or agent's office. An out-of-state licensee may change its registered agent or its agent's office mailing address on the records of the department by delivering to the director a statement of change that sets forth:

- (1) The licensee's name;
- (2) If the agent's office location is to be changed, the address of the agent's new office in accordance with WAC 50-60-09005(2); and
- (3) If the registered agent is to be changed, the name and new address of the new registered agent in accordance

with WAC 50-60-09005(2) and the new agent's written consent to the appointment.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-09010, filed 6/21/95, effective 7/22/95.]

WAC 50-60-09015 Resignation of registered agent.

(1) A registered agent may resign as agent on the records of the department by signing and filing with the director a statement of resignation.

(2) After filing the statement, the director shall mail a copy of the statement to the licensee at its principal place of business.

(3) The agency appointment is terminated on the thirty-first day after the date on which the statement was filed.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-09015, filed 6/21/95, effective 7/22/95.]

WAC 50-60-09020 Service on licensee. (1) The registered agent of an out-of-state licensee is the licensee's agent for service of process, notice, or demand as set forth in WAC 50-60-09005(1).

(2) The director shall be an agent of an out-of-state licensee upon whom any process, notice, or demand may be served if:

(a) The licensee fails to appoint or maintain continuously a registered agent in this state; or

(b) The registered agent cannot with reasonable diligence be found at its office mailing address as indicated on the records of the department.

(3) Service on the director of any such process, notice, or demand must be made by delivering to and leaving with the director, or with an assistant director, the process, notice, or demand. In the event any such process, notice, or demand is served on the director, the director shall immediately cause a copy of it to be forwarded by certified mail, addressed to the licensee at the licensee's address as shown on the records of the department. Any service on the director must be returnable in not less than thirty days.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-09020, filed 6/21/95, effective 7/22/95.]

WAC 50-60-100 License standards for associations.

A mortgage broker that is a member of an association and that is required to have a license may not avoid the licensing requirement because the association has applied for or received a license.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-100, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-100, filed 1/7/94, effective 2/7/94.]

WAC 50-60-110 Transfers by, or changes in principal or designated broker of, a licensee. (1) A license may not be transferred.

(2) Whenever a licensee contemplates a transfer involving all or substantially all of its assets, the licensee shall provide written notice to the director at least thirty days prior to the effective date of the transfer. This notice must include a copy of the signed agreement between the parties which provides in part:

(a) A stipulation that the transferee is responsible for obtaining a license prior to completion of the transfer;

(b) A stipulation that the transferee shall obtain a surety bond or approved alternative, in the required amount, and file the surety bond or approved alternative with the director prior to completion of the transfer;

(c) A stipulation indicating which of the parties shall:

(i) Make all payments due to customers and third-party providers on or before the effective date of the transfer;

(ii) Maintain and preserve the accounting and other records as required by RCW 19.146.060 and WAC 50-60-125 and 50-60-140;

(iii) Provide notice of the transfer to all of the licensee's clients who have loan applications in process, or who have deposited funds with the licensee, or who have executed some other form of written agreement with the licensee; and

(iv) Provide notice to all third-party providers for whom the licensee is holding deposits from borrowers to pay their fees; and

(d) A stipulation that the transferee is either restricted from using or authorized to use, the licensee's mortgage broker business name.

(3) At least thirty days prior to a change in a principal or designated broker of a licensee, the licensee shall provide the director with all information required of a principal or designated broker when an application is made for a license as specified in WAC 50-60-030. The director shall make a determination prior to completion of the change, whether the proposed new principal or designated broker meets the requirements which must be met in order for the mortgage broker to be issued a license in accordance with RCW 19.146.210, and approve or deny the change.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-110, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-110, filed 1/7/94, effective 2/7/94.]

WAC 50-60-120 Employees and independent contractors of licensees. RCW 19.146.200 prohibits a person from engaging in the business of a mortgage broker without first obtaining and maintaining a license, except as an employee or independent contractor of a licensee or mortgage broker described in WAC 50-60-020 (2) (b) and (c).

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-120, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-120, filed 1/7/94, effective 2/7/94.]

WAC 50-60-125 Recordkeeping and other requirements for advertising materials. (1) Each mortgage broker shall maintain as a part of its books and records one copy of each item of all advertising material which mentions rates or fees. However, an advertising flyer is exempt from this subsection if:

(a) The flyer is prepared by mortgage brokers for specific use by real estate professionals to provide information to consumers and to offer comparisons of the financing options available to consumers;

(b) The flyer complies with all advertising requirements of the Mortgage Broker Practices Act, including without limit, the requirements of the Truth in Lending Act;

(c) The flyer provides full disclosure of rates, fees, and terms, including the annual percentage rate of any loan used for illustrative purposes; and

(d) The flyer contains the following disclosure:

"This document is not intended as an offer to extend credit nor a commitment to lend. The loan interest rates, fees, and terms presented herein are for illustrative purposes only and may not be currently available. This document has been prepared to assist real estate professionals in illustrating some of the financing options available to consumers."

(2) Each mortgage broker is responsible for the accuracy and reliability of its advertising material and its compliance with the Mortgage Broker Practices Act.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-125, filed 6/21/95, effective 7/22/95.]

WAC 50-60-130 Disclosures required to borrower.

(1) Any form of disclosures required by RCW 19.146.030 (2) (d), (e), and (f) must be acceptable to the director. A model form for this purpose promulgated by the director is considered acceptable.

(2) Any lock-in agreement form or disclosure form described in RCW 19.146.030 (2)(c) must be approved by the director prior to its use by a mortgage broker or its loan originators. This subsection does not apply to use of a model form promulgated by the director.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-130, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-130, filed 1/7/94, effective 2/7/94.]

WAC 50-60-140 General recordkeeping requirements. (1) Each mortgage broker shall retain its books and records for a minimum of four years after the effective period to which the books and records relate.

However, books and records relating to a specific loan application must be maintained for a minimum of four years after a loan application is received. These books and records must be retained in all cases where a loan application has been received, any deposits or fees associated with a mortgage application have been accepted, or any written agreement has been executed.

(2) All books and records must be kept in a location in this state that is readily accessible to the department. However, a mortgage broker may store its books and records outside the state with the prior approval of the director, and after executing a written agreement with the director:

(a) To provide access to its books and records to investigate complaints against the mortgage broker; and

(b) To pay the department's travel, lodging and per diem expenses incurred in travel to examine books and records stored out-of-state.

(3) Books and records include without limitation: The original contracts for the broker's compensation, an accounting of all funds received in connection with loans, a copy of the settlement statements as provided to borrowers, a record of any fees refunded to applicants for loans that did not close, copies of the good faith estimates and all other written disclosures, and all other correspondence, papers or records relating to loan applications.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-140, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-140, filed 1/7/94, effective 2/7/94.]

WAC 50-60-145 Forwarding appraisal, title report and credit report. If a borrower is unable to obtain a loan for any reason and the borrower has paid the mortgage broker for an appraisal, title report, or credit report, the borrower may request in writing that the mortgage broker mail (or otherwise furnish) a copy of the appraisal, title report or credit report to the borrower and mail (or otherwise furnish) the originals to any other mortgage broker or lender of the borrower's choice. The copies and originals must be furnished by the mortgage broker within five days after the mortgage broker has received the borrower's written request. By furnishing the originals to another mortgage broker or lender, the mortgage broker conveys the right to use the documents to the other broker or lender. The mortgage broker must, upon request by the other broker or lender, provide written evidence of the conveyance.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-145, filed 6/21/95, effective 7/22/95.]

WAC 50-60-150 Disclosure of significant developments. (1) A licensee must notify the director in writing within thirty days after the occurrence of any of the following developments:

- (a) Licensee's filing for bankruptcy or reorganization.
 - (b) Receipt of notification of license revocation procedures in any state against the licensee.
 - (c) The filing of a felony indictment or information related to mortgage brokering activities of the licensee, or any officer, director, principal, or designated broker of the licensee.
 - (d) The licensee, or any officer, director, principal, or designated broker of the licensee being convicted of a felony.
 - (e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant decline in value of an approved alternative held by the director.
 - (f) The filing of any material litigation against the licensee.
- (2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place of business or any of its branch offices.
- (3) A licensee must notify the director in writing within five days after a change in the licensee's:
- (a) Name or legal status (e.g., from sole proprietor to corporation, etc.);
 - (b) Mailing address or telephone number;
 - (c) President, partner, designated broker, or branch office manager;
 - (d) Trust account (e.g., change in the status, location, or account number);
 - (e) State master business license; or
 - (f) Standing with the state of Washington secretary of state.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-150, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-150, filed 1/7/94, effective 2/7/94.]

WAC 50-60-160 License application denial or condition; license suspension or revocation. (1) The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

- (a) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;
- (b) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;
- (c) Has had any license, or any authorization to do business under any similar statute of this or any other state, suspended, revoked, or restricted within the prior five years;
- (d) Has within the prior seven years been convicted of a felony, or a gross misdemeanor involving dishonesty or financial misconduct;
- (e) Has failed to demonstrate financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of the Mortgage Broker Practices Act. The director may find that the person has failed to make the demonstration if, among other things:
 - (i) The person is or has been subject to an injunction issued pursuant to the Mortgage Broker Practices Act or the Consumer Protection Act; or
 - (ii) An independent credit report issued by a recognized credit reporting agency indicates that the person has a substantial history of unpaid debts;
- (f) Has omitted, misrepresented, or concealed material facts in obtaining a license or in obtaining reinstatement thereof;
- (g) Has violated the provisions of the Mortgage Broker Practices Act, or the Consumer Protection Act;
- (h) Has had its surety bond, approved alternative, or equivalent form of business insurance, canceled or revoked for cause;
- (i) Has allowed the licensed mortgage broker business to deteriorate into a condition which would result in denial of a new application for a license;
- (j) Has aided or abetted an unlicensed person to practice in violation of the Mortgage Broker Practices Act;
- (k) Has demonstrated incompetence or negligence that results in injury to a person or that creates an unreasonable risk that a person may be harmed;
- (l) Is insolvent in the sense that the value of the applicant's or licensee's liabilities exceed its assets or in the sense that the applicant or licensee cannot meet its obligations as they mature;
- (m) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;
- (n) Has performed an act of misrepresentation or fraud in any aspect of the conduct of the mortgage broker business or profession;
- (o) Has failed to cooperate with the director, or his or her designee, including without limitation by:
 - (i) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an

investigation for disciplinary actions or denial, suspension, or revocation of a license; or

(ii) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;

(p) Has interfered with an investigation or disciplinary proceeding by willful misrepresentation of facts before the director or the director's designee, or by the use of threats or harassment against a client, witness, employee of the licensee, or representative of the director for the purpose of preventing them from discovering evidence for, or providing evidence in, any disciplinary proceeding or other legal action;

(q) Has failed to provide a required certificate of passing an approved examination;

(r) Has failed to provide a required certificate of satisfactory completion of an approved licensing course or, in the alternative, satisfactory proof of two years' experience in accordance with WAC 50-60-040; or

(s) Has failed to provide a required certificate of satisfactory completion of an approved continuing education course.

(2) The director may deny or condition approval of a branch office application, or suspend or revoke a branch office certificate, if the branch office manager has failed to provide any required items described in subsection (1)(r) and (s) of this section.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-160, filed 6/21/95, effective 7/22/95. Statutory Authority: 1993 c 468 § 9. 94-03-009, § 50-60-160, filed 1/7/94, effective 2/7/94.]

WAC 50-60-165 Fines and penalties for violation of the Mortgage Broker Practices Act. Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other penalties for a violation of the Mortgage Broker Practices Act.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-165, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-165, filed 11/8/94, effective 12/9/94.]

WAC 50-60-180 Repealed. See Disposition Table at beginning of this chapter.

WAC 50-60-190 Prohibited practices—Improperly influencing appraisals. Any threat, whether oral or written, direct or implied, by a mortgage broker to withhold payment of the standard appraiser's fee constitutes the making of a payment for the purpose of influencing the independent judgment of the appraiser with respect to the value of the

property, in violation of RCW 19.146.0201(9). The prior sentence does not apply if the appraiser has been notified in writing by the mortgage broker that a bona fide dispute exists regarding the performance or quality of the appraiser's work.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-190, filed 6/21/95, effective 7/22/95.]

WAC 50-60-200 Mortgage broker fees allowed. (1) Except as otherwise permitted in this section, a mortgage broker may not receive a fee, commission, or compensation of any kind in connection with the preparation, negotiation, and brokering of a residential mortgage loan unless the borrower actually obtains a loan from a lender on the terms and conditions agreed upon by the borrower and the mortgage broker.

(2) A mortgage broker may:

(a) Charge a fee not to exceed three hundred dollars for services rendered, preparation of documents, or transfer of documents in the borrower's file which were prepared for, or paid for by, the borrower if:

(i) The borrower fails to close on a loan through no fault of the mortgage broker;

(ii) The fee is not otherwise prohibited by the Truth in Lending Act; and

(iii) The mortgage broker has obtained a "written loan commitment from a lender on the same terms and conditions agreed upon by the borrower and the mortgage broker." This term is defined in subsection (3) of this section; and

(b) Solicit or accept fees in advance to pay third-party providers if:

(i) The mortgage broker identifies to the borrower in writing prior to the acceptance of any fees the third-party provider goods and services for which fees are being collected;

(ii) Such fees are deposited in a trust account as required by the Mortgage Broker Practices Act;

(iii) The mortgage broker does not charge more for the third-party provider's goods and services than the actual costs of the goods and services charged by the provider; and

(iv) The mortgage broker refunds any fees collected for goods or services not provided.

(3) For purposes of this section, a "written loan commitment from a lender on the same terms and conditions agreed upon by the borrower and mortgage broker" means:

(a) A legally binding commitment;

(b) From a lender with which the mortgage broker maintains a written correspondent or loan brokerage agreement as required by RCW 19.146.040(2);

(c) To fund the loan on substantially the same terms and conditions set forth in the most recent good faith estimate signed by both the borrower and the mortgage broker.

[Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-200, filed 6/21/95, effective 7/22/95.]

WAC 50-60-210 Mortgage brokerage commission. The mortgage brokerage commission, created by RCW 19.146.280 and appointed by the director, shall:

(1) Adopt and meet according to a regular schedule, unless otherwise called by the chairperson;

(2) Meet, hear testimony, and advise the director on proposed changes to the Mortgage Broker Practices Act;

(3) Advise the director on approval of proposed courses of study and examinations to be administered in the course of licensing mortgage brokers;

(4) Advise the director on preparation of the department's legislatively mandated review of the number and type of consumer complaints arising from residential mortgage lending in the state, and any resulting recommendations for changes in the licensing requirements of the Mortgage Broker Practices Act; and

(5) Advise the director on departmental policy and procedures regarding enforcement actions resulting from violations of the Mortgage Broker Practices Act.

[Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-210, filed 6/21/95, effective 7/22/95.]

Title 51 WAC BUILDING CODE COUNCIL

Chapters

- 51-20 State Building Code adoption and amendment of the 1991 edition of the Uniform Building Code.**
- 51-21 State Building Code adoption and amendment of the 1991 edition of the Uniform Building Code standards.**
- 51-22 State Building Code adoption and amendment of the 1991 edition of the Uniform Mechanical Code.**
- 51-24 State Building Code adoption and amendment of the 1991 edition of the Uniform Fire Code.**
- 51-25 State Building Code adoption of the 1991 edition of the Uniform Fire Code standards.**
- 51-30 State Building Code adoption and amendment of the 1994 edition of the Uniform Building Code.**

Chapter 51-20 WAC

STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE 1991 EDITION OF THE UNIFORM BUILDING CODE

WAC

51-20-001 through 51-20-93120 Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

51-20-001 Authority. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-001, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.

- 51-20-002 Purpose. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-002, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-003 Uniform Building Code. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-003, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-004 Conflicts with Washington State Ventilation and Indoor Air Quality Code. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-004, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-005 Uniform Building Code requirements for barrier-free accessibility. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-005, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-007 Exceptions. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-007, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-008 Implementation. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-008, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-009 Recyclable materials and solid waste storage. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-009, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0100 Chapter 1. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0100, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0104 Application to existing buildings and structures. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0104, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0300 Chapter 3. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0300, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0307 Structural observation. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0307, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0400 Chapter 4. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0400, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0404 Section 404. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0404, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0407 Section 407. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0407, filed 12/19/91, effective 7/1/92.] Repealed by 95-11-107, filed 5/23/95, effective 6/30/95. Statutory Authority: RCW 19.27.074, 19.27.020, 19.27.031 and chapter 34.05 RCW.
- 51-20-0409 Section 409. [Statutory Authority: Chapters 70.92 and 19.27 RCW. 92-01-145, § 51-20-0409, filed 12/19/91,