

2 **SSB 5829 - H COMM AMD ADOPTED 4-15-93**

3 By Committee on Financial Institutions & Insurance

4

5 Strike everything after the enacting clause and insert the
6 following:

7 "**Sec. 1.** RCW 19.146.005 and 1987 c 391 s 1 are each amended to
8 read as follows:

9 The legislature finds and declares that the brokering of
10 residential real estate loans substantially affects the public
11 interest. The practices of mortgage brokers have had significant
12 impact on the citizens of the state and the banking and real estate
13 industries. It is the intent of the legislature to establish a
14 temporary state system of licensure in addition to rules of practice
15 and conduct of mortgage brokers to promote honesty and fair dealing
16 with citizens and to preserve public confidence in the lending and real
17 estate community.

18 **Sec. 2.** RCW 19.146.010 and 1987 c 391 s 3 are each amended to read
19 as follows:

20 Unless the context clearly requires otherwise, the definitions in
21 this section apply throughout this chapter.

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

25 (2) "Computer loan origination systems" or "CLO system" means the
26 real estate mortgage financing information system defined by rule of
27 the director.

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

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

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

34 (6) "Lock-in agreement" means an agreement with a borrower made by
35 a mortgage broker or loan originator, in which the mortgage broker

1 agrees that, for a period of time, a specific interest rate or other
2 financing terms will be the rate or terms at which it will make a loan
3 available to that borrower.

4 (7) "Mortgage broker" means ((every)) any person who for
5 compensation or gain, or in the expectation of compensation ((either
6 directly or indirectly makes, negotiates, or offers to make or
7 negotiate a residential mortgage loan)) or gain, directly or indirectly
8 negotiates, places, assists in placement, finds, or offers to
9 negotiate, place, assist in placement, or find residential mortgage
10 loans for others.

11 ((+3)) (8) "Person" means a natural person, corporation, company,
12 partnership, or association.

13 ((+4)) (9) "Residential mortgage loan" means any loan primarily
14 for personal, family, or household use secured by a mortgage or deed of
15 trust on residential real estate upon which is constructed or intended
16 to be constructed a single family dwelling or multiple family dwelling
17 of four or less units.

18 ((+5)) (10) "Third-party provider" means any person other than a
19 mortgage broker or lender who provides goods or services to the
20 mortgage broker in connection with the preparation of the borrower's
21 loan and includes, but is not limited to, credit reporting agencies,
22 title companies, appraisers, structural and pest inspectors, or escrow
23 companies.

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

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

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

35 ((+2)) (b) An attorney licensed to practice law in this state who
36 is not principally engaged in the business of negotiating residential

1 mortgage loans when such attorney renders services in the course of his
2 or her practice as an attorney;

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

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

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

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

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

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

24 (i) A real estate broker who provides information only in
25 connection with a CLO system, who may receive a fee for such
26 information in an amount approved by the director and who conforms to
27 all rules of the director with respect to the providing of such
28 service.

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

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

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

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

1 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

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

21 (9) Make any payment, directly or indirectly, to any fee appraiser
22 third party of a property, for the purposes of influencing the
23 independent judgment of the appraiser with respect to the value of the
24 property;

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

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

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

35 (2) A person may not bring a suit or action for the collection of
36 compensation as a mortgage broker unless the plaintiff alleges and
37 proves that he or she was a duly licensed mortgage broker, or exempt
38 from the license requirement of this chapter, at the time of offering

1 to perform or performing any such an act or service regulated by this
2 chapter. This subsection does not apply to suits or actions for the
3 collection or compensation for services performed prior to the
4 effective date of this section.

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

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

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

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

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

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

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

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

35 (3)(a) Each applicant for a mortgage broker's license shall file
36 and maintain a surety bond, in an amount of forty thousand dollars or
37 such lower amount the director deems adequate to protect the public
38 interest, executed by the applicant as obligor and by a surety company

1 authorized to do a surety business in this state as surety. The bond
2 shall run to the state of Washington as obligee, and shall run to the
3 benefit of the state and any person or persons who suffer loss by
4 reason of the applicant's violation of any provision of this chapter or
5 rules adopted under this chapter. The bond shall be conditioned that
6 the obligor as licensee will faithfully conform to and abide by this
7 chapter and all rules adopted under this chapter, and shall reimburse
8 all persons who suffer loss by reason of a violation of this chapter
9 or rules adopted under this chapter. The bond shall be continuous and
10 may be canceled by the surety upon the surety giving written notice to
11 the director of its intent to cancel the bond. The cancellation shall
12 be effective thirty days after the notice is received by the director.
13 Whether or not the bond is renewed, continued, reinstated, reissued, or
14 otherwise extended, replaced, or modified, including increases or
15 decreases in the penal sum, it shall be considered one continuous
16 obligation, and the surety upon the bond shall not be liable in an
17 aggregate or cumulative amount exceeding the penal sum set forth on the
18 face of the bond. In no event shall the penal sum, or any portion
19 thereof, at two or more points in time be added together in determining
20 the surety's liability. The bond shall not be liable for any penalties
21 imposed on the licensee, including, but not limited to, any increased
22 damages or attorneys' fees, or both, awarded under RCW 19.86.090. The
23 applicant may obtain the bond directly from the surety or through a
24 group bonding arrangement involving a professional organization
25 comprised of mortgage brokers if the arrangement provides at least as
26 much coverage as is required under this subsection.

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

32 (c) In lieu of the surety bond or compliance with (b) of this
33 subsection, an applicant may obtain insurance or coverage from an
34 association comprised of mortgage brokers that is organized as a mutual
35 corporation for the sole purpose of insuring or self-insuring claims
36 that may arise from a violation of this chapter. An applicant may only
37 substitute coverage under this subsection for the requirements of (a)
38 or (b) of this subsection if the director, with the consent of the
39 insurance commissioner, has authorized such association to organize a

1 mutual corporation under such terms and conditions as may be imposed by
2 the director to ensure that the corporation is operated in a
3 financially responsible manner to pay any claims within the financial
4 responsibility limits specified in (a) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 NEW SECTION. **Sec. 9.** In accordance with the administrative
25 procedure act, chapter 34.05 RCW, the director may issue rules to
26 govern the activities of licensed mortgage brokers consistent with this
27 chapter.

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

33 NEW SECTION. **Sec. 11.** For the purposes of investigating
34 complaints arising under this chapter, the director may at any time,
35 either personally or by a designee, examine the business, including but
36 not limited to the books, accounts, records, and files used therein, of

1 every licensee and of every person engaged in the business of mortgage
2 brokering, whether such a person shall act or claim to act under or
3 without the authority of this chapter. For that purpose the director
4 and designated representatives shall have free access to the offices
5 and places of business, books, accounts, papers, records, files, safes,
6 and vaults of all such persons. The director or designated person may
7 require the attendance of and examine under oath all persons whose
8 testimony may be required about the loans or the business or subject
9 matter of any such investigation.

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

12 (1) Upon receipt of a loan application and before the receipt of
13 any moneys from a borrower, a mortgage broker shall provide to each
14 borrower a written notice indicating the number of the lenders with
15 whom it maintains a written correspondent or loan brokerage agreement,
16 unless exempt from licensing under this chapter, and make a full
17 written disclosure to each borrower containing an itemization and
18 explanation of all fees and costs that the borrower is required to pay
19 in connection with obtaining a residential mortgage loan. A good faith
20 estimate of a fee or cost shall be provided if the exact amount of the
21 fee or cost is not determinable.

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

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

34 ((+2)) (b) The itemized costs of any credit report, appraisal,
35 title 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

1 and special information booklets in compliance with the requirements of
2 the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and
3 Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall
4 be deemed to comply with the disclosure requirements of this
5 subsection;

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

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

18 ~~((+5))~~ (e) The name of the lender and the nature of the business
19 relationship between the lender providing the residential mortgage loan
20 and the mortgage broker, if any: PROVIDED, That this disclosure may be
21 made at any time up to the time the borrower accepts the lender's
22 commitment; and

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

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

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

32 (1) Except as otherwise permitted by this section, a mortgage
33 broker shall not receive a fee, commission, or compensation of any kind
34 in connection with the preparation, negotiation, and brokering of a
35 residential mortgage loan unless a borrower actually obtains a loan
36 from a lender on the terms and conditions agreed upon by the borrower
37 and mortgage broker.

38 (2) A mortgage broker may:

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

10 (b) Solicit or receive fees for third party provider goods or
11 services in advance. Fees for any goods or services not provided must
12 be refunded to the borrower and the mortgage broker may not charge more
13 for the goods and services than the actual costs of the goods or
14 services charged by the third party provider.

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

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

20 ~~(b) Solicit, advertise, or enter into a contract for specific~~
21 ~~interest rates, points, or other financing terms unless the terms are~~
22 ~~actually available at the time of soliciting, advertising, or~~
23 ~~contracting.))~~

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

28 (2) A person who is damaged by the licensee's violation of this
29 chapter, or rules adopted under this chapter, may bring suit upon the
30 surety bond or approved alternative in the superior court of any county
31 in which jurisdiction over the licensee may be obtained. Jurisdiction
32 shall be exclusively in the superior court. Any such action must be
33 brought not later than one year after the alleged violation of this
34 chapter or rules adopted under this chapter. In the event valid claims
35 against a bond or deposit exceed the amount of the bond or deposit,
36 each claimant shall only be entitled to a pro rata amount, based on the
37 amount of the claim as it is valid against the bond or deposit, without
38 regard to the date of filing of any claim or action. A judgment

1 arising from a violation of this chapter or rule adopted under this
2 chapter shall be entered for actual damages and in no case be less than
3 the amount paid by the borrower to the licensed mortgage broker plus
4 reasonable attorneys' fees and costs. In no event shall the surety
5 bond or approved alternative provide payment for any trebled or
6 punitive damages.

7 (3) The remedies provided under this section are cumulative and
8 nonexclusive and do not affect any other remedy available at law.

9 NEW SECTION. **Sec. 15.** A licensed mortgage broker is liable for
10 any conduct violating this chapter by a loan originator or other
11 licensed mortgage broker while employed by the broker. In addition, a
12 branch office manager is liable for any conduct violating this chapter
13 by a loan originator or other licensed mortgage broker employed at the
14 branch office.

15 NEW SECTION. **Sec. 16.** No license issued under the provisions of
16 this chapter shall authorize any person other than the person to whom
17 it is issued to do any act by virtue thereof nor to operate in any
18 other manner than under his or her own name except:

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

22 (2) A broker may establish one or more branch offices under a name
23 or names different from that of the main office if the name or names
24 are approved by the director, so long as each branch office is clearly
25 identified as a branch or division of the main office. No broker may
26 establish branch offices under more than three names. Both the name of
27 the branch office and of the main office must clearly appear on the
28 sign identifying the office, if any, and in any advertisement or on any
29 letterhead of any stationery or any forms, or signs used by the
30 mortgage firm on which either the name of the main or branch offices
31 appears.

32 NEW SECTION. **Sec. 17.** Every licensed mortgage broker must have
33 and maintain an office in this state accessible to the public which
34 shall serve as his or her office for the transaction of business. Any
35 office so established must comply with the zoning requirements of city
36 or county ordinances and the broker's license must be prominently

1 displayed therein. In addition, any branch office must comply with the
2 zoning requirements of city or county ordinances.

3 NEW SECTION. **Sec. 18.** A licensed mortgage broker may apply to the
4 director for authority to establish one or more branch offices under
5 the same or different name as the main office upon the payment of a fee
6 as prescribed by the director by rule. The director shall issue a
7 duplicate license for each of the branch offices showing the location
8 of the main office and the particular branch. Each duplicate license
9 shall be prominently displayed in the office for which it is issued.
10 Each branch office shall be required to have a branch manager who shall
11 be a licensed mortgage broker authorized by the mortgage broker to
12 perform the duties of a branch manager.

13 NEW SECTION. **Sec. 19.** All moneys collected under this chapter
14 shall be deposited in the mortgage brokers' licensing account hereby
15 created in the state treasury. Expenditures from the account, subject
16 to appropriation, may be used solely for department costs in
17 administering this chapter.

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

20 Any person who violates any provision of ((~~RCW 19.146.005 through~~
21 ~~19.146.040 or 19.146.060 through 19.146.100~~)) this chapter other than
22 RCW 19.146.050 or any rule or order of the director shall be guilty of
23 a misdemeanor punishable under chapter 9A.20 RCW. Any person who
24 violates RCW 19.146.050 shall be guilty of a class C felony under
25 chapter 9A.20 RCW.

26 NEW SECTION. **Sec. 21.** (1) There is established the mortgage
27 brokerage commission consisting of five commission members who shall
28 act in an advisory capacity to the director on mortgage brokerage
29 issues.

30 (2) The director shall appoint the members of the commission,
31 weighing the recommendations from professional organizations
32 representing mortgage brokers. At least three of the commission
33 members shall be mortgage brokers required to apply for a mortgage
34 brokers license under this chapter and at least one shall be exempt
35 from licensure under RCW 19.146.020(1) (f) or (g). No commission

1 member shall be appointed who has had less than five years' experience
2 in the business of residential mortgage lending. In addition, the
3 attorney general, or a designee, and the director, or a designee, shall
4 serve as ex officio, nonvoting members of the commission. Voting
5 members of the commission shall serve for two-year terms with three of
6 the initial commission members serving one-year terms. The department
7 shall provide staff support to the commission.

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

13 (4)(a) The commission shall advise the director on the
14 characteristics and needs of the mortgage brokerage profession. In
15 addition to its advisory capacity, the commission shall review all
16 state and federal provisions governing mortgage brokers and shall
17 prepare a report:

18 (i) Summarizing state and federal statutes and regulations
19 governing mortgage brokers;

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

22 (iii) Reviewing the detrimental and beneficial effects of state
23 licensing, bonding, training, experience, and educational requirements
24 for mortgage brokers;

25 (iv) Considering the appropriate location within state government
26 to exercise regulatory authority and administer a licensing program;
27 and

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

30 (b) In preparing its report, the commission shall solicit comments
31 from the mortgage broker industry, the department of licensing, the
32 attorney general's office, other state regulators, and residential
33 mortgage loan consumers. The committee shall submit its report to the
34 labor and commerce committee of the senate and the financial
35 institutions and insurance committee of the house of representatives by
36 December 1, 1993.

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

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

8 NEW SECTION. **Sec. 24.** Sections 4 through 11, 14 through 19, and
9 21 of this act are each added to chapter 19.146 RCW.

10 NEW SECTION. **Sec. 25.** (1) If the powers, duties, and functions of
11 the division of banking and the division of savings and loan are
12 transferred into a new department, the powers, duties, and functions of
13 the department relating to the administration of chapter 19.146 RCW
14 shall be transferred to the new department. In such event, all
15 references to the director or the department of licensing shall be
16 construed to mean the new department or its director.

17 (2) In the event that the new department is created, all reports,
18 documents, surveys, books, records, files, papers, or other written or
19 electronically stored material in the possession of the department of
20 licensing pertaining to the powers, functions, and duties transferred
21 under subsection (1) of this section shall be delivered to the custody
22 of the new department. All cabinets, furniture, office equipment,
23 motor vehicles, and other tangible property employed by the department
24 of licensing in carrying out the powers, functions, and duties
25 transferred by subsection (1) of this section shall be made available
26 to the new department if such property was purchased from funds
27 deposited in the mortgage brokers' licensing account. All funds
28 contained in the mortgage brokers' licensing account shall be
29 transferred to the appropriate account of the new department for
30 administration of chapter 19.146 RCW and shall be used solely for the
31 costs of administering this chapter. In the event any dispute arises
32 as to the transfer of any personnel, funds, books, documents, records,
33 papers, files, equipment, or other tangible property used or held in
34 the exercise of the powers and the performance of the duties and powers
35 transferred under subsection (1) of this section, the director of

1 financial management shall make a determination as to the proper
2 allocation and certify the same to the state agencies concerned.

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

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

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

14 NEW SECTION. **Sec. 27.** This act shall expire October 31, 1994,
15 except for section 21 of this act. However, if a licensing program for
16 mortgage brokers is not extended past October 31, 1994, section 21 of
17 this act also shall expire on October 31, 1994."

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