

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5829

53rd Legislature
1993 Regular Session

Passed by the Senate April 20, 1993
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 15, 1993
YEAS 96 NAYS 0

**Speaker of the
House of Representatives**

Approved

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5829** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5829

AS AMENDED BY THE HOUSE

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by
Senators Moore and Prince)

Read first time 03/03/93.

1 AN ACT Relating to mortgage brokers and loan originators; amending
2 RCW 19.146.005, 19.146.010, 19.146.020, 19.146.030, 19.146.070, and
3 19.146.110; adding new sections to chapter 19.146 RCW; creating new
4 sections; prescribing penalties; providing effective dates; providing
5 a contingent effective date; providing an expiration date; and
6 declaring an emergency.

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

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

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

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

3 Unless the context clearly requires otherwise, the definitions in
4 this section apply throughout this chapter.

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

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

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

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

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

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

22 (7) "Mortgage broker" means ((every)) any person who for
23 compensation or gain, or in the expectation of compensation ((either
24 directly or indirectly makes, negotiates, or offers to make or
25 negotiate a residential mortgage loan)) or gain, directly or indirectly
26 negotiates, places, assists in placement, finds, or offers to
27 negotiate, place, assist in placement, or find residential mortgage
28 loans for others.

29 ((+3)) (8) "Person" means a natural person, corporation, company,
30 partnership, or association.

31 ((+4)) (9) "Residential mortgage loan" means any loan primarily
32 for personal, family, or household use secured by a mortgage or deed of
33 trust on residential real estate upon which is constructed or intended
34 to be constructed a single family dwelling or multiple family dwelling
35 of four or less units.

36 ((+5)) (10) "Third-party provider" means any person other than a
37 mortgage broker or lender who provides goods or services to the
38 mortgage broker in connection with the preparation of the borrower's
39 loan and includes, but is not limited to, credit reporting agencies,

1 title companies, appraisers, structural and pest inspectors, or escrow
2 companies.

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

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

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

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

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

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

22 ~~((5))~~ (e) A real estate broker or salesperson licensed by the
23 state who obtains financing for a real estate transaction involving a
24 bona fide sale of real estate in the performance of his or her duties
25 as a real estate broker and who receives only the customary real estate
26 broker's or salesperson's commission in connection with the
27 transaction;

28 ~~((6))~~ (f) Any mortgage broker approved and subject to auditing by
29 the federal national mortgage association, the government national
30 mortgage association, or the federal home loan mortgage corporation;

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

35 ~~+8))~~ (h) The United States of America, the state of Washington,
36 any other state, and any Washington city, county, or other political

1 subdivision, and any agency, division, or corporate instrumentality of
2 any of the entities in this subsection (1)(h); and

3 (i) A real estate broker who provides information only in
4 connection with a CLO system, who may receive a fee for such
5 information in an amount approved by the director and who conforms to
6 all rules of the director with respect to the providing of such
7 service.

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

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

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

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

18 (3) Obtain property by fraud or misrepresentation;

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

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

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

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

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

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

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

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

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

15 (2) A person may not bring a suit or action for the collection of
16 compensation as a mortgage broker unless the plaintiff alleges and
17 proves that he or she was a duly licensed mortgage broker, or exempt
18 from the license requirement of this chapter, at the time of offering
19 to perform or performing any such an act or service regulated by this
20 chapter. This subsection does not apply to suits or actions for the
21 collection or compensation for services performed prior to the
22 effective date of this section.

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

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

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

34 (c) If the applicant is a corporation, the name, address, date of
35 birth, and social security number of each officer, director, registered
36 agent, and each principal stockholder, and any other names, dates of

1 birth, or social security numbers previously used by the officers,
2 directors, registered agents, and principal stockholders;

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

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

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

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

17 (3)(a) Each applicant for a mortgage broker's license shall file
18 and maintain a surety bond, in an amount of forty thousand dollars or
19 such lower amount the director deems adequate to protect the public
20 interest, executed by the applicant as obligor and by a surety company
21 authorized to do a surety business in this state as surety. The bond
22 shall run to the state of Washington as obligee, and shall run to the
23 benefit of the state and any person or persons who suffer loss by
24 reason of the applicant's violation of any provision of this chapter or
25 rules adopted under this chapter. The bond shall be conditioned that
26 the obligor as licensee will faithfully conform to and abide by this
27 chapter and all rules adopted under this chapter, and shall reimburse
28 all persons who suffer loss by reason of a violation of this chapter
29 or rules adopted under this chapter. The bond shall be continuous and
30 may be canceled by the surety upon the surety giving written notice to
31 the director of its intent to cancel the bond. The cancellation shall
32 be effective thirty days after the notice is received by the director.
33 Whether or not the bond is renewed, continued, reinstated, reissued, or
34 otherwise extended, replaced, or modified, including increases or
35 decreases in the penal sum, it shall be considered one continuous
36 obligation, and the surety upon the bond shall not be liable in an
37 aggregate or cumulative amount exceeding the penal sum set forth on the
38 face of the bond. In no event shall the penal sum, or any portion
39 thereof, at two or more points in time be added together in determining

1 the surety's liability. The bond shall not be liable for any penalties
2 imposed on the licensee, including, but not limited to, any increased
3 damages or attorneys' fees, or both, awarded under RCW 19.86.090. The
4 applicant may obtain the bond directly from the surety or through a
5 group bonding arrangement involving a professional organization
6 comprised of mortgage brokers if the arrangement provides at least as
7 much coverage as is required under this subsection.

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

13 (c) In lieu of the surety bond or compliance with (b) of this
14 subsection, an applicant may obtain insurance or coverage from an
15 association comprised of mortgage brokers that is organized as a mutual
16 corporation for the sole purpose of insuring or self-insuring claims
17 that may arise from a violation of this chapter. An applicant may only
18 substitute coverage under this subsection for the requirements of (a)
19 or (b) of this subsection if the director, with the consent of the
20 insurance commissioner, has authorized such association to organize a
21 mutual corporation under such terms and conditions as may be imposed by
22 the director to ensure that the corporation is operated in a
23 financially responsible manner to pay any claims within the financial
24 responsibility limits specified in (a) of this subsection.

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

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

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

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

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

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

37 (f) The applicant has demonstrated financial responsibility,
38 character, and general fitness such as to command the confidence of the

1 community and to warrant a belief that the business will be operated
2 honestly, fairly, and efficiently within the purposes of this chapter.

3 (2) If the director does not find the conditions of subsection (1)
4 of this section have been met, the director shall not issue the
5 license. The director shall notify the applicant of the denial and
6 return to the applicant the bond or approved alternative and any
7 remaining portion of the license fee that exceeds the departments
8 actual cost to investigate the license.

9 (3) The director may delay the effective date of section 5 of this
10 act for an additional thirty days with respect to an applicant for a
11 mortgage broker license for the purpose of processing the application
12 when the applicant has filed a completed application by October 31,
13 1993.

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

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

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

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

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

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

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

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

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

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

15 NEW SECTION. **Sec. 11.** For the purposes of investigating
16 complaints arising under this chapter, the director may at any time,
17 either personally or by a designee, examine the business, including but
18 not limited to the books, accounts, records, and files used therein, of
19 every licensee and of every person engaged in the business of mortgage
20 brokering, whether such a person shall act or claim to act under or
21 without the authority of this chapter. For that purpose the director
22 and designated representatives shall have free access to the offices
23 and places of business, books, accounts, papers, records, files, safes,
24 and vaults of all such persons. The director or designated person may
25 require the attendance of and examine under oath all persons whose
26 testimony may be required about the loans or the business or subject
27 matter of any such investigation.

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

30 (1) Upon receipt of a loan application and before the receipt of
31 any moneys from a borrower, a mortgage broker shall provide to each
32 borrower a written notice indicating the number of the lenders with
33 whom it maintains a written correspondent or loan brokerage agreement,
34 unless exempt from licensing under this chapter, and make a full
35 written disclosure to each borrower containing an itemization and

1 explanation of all fees and costs that the borrower is required to pay
2 in connection with obtaining a residential mortgage loan. A good faith
3 estimate of a fee or cost shall be provided if the exact amount of the
4 fee or cost is not determinable.

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

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

17 ((+2)) (b) The itemized costs of any credit report, appraisal,
18 title report, title insurance policy, mortgage insurance, escrow fee,
19 property tax, insurance, structural or pest inspection, and any other
20 third-party provider's costs associated with the residential mortgage
21 loan. Disclosure through good faith estimates of settlement services
22 and special information booklets in compliance with the requirements of
23 the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601, and
24 Regulation X, 24 C.F.R. Sec. 3500, as now or hereafter amended, shall
25 be deemed to comply with the disclosure requirements of this
26 subsection;

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

32 ((+4)) (d) A statement that if the borrower is unable to obtain a
33 loan for any reason, the mortgage broker must, within five days of a
34 written request by the borrower, give copies of any appraisal, title
35 report, or credit report paid for by the borrower to the borrower, and
36 transmit the appraisal, title report, or credit report to any other
37 mortgage broker or lender to whom the borrower directs the documents to
38 be sent;

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

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

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

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

15 (1) Except as otherwise permitted by this section, a mortgage
16 broker shall not receive a fee, commission, or compensation of any kind
17 in connection with the preparation, negotiation, and brokering of a
18 residential mortgage loan unless a borrower actually obtains a loan
19 from a lender on the terms and conditions agreed upon by the borrower
20 and mortgage broker.

21 (2) A mortgage broker may:

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

31 (b) Solicit or receive fees for third party provider goods or
32 services in advance. Fees for any goods or services not provided must
33 be refunded to the borrower and the mortgage broker may not charge more
34 for the goods and services than the actual costs of the goods or
35 services charged by the third party provider.

36 ~~((+3) A mortgage broker may not:~~

37 ~~(a) Solicit or enter into a contract with a borrower that provides~~
38 ~~in substance that the mortgage broker may earn a fee or commission~~

1 through the mortgage broker's "best efforts" to obtain a loan even
2 though no loan is actually obtained for the borrower; or

3 (b) Solicit, advertise, or enter into a contract for specific
4 interest rates, points, or other financing terms unless the terms are
5 actually available at the time of soliciting, advertising, or
6 contracting.))

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

11 (2) A person who is damaged by the licensee's violation of this
12 chapter, or rules adopted under this chapter, may bring suit upon the
13 surety bond or approved alternative in the superior court of any county
14 in which jurisdiction over the licensee may be obtained. Jurisdiction
15 shall be exclusively in the superior court. Any such action must be
16 brought not later than one year after the alleged violation of this
17 chapter or rules adopted under this chapter. In the event valid claims
18 against a bond or deposit exceed the amount of the bond or deposit,
19 each claimant shall only be entitled to a pro rata amount, based on the
20 amount of the claim as it is valid against the bond or deposit, without
21 regard to the date of filing of any claim or action. A judgment
22 arising from a violation of this chapter or rule adopted under this
23 chapter shall be entered for actual damages and in no case be less than
24 the amount paid by the borrower to the licensed mortgage broker plus
25 reasonable attorneys' fees and costs. In no event shall the surety
26 bond or approved alternative provide payment for any trebled or
27 punitive damages.

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

30 NEW SECTION. **Sec. 15.** A licensed mortgage broker is liable for
31 any conduct violating this chapter by a loan originator or other
32 licensed mortgage broker while employed by the broker. In addition, a
33 branch office manager is liable for any conduct violating this chapter
34 by a loan originator or other licensed mortgage broker employed at the
35 branch office.

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

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

8 (2) A broker may establish one or more branch offices under a name
9 or names different from that of the main office if the name or names
10 are approved by the director, so long as each branch office is clearly
11 identified as a branch or division of the main office. No broker may
12 establish branch offices under more than three names. Both the name of
13 the branch office and of the main office must clearly appear on the
14 sign identifying the office, if any, and in any advertisement or on any
15 letterhead of any stationery or any forms, or signs used by the
16 mortgage firm on which either the name of the main or branch offices
17 appears.

18 NEW SECTION. **Sec. 17.** Every licensed mortgage broker must have
19 and maintain an office in this state accessible to the public which
20 shall serve as his or her office for the transaction of business. Any
21 office so established must comply with the zoning requirements of city
22 or county ordinances and the broker's license must be prominently
23 displayed therein. In addition, any branch office must comply with the
24 zoning requirements of city or county ordinances.

25 NEW SECTION. **Sec. 18.** A licensed mortgage broker may apply to the
26 director for authority to establish one or more branch offices under
27 the same or different name as the main office upon the payment of a fee
28 as prescribed by the director by rule. The director shall issue a
29 duplicate license for each of the branch offices showing the location
30 of the main office and the particular branch. Each duplicate license
31 shall be prominently displayed in the office for which it is issued.
32 Each branch office shall be required to have a branch manager who shall
33 be a licensed mortgage broker authorized by the mortgage broker to
34 perform the duties of a branch manager.

35 NEW SECTION. **Sec. 19.** All moneys collected under this chapter
36 shall be deposited in the mortgage brokers' licensing account hereby

1 created in the state treasury. Expenditures from the account, subject
2 to appropriation, may be used solely for department costs in
3 administering this chapter.

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

6 Any person who violates any provision of (~~RCW 19.146.005 through~~
7 ~~19.146.040 or 19.146.060 through 19.146.100~~) this chapter other than
8 RCW 19.146.050 or any rule or order of the director shall be guilty of
9 a misdemeanor punishable under chapter 9A.20 RCW. Any person who
10 violates RCW 19.146.050 shall be guilty of a class C felony under
11 chapter 9A.20 RCW.

12 NEW SECTION. **Sec. 21.** (1) There is established the mortgage
13 brokerage commission consisting of five commission members who shall
14 act in an advisory capacity to the director on mortgage brokerage
15 issues.

16 (2) The director shall appoint the members of the commission,
17 weighing the recommendations from professional organizations
18 representing mortgage brokers. At least three of the commission
19 members shall be mortgage brokers required to apply for a mortgage
20 brokers license under this chapter and at least one shall be exempt
21 from licensure under RCW 19.146.020(1) (f) or (g). No commission
22 member shall be appointed who has had less than five years' experience
23 in the business of residential mortgage lending. In addition, the
24 attorney general, or a designee, and the director, or a designee, shall
25 serve as ex officio, nonvoting members of the commission. Voting
26 members of the commission shall serve for two-year terms with three of
27 the initial commission members serving one-year terms. The department
28 shall provide staff support to the commission.

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

34 (4)(a) The commission shall advise the director on the
35 characteristics and needs of the mortgage brokerage profession. In
36 addition to its advisory capacity, the commission shall review all

1 state and federal provisions governing mortgage brokers and shall
2 prepare a report:

3 (i) Summarizing state and federal statutes and regulations
4 governing mortgage brokers;

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

7 (iii) Reviewing the detrimental and beneficial effects of state
8 licensing, bonding, training, experience, and educational requirements
9 for mortgage brokers;

10 (iv) Considering the appropriate location within state government
11 to exercise regulatory authority and administer a licensing program;
12 and

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

15 (b) In preparing its report, the commission shall solicit comments
16 from the mortgage broker industry, the department of licensing, the
17 attorney general's office, other state regulators, and residential
18 mortgage loan consumers. The committee shall submit its report to the
19 labor and commerce committee of the senate and the financial
20 institutions and insurance committee of the house of representatives by
21 December 1, 1993.

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

25 NEW SECTION. **Sec. 23.** If any provision of this act or its
26 application to any person or circumstance is held invalid, the
27 remainder of the act or the application of the provision to other
28 persons or circumstances is not affected.

29 NEW SECTION. **Sec. 24.** Sections 4 through 11, 14 through 19, and
30 21 of this act are each added to chapter 19.146 RCW.

31 NEW SECTION. **Sec. 25.** (1) If the powers, duties, and functions of
32 the division of banking and the division of savings and loan are
33 transferred into a new department, the powers, duties, and functions of
34 the department relating to the administration of chapter 19.146 RCW
35 shall be transferred to the new department. In such event, all

1 references to the director or the department of licensing shall be
2 construed to mean the new department or its director.

3 (2) In the event that the new department is created, all reports,
4 documents, surveys, books, records, files, papers, or other written or
5 electronically stored material in the possession of the department of
6 licensing pertaining to the powers, functions, and duties transferred
7 under subsection (1) of this section shall be delivered to the custody
8 of the new department. All cabinets, furniture, office equipment,
9 motor vehicles, and other tangible property employed by the department
10 of licensing in carrying out the powers, functions, and duties
11 transferred by subsection (1) of this section shall be made available
12 to the new department if such property was purchased from funds
13 deposited in the mortgage brokers' licensing account. All funds
14 contained in the mortgage brokers' licensing account shall be
15 transferred to the appropriate account of the new department for
16 administration of chapter 19.146 RCW and shall be used solely for the
17 costs of administering this chapter. In the event any dispute arises
18 as to the transfer of any personnel, funds, books, documents, records,
19 papers, files, equipment, or other tangible property used or held in
20 the exercise of the powers and the performance of the duties and powers
21 transferred under subsection (1) of this section, the director of
22 financial management shall make a determination as to the proper
23 allocation and certify the same to the state agencies concerned.

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

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

31 (3) Sections 1, 5, 11, 12, 14 through 17, and 20 of this act shall
32 take effect October 31, 1993. However, the effective date of section
33 5 of this act may be delayed thirty days upon an order of the director
34 of licensing under section 7(3) of this act.

35 NEW SECTION. **Sec. 27.** This act shall expire October 31, 1994,
36 except for section 21 of this act. However, if a licensing program for

1 mortgage brokers is not extended past October 31, 1994, section 21 of
2 this act also shall expire on October 31, 1994.

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