

# **HOUSE BILL ANALYSIS**

## **ON**

### **HB 1678**

***Brief Description:*** *Regulating mortgage brokers.*

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***BACKGROUND:*** Generally, a mortgage broker acts as an intermediary between a lender and a borrower. Mortgage brokers often work with many lenders to find a loan which is most suitable to a borrower.

*Primarily in response to consumer complaints, the Legislature adopted a temporary Mortgage Broker Licensing Program during the 1993 session. Effective December 1, 1993, all mortgage brokers operating in Washington were required to possess a license issued by the Department of Financial Institutions (DFI). A five-member Mortgage Brokerage Commission was established to advise DFI on issues concerning the industry and to prepare a report containing recommendations for legislation to establish a permanent mortgage brokers licensing program. The report of this commission was submitted to the Legislature in December 1993. In 1994, the Legislature made the temporary licensing program permanent within the Department of Financial Institutions.*

*Certain entities and persons are exempt from the mortgage brokers licensing requirements, including: commercial banks; bank holding companies; savings banks; trust companies; savings and loan associations; credit unions; consumer loan companies; insurance companies; mortgage brokers approved and subject to auditing by the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Loan Mortgage Corporation; and real estate brokers providing information in connection with a computer loan origination (CLO) system. Mortgage brokers must have an office in Washington State.*

Mortgage brokers must maintain a surety bond of not less than \$20,000 or more than \$60,000 as determined by the director of the Department of Financial Institutions based on size of the company, or choose a statutorily provided alternative.

***SUMMARY:*** Changes are made to the regulation of mortgage brokers. Disclosure requirements for mortgage brokers are modified: (1) disclosure of rates, fees, and other costs, including the annual percentage rate, must be made within three days of taking the application (current law requires this disclosure at the time of application); (2) disclosure requirements regarding the relationship between the mortgage broker and the lender making the residential loan are removed; and (3) disclosure must be made regarding whether and under what conditions lock-in fees are refundable to the borrower.

The exemption from the mortgage broker licensing requirements for mortgage brokers approved by the Government National Mortgage Association is removed.

The requirement that licensed mortgage brokers include the term "licensed mortgage broker" in any advertising directed at the general public is removed. The requirement that a licensed mortgage broker have an office in Washington is deleted. For mortgage brokers who do not have offices in Washington, court actions are to take place in Thurston County. Mortgage brokers must keep their books available at their usual place of business for 25 months instead of four years from the closing of a loan. If a mortgage broker's usual place of business is outside of Washington, the mortgage broker must keep the books in Washington, or pay expenses for the Department of Financial Institutions (DFI) to travel to examine the books. A branch manager does not have to apply for a license if a designated broker supervising the branch has a license.

The surety bond provisions are changed to allow only borrowers and the DFI to sue to collect the surety bond, rather than anyone connected with the mortgage broker transaction.

The DFI is not authorized to charge investigative fees to a mortgage broker for the processing of complaints when the investigation determines that no violation of the licensing law occurred, or if the mortgage broker satisfies the consumer and the director with a remedy and the director does not issue an order.

The Mortgage Brokerage Commission may establish a code of conduct for its members. Any commissioner may bring a motion before the commission to remove a commissioner for failing to follow the code of conduct.

***Fiscal Note:*** Requested.

***Effective Date:*** Ninety days after adjournment of session in which bill is passed.

***Rulemaking:*** The director of the Department of Financial Institutions is granted rulemaking authority.