

# SENATE BILL REPORT

## ESHB 1678

---

---

As Reported By Senate Committee On:  
Financial Institutions, Insurance & Housing, March 27, 1997

**Title:** An act relating to standards for licensing mortgage brokers.

**Brief Description:** Regulating mortgage brokers.

**Sponsors:** House Committee on Financial Institutions & Insurance (originally sponsored by Representatives L. Thomas, Smith, Wolfe, Sullivan and Zellinsky).

**Brief History:**

**Committee Activity:** Financial Institutions, Insurance & Housing: 3/26/97, 3/27/97 [DP].

---

---

### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, INSURANCE & HOUSING

**Majority Report:** Do pass.

Signed by Senators Winsley, Chair; Benton, Vice Chair; Finkbeiner, Hale, Heavey, Kline and Prentice.

**Staff:** Catherine Mele (786-7470)

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

The Legislature established a mortgage broker licensing program in 1994. Mortgage brokers are required to possess a license issued by the state Department of Financial Institutions (DFI). In the 1994 bill, the Legislature established a five-member Mortgage Brokerage Commission to advise DFI on issues concerning the industry. The bill required the DFI, in collaboration with the commission, to make recommendations for changes in the mortgage broker licensing statute, and to report these recommendations to the Legislature by December 1996.

During the last year, the commission held public hearings and worked in cooperation with the Department of Financial Institutions, the office of the Attorney General, and the Association of Mortgage Brokers to develop several recommendations for statutory changes.

**Summary of Bill:** Several changes are made to the mortgage broker licensing statute.

The requirement that licensed mortgage brokers include the term "licensed mortgage broker" in any advertising directed at the general public is removed.

Changes are made to make the time limits consistent with federal law for when a mortgage broker must make disclosures about fees and costs to the consumer. A mortgage broker is permitted to make disclosures within three days of receiving a loan application or any money

from the borrower, as opposed to making disclosures upon receipt of a loan application and before receipt of any money.

Mortgage brokers are required to disclose to borrowers whether and under what conditions lock-in fees are refundable to the borrower.

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.

Changes are made to the licensing requirements for mortgage brokers. A branch manager does not have to apply for a license if a designated broker supervising the branch has a license.

The director is permitted to exchange the designated broker's fingerprint data with the Federal Bureau of Investigation.

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. DFI is also authorized to issue subpoenas when conducting examinations or investigations if the mortgage broker does not comply with an order to provide information related to the examination or investigation.

The surety bond, of an amount not greater than \$60,000 and not less than \$20,000, is changed to a two-tiered system. In the distribution of the surety bond, borrowers are given first priority. The state and all other third parties may then receive distribution from the remainder of the bond. On non-borrower claims against the surety bond, no final judgment may be entered prior to 180 days following the date the claim is filed.

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.

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.

**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** This bill is now compromise legislation and agreed to by all the parties. Both of our committees worked on the surety bond issue, and we now have a workable solution.

**Testimony Against:** None.

**Testified:** Representative Thomas, original prime sponsor (pro).