
HOUSE BILL 2620

State of Washington

55th Legislature

1998 Regular Session

By Representatives Sullivan, Conway, Dickerson, Ogden and Regala

Read first time 01/16/98. Referred to Committee on Financial Institutions & Insurance.

1 AN ACT Relating to mortgage brokers; amending RCW 19.146.030; and
2 adding a new section to chapter 19.146 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.146 RCW
5 to read as follows:

6 A mortgage broker has a duty to use due diligence in providing
7 mortgage broker services to borrowers. A violation of this section is
8 also a violation of the consumer protection act, chapter 19.86 RCW.

9 **Sec. 2.** RCW 19.146.030 and 1997 c 106 s 4 are each amended to read
10 as follows:

11 (1) Within three business days following receipt of a loan
12 application or any moneys from a borrower, a mortgage broker shall
13 provide to each borrower a full written disclosure containing an
14 itemization and explanation of all fees and costs that the borrower is
15 required to pay in connection with obtaining a residential mortgage
16 loan, and specifying the fee or fees which inure to the benefit of the
17 mortgage broker and other such disclosures as may be required by rule.
18 A good faith estimate of a fee or cost shall be provided if the exact

1 amount of the fee or cost is not determinable. (~~(This subsection shall~~
2 ~~not be construed to require disclosure of)~~) Mortgage brokers shall
3 disclose the distribution or breakdown of loan fees, discount, or
4 points between the mortgage broker and any lender or investor.

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

6 (a) The annual percentage rate, finance charge, amount financed,
7 total amount of all payments, number of payments, amount of each
8 payment, amount of points or prepaid interest and the conditions and
9 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 (b) The itemized costs of any credit report, appraisal, title
18 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 (c) If applicable, the cost, terms, duration, and conditions of a
28 lock-in agreement and whether a lock-in agreement has been entered, and
29 whether the lock-in agreement is guaranteed by the mortgage broker or
30 lender, and if a lock-in agreement has not been entered, disclosure in
31 a form acceptable to the director that the disclosed interest rate and
32 terms are subject to change;

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

1 (e) Whether and under what conditions any lock-in fees are
2 refundable to the borrower; and

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

7 (3) If subsequent to the written disclosure being provided under
8 this section, a mortgage broker enters into a lock-in agreement with a
9 borrower or represents to the borrower that the borrower has entered
10 into a lock-in agreement, then no less than three business days
11 thereafter including Saturdays, the mortgage broker shall deliver or
12 send by first-class mail to the borrower a written confirmation of the
13 terms of the lock-in agreement, which shall include a copy of the
14 disclosure made under subsection (2)(c) of this section.

15 (4) A mortgage broker shall not charge any fee that inures to the
16 benefit of the mortgage broker if it exceeds the fee disclosed on the
17 written disclosure pursuant to this section, unless (a) the need to
18 charge the fee was not reasonably foreseeable at the time the written
19 disclosure was provided and (b) the mortgage broker has provided to the
20 borrower, no less than three business days prior to the signing of the
21 loan closing documents, a clear written explanation of the fee and the
22 reason for charging a fee exceeding that which was previously
23 disclosed. However, if the borrower's closing costs, excluding prepaid
24 escrowed costs of ownership as defined by rule, does not exceed the
25 total closing costs in the most recent good faith estimate, no other
26 disclosures shall be required by this subsection.

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