
SENATE BILL 6767

State of Washington

61st Legislature

2010 Regular Session

By Senators Berkey, Parlette, Shin, and Tom

Read first time 01/26/10. Referred to Committee on Financial Institutions, Housing & Insurance.

1 AN ACT Relating to residential mortgage loan modification
2 disclosure; amending RCW 19.144.010; and adding a new section to
3 chapter 19.144 RCW.

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

5 **Sec. 1.** RCW 19.144.010 and 2008 c 108 s 2 are each amended to read
6 as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Adjustable rate mortgage" or "ARM" means a payment option ARM
10 or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

11 (2) "Application" means the same as in Regulation X, Real Estate
12 Settlement Procedures, 24 C.F.R. Sec. 3500, as used in an application
13 for a residential mortgage loan.

14 (3) "Borrower" means any person who consults with or retains a
15 person subject to this chapter in an effort to seek information about
16 obtaining a residential mortgage loan, regardless of whether that
17 person actually obtains such a loan.

18 (4) "Department" means the department of financial institutions.

1 (5) "Director" means the director of the department of financial
2 institutions.

3 (6) "Financial institution" means commercial banks and alien banks
4 subject to regulation under Title 30 RCW, savings banks subject to
5 regulation under Title 32 RCW, savings associations subject to
6 regulation under Title 33 RCW, credit unions subject to regulation
7 under chapter 31.12 RCW, consumer loan companies subject to regulation
8 under chapter 31.04 RCW, and mortgage brokers and lenders subject to
9 regulation under chapter 19.146 RCW.

10 (7) "Fully indexed rate" means the index rate prevailing at the
11 time a residential mortgage loan is made, plus the margin that will
12 apply after the expiration of an introductory interest rate.

13 (8) "Negative amortization" means an increase in the principal
14 balance of a loan caused when the loan agreement allows the borrower to
15 make payments less than the amount needed to pay all the interest that
16 has accrued on the loan. The unpaid interest is added to the loan
17 balance and becomes part of the principal.

18 (9) "Person" means individuals, partnerships, associations, limited
19 liability companies, limited liability partnerships, trusts,
20 corporations, and all other legal entities.

21 (10) "Residential mortgage loan" means an extension of credit
22 secured by residential real property located in this state upon which
23 is constructed or intended to be constructed, a single-family dwelling
24 or multiple-family dwelling of four or less units. It does not include
25 a reverse mortgage or a borrower credit transaction that is secured by
26 rental property. It does not include a bridge loan. It does not
27 include loans to individuals making or acquiring a residential mortgage
28 loan solely with his or her own funds for his or her own investment.
29 For purposes of this subsection, a "bridge loan" is any temporary loan,
30 having a maturity of one year or less, for the purpose of acquisition
31 or construction of a dwelling intended to become the borrower's
32 principal dwelling.

33 (11) "The interagency guidance on nontraditional mortgage product
34 risks" means the guidance document issued in September 2006 by the
35 office of the comptroller of the currency, the board of governors of
36 the federal reserve system, the federal deposit insurance corporation,
37 the office of thrift supervision, and the national credit union
38 administration, and the guidance on nontraditional mortgage product

1 risks released in November 2006 by the conference of state bank
2 supervisors and the American association of residential mortgage
3 regulators.

4 (12) "The statement on subprime mortgage lending" means the
5 guidance document issued in June 2007 by the office of the comptroller
6 of the currency, the board of governors of the federal reserve system,
7 the federal deposit insurance corporation, the office of thrift
8 supervision, and the national credit union administration, and the
9 statement on subprime mortgage lending released in July 2007 by the
10 conference of state bank supervisors, the American association of
11 residential mortgage regulators, and the national association of
12 consumer credit administrators.

13 (13) "Third-party residential mortgage loan modification services"
14 means residential mortgage loan modification services offered or
15 performed by any person other than the owner or servicer of the loan.

16 NEW SECTION. Sec. 2. A new section is added to chapter 19.144 RCW
17 to read as follows:

18 (1) In addition to any other requirements under federal or state
19 law, a residential mortgage loan modification may not be made unless a
20 disclosure summary of all material terms, as adopted by the department
21 in subsection (2) of this section, is placed on a separate sheet of
22 paper and has been provided by a financial institution or a person who
23 provides third-party residential mortgage loan modification services to
24 the borrower thirty days prior to the first payment of the loan
25 modification.

26 (2) The department shall adopt by rule a disclosure summary form
27 with a content and format containing simple, plain-language terms that
28 are reasonably understandable to the average person without the aid of
29 third-party resources and must include, but not be limited to, the
30 following items: The length and term of the residential mortgage loan
31 modification; whether the modification is on a temporary or trial
32 basis; and a statement that a residential mortgage loan modification
33 may negatively impact the homeowner's credit score.

34 (3) The director may require by rule other information relating to
35 a residential mortgage loan modification to be included in the
36 disclosure summary if the director determines that it is necessary to
37 protect consumers. The director may adopt rules creating a standard

1 form of disclosure summary to be used as a guide by financial
2 institutions and individuals offering third-party residential mortgage
3 loan modification services in fulfilling the requirements of this
4 section.

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