

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5299

64th Legislature
2015 Regular Session

Passed by the Senate April 16, 2015
Yeas 45 Nays 0

President of the Senate

Passed by the House April 14, 2015
Yeas 97 Nays 0

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5299** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5299

AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

State of Washington 64th Legislature 2015 Regular Session

By Senate Financial Institutions & Insurance (originally sponsored by Senators Benton, Mullet, Fain, Darneille, Hobbs, Angel, and Conway; by request of Department of Financial Institutions)

READ FIRST TIME 01/23/15.

1 AN ACT Relating to updating, clarifying, and strengthening
2 department of financial institutions' enforcement, licensing, and
3 examination statutes relating to residential mortgage lending, and
4 enhancing the crime of mortgage fraud in the residential mortgage
5 lending process; amending RCW 18.44.021, 19.144.010, 19.144.080,
6 19.144.090, 19.146.010, 19.146.020, 19.146.0201, 19.146.030,
7 19.146.040, 19.146.070, 19.146.205, 19.146.220, 19.146.221,
8 19.146.227, 19.146.228, 19.146.265, 19.146.300, 19.146.390,
9 31.04.015, 31.04.027, 31.04.045, 31.04.075, 31.04.093, 31.04.102,
10 31.04.105, 31.04.145, 31.04.205, 31.04.221, 31.04.224, 31.04.247,
11 31.04.277, 31.04.290, and 31.04.520; reenacting and amending RCW
12 31.04.025; adding new sections to chapter 31.04 RCW; repealing RCW
13 19.146.290 and 19.146.330; and prescribing penalties.

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

15 **Sec. 1.** RCW 18.44.021 and 2012 c 124 s 1 are each amended to
16 read as follows:

17 (1) It shall be unlawful for any person to engage in business as
18 an escrow agent by performing escrows or any of the functions of an
19 escrow agent as described in RCW 18.44.011(7) within this state or
20 with respect to transactions that involve personal property or real
21 property located in this state unless such person possesses a valid

1 license issued by the director pursuant to this chapter. The
2 licensing requirements of this chapter shall not apply to:

3 ~~((1))~~(a) Any person doing business under the law of this state
4 or the United States relating to banks, trust companies, mutual
5 savings banks, savings and loan associations, credit unions,
6 insurance companies, or any federally approved agency or lending
7 institution under the national housing act (12 U.S.C. Sec. 1703).

8 ~~((2))~~(b) Any person licensed to practice law in this state if:

9 ~~((a))~~(i) All escrow transactions are performed by the lawyer
10 while engaged in the practice of law, or by employees of the law
11 practice under the direct supervision of the lawyer while engaged in
12 the practice of law;

13 ~~((b))~~(ii) All escrow transactions are performed under a legal
14 entity publicly identified and operated as a law practice; and

15 ~~((c))~~(iii) All escrow funds are deposited to, maintained in,
16 and disbursed from a trust account in compliance with rules enacted
17 by the Washington supreme court regulating the conduct of lawyers.

18 ~~((3))~~(c) Any real estate company, broker, or agent subject to
19 the jurisdiction of the director of licensing while performing acts
20 in the course of or incidental to sales or purchases of real or
21 personal property handled or negotiated by such real estate company,
22 broker, or agent: PROVIDED, That no compensation is received for
23 escrow services.

24 ~~((4))~~(d) Any transaction in which money or other property is
25 paid to, deposited with, or transferred to a joint control agent for
26 disbursement or use in payment of the cost of labor, material, services,
27 permits, fees, or other items of expense incurred in the construction
28 of improvements upon real property.

29 ~~((5))~~(e) Any receiver, trustee in bankruptcy, executor,
30 administrator, guardian, or other person acting under the supervision
31 or order of any superior court of this state or of any federal court.

32 ~~((6))~~(f) Title insurance companies having a valid certificate
33 of authority issued by the insurance commissioner of this state and
34 title insurance agents having a valid license as a title insurance
35 agent issued by the insurance commissioner of this state.

36 (2) The director may at his or her discretion waive applicability
37 of the licensing provisions of this chapter if the director
38 determines it necessary to facilitate commerce or protect consumers.
39 The director may adopt rules interpreting this section.

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

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

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

15 (5) "Director" means the director of the department of financial
16 institutions.

17 (6) "Financial institution" means commercial banks and alien
18 banks subject to regulation under Title 30A RCW, savings banks
19 subject to regulation under Title 32 RCW, savings associations
20 subject to regulation under Title 33 RCW, credit unions subject to
21 regulation under chapter 31.12 RCW, consumer loan companies subject
22 to regulation under chapter 31.04 RCW, and mortgage brokers and
23 lenders subject to regulation under chapter 19.146 RCW.

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

27 (8) "Mortgage lending process" means the process through which a
28 person seeks or obtains a residential mortgage loan or residential
29 mortgage loan modification including, but not limited to,
30 solicitation, application, or origination; negotiation of terms;
31 third-party provider services; underwriting; signing and closing; and
32 funding of the loan. Documents involved in the mortgage lending
33 process include, but shall not be limited to, uniform residential
34 loan applications or other loan applications, appraisal reports,
35 settlement statements, supporting personal documentation for loan
36 applications such as W-2 forms, verifications of income and
37 employment, bank statements, tax returns, payroll stubs, and any
38 required disclosures.

39 (9) "Negative amortization" means an increase in the principal
40 balance of a loan caused when the loan agreement allows the borrower

1 to make payments less than the amount needed to pay all the interest
2 that has accrued on the loan. The unpaid interest is added to the
3 loan balance and becomes part of the principal.

4 ~~((9))~~(10) "Person" means individuals, partnerships,
5 associations, limited liability companies, limited liability
6 partnerships, trusts, corporations, and all other legal entities.

7 ~~((10))~~(11) "Residential mortgage loan" means an extension of
8 credit secured by residential real property located in this state
9 upon which is constructed or intended to be constructed, a single-
10 family dwelling or multiple-family dwelling of four or less units. It
11 does not include a reverse mortgage or a borrower credit transaction
12 that is secured by rental property. It does not include a bridge
13 loan. It does not include loans to individuals making or acquiring a
14 residential mortgage loan solely with his or her own funds for his or
15 her own investment. For purposes of this subsection, a "bridge loan"
16 is any temporary loan, having a maturity of one year or less, for the
17 purpose of acquisition or construction of a dwelling intended to
18 become the borrower's principal dwelling.

19 ~~((11))~~(12) "Residential mortgage loan modification" means a
20 change in one or more of a residential mortgage loan's terms or
21 conditions. Changes to a residential mortgage loan's terms or
22 conditions include, but are not limited to, forbearances; repayment
23 plans; changes in interest rates, loan terms, or loan types;
24 capitalizations of arrearages; or principal reductions.

25 (13) "The interagency guidance on nontraditional mortgage product
26 risks" means the guidance document issued in September 2006 by the
27 office of the comptroller of the currency, the board of governors of
28 the federal reserve system, the federal deposit insurance
29 corporation, the office of thrift supervision, and the national
30 credit union administration, and the guidance on nontraditional
31 mortgage product risks released in November 2006 by the conference of
32 state bank supervisors and the American association of residential
33 mortgage regulators.

34 ~~((12))~~(14) "The statement on subprime mortgage lending" means
35 the guidance document issued in June 2007 by the office of the
36 comptroller of the currency, the board of governors of the federal
37 reserve system, the federal deposit insurance corporation, the office
38 of thrift supervision, and the national credit union administration,
39 and the statement on subprime mortgage lending released in July 2007
40 by the conference of state bank supervisors, the American association

1 of residential mortgage regulators, and the national association of
2 consumer credit administrators.

3 **Sec. 3.** RCW 19.144.080 and 2010 c 35 s 12 are each amended to
4 read as follows:

5 (1) It is unlawful for any person in connection with ~~((making,~~
6 ~~brokering, obtaining, or modifying a residential))~~the mortgage
7 ~~((loan))~~lending process to directly or indirectly:

8 ~~((1))~~(a)(i) Employ any scheme, device, or artifice to defraud
9 or materially mislead any borrower during the lending process;
10 ~~((b))~~(ii) defraud or materially mislead any lender, defraud or
11 materially mislead any person, or engage in any unfair or deceptive
12 practice toward any person ~~((in))~~related to the mortgage lending
13 process; or ~~((e))~~(iii) obtain property by fraud or material
14 misrepresentation ~~((in))~~during the mortgage lending process;

15 ~~((2))~~(b) Knowingly make any misstatement, misrepresentation, or
16 omission ~~((during))~~related to the mortgage lending process knowing
17 that it may be relied on by a mortgage lender, borrower, or any other
18 party related to the mortgage lending process;

19 ~~((3))~~(c) Use or facilitate the use of any misstatement,
20 misrepresentation, or omission, knowing the same to contain a
21 misstatement, misrepresentation, or omission, ~~((during))~~related to
22 the mortgage lending process with the intention that it be relied on
23 by a mortgage lender, borrower, or any other party related to the
24 mortgage lending process; ~~((e~~

25 ~~((4))~~(d) Receive any proceeds or anything of value in connection
26 with a residential mortgage closing that such person knew resulted
27 from a violation of subsection (1), (2), or (3) of this section;

28 (e) File or cause to be filed with the county recorder or the
29 official registrar of deeds of any county of this state any document
30 such person knows to contain a material misstatement,
31 misrepresentation, or omission;

32 (f) Violate RCW 31.04.297(3); or

33 (g) Knowingly alter, destroy, shred, mutilate, or conceal a
34 record, document, or other object, or attempt to do so, with the
35 intent to impair the investigation and prosecution of this crime.

36 (2) Each crime prosecuted under this section shall be punished
37 separately under chapter 9.94A RCW, unless it is the same criminal
38 conduct as any other crime under RCW 9.94A.589.

1 (3) Every person who, in the commission of mortgage fraud as
2 described in this section, commits any other crime may be punished
3 for that other crime in addition to mortgage fraud, and may be
4 prosecuted for each crime separately.

5 **Sec. 4.** RCW 19.144.090 and 2008 c 108 s 10 are each amended to
6 read as follows:

7 (1) Any person who knowingly violates RCW 19.144.080 or who
8 knowingly aids or abets in the violation of RCW 19.144.080 is guilty
9 of a class B felony punishable under RCW 9A.20.021(1)(b). Mortgage
10 fraud is a serious level III offense per chapter 9.94A RCW.

11 ~~((Any person who knowingly alters, destroys, shreds,~~
12 ~~mutilates, or conceals a record, document, or other object, or~~
13 ~~attempts to do so, with the intent to impair the investigation and~~
14 ~~prosecution of this crime is guilty of a class B felony punishable~~
15 ~~under RCW 9A.20.021(1)(b)).~~

16 ~~(3))~~ No information may be returned more than (a) five years
17 after the violation, or (b) three years after the actual discovery of
18 the violation, whichever date of limitation is later.

19 (3) For purposes of venue under this chapter, any violation of
20 RCW 19.144.080 and 31.04.297(3), is considered to have been
21 committed: (a) In the county in which the residential property for
22 which a residential mortgage loan is being sought is located; (b) in
23 any county in which any act was performed in furtherance of the
24 violation; or (c) in any county in which a document containing a
25 misstatement, misrepresentation, or omission of a material fact is
26 filed with the county recorder or the official registrar of deeds.

27 (4) Any person who violates this chapter is subject to civil
28 forfeiture statutes.

29 (5) Any person who violates RCW 19.144.080 or 31.04.297(3) is
30 liable for civil damages of five thousand dollars or actual damages,
31 whichever is greater, including costs to repair the victim's credit
32 record and quiet title on the residential property that is involved
33 in the prosecution, and reasonable attorneys' fees as determined by
34 the court.

35 (6) In a proceeding under RCW 19.144.080 in which there has been
36 a conviction, the sentencing court may issue such orders as necessary
37 to correct a public record that contains false information resulting
38 from a violation of the referenced sections.

1 **Sec. 5.** RCW 19.146.010 and 2013 c 30 s 1 are each amended to
2 read 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
6 through one or more intermediaries, controls, or is controlled by, or
7 is under common control with another person.

8 ~~((("Application" means the same as in Regulation X, Real
9 Estate Settlement Procedures, 24 C.F.R. Sec. 3500.~~

10 ~~(3))~~ "Borrower" means any person who consults with or retains a
11 mortgage broker or loan originator in an effort to obtain or seek
12 advice or information on obtaining or applying to obtain a
13 residential mortgage loan, or a residential mortgage loan
14 modification, for himself, herself, or persons including himself or
15 herself, regardless of whether the person actually obtains such a
16 loan.

17 ~~((4))~~(3) "Computer loan information systems" or "CLI system"
18 means a real estate mortgage financing information system that
19 facilitates the provision of information to consumers by a mortgage
20 broker, loan originator, lender, real estate agent, or other person
21 regarding interest rates and other loan terms available from
22 different lenders.

23 ~~((5))~~(4) "Department" means the state department of financial
24 institutions.

25 ~~((6))~~(5) "Designated broker" means ~~((a natural person))~~an
26 individual designated as the person responsible for activities of the
27 licensed mortgage broker in conducting the business of a mortgage
28 broker under this chapter and who meets the experience and
29 examination requirements set forth in RCW 19.146.210(1)(e).

30 ~~((7))~~(6) "Director" means the director of financial
31 institutions.

32 ~~((8))~~(7) "Employee" means an individual who has an employment
33 relationship with a mortgage broker, and the individual is treated as
34 an employee by the mortgage broker for purposes of compliance with
35 federal income tax laws.

36 ~~((9))~~(8) "Federal banking agencies" means the board of
37 governors of the federal reserve system, comptroller of the currency,
38 director of the office of thrift supervision, national credit union
39 administration, and federal deposit insurance corporation.

1 ~~((10) "Independent contractor" or "person who independently~~
2 ~~contracts" means any person that expressly or impliedly contracts to~~
3 ~~perform mortgage brokering services for another and that with respect~~
4 ~~to its manner or means of performing the services is not subject to~~
5 ~~the other's right of control, and that is not treated as an employee~~
6 ~~by the other for purposes of compliance with federal income tax laws.~~

7 ~~(11))~~(9) "License" means a single license issued under the
8 authority of this chapter.

9 (10) "Licensee" means a person to whom one or more licenses have
10 been issued. "Licensee" also means any person, whether located within
11 or outside of this state, who fails to obtain a license required by
12 this chapter.

13 (11)(a) "Loan originator" means ((a natural person))an individual
14 who for direct or indirect compensation or gain, or in the
15 expectation of direct or indirect compensation or gain (i) takes a
16 residential mortgage loan application ((for a mortgage broker)), or
17 (ii) offers or negotiates terms of a residential mortgage loan. "Loan
18 originator" also includes a person who holds themselves out to the
19 public as able to perform any of these activities. "Loan originator"
20 does not mean persons performing purely administrative or clerical
21 tasks for a mortgage broker. For the purposes of this subsection,
22 "administrative or clerical tasks" means the receipt, collection, and
23 distribution of information common for the processing of a loan in
24 the mortgage industry and communication with a borrower to obtain
25 information necessary for the processing of a residential mortgage
26 loan. A person who holds himself or herself out to the public as able
27 to obtain a residential mortgage loan is not performing
28 administrative or clerical tasks.

29 (b) "Loan originator" also includes ((a natural person))an
30 individual who for direct or indirect compensation or gain or in the
31 expectation of direct or indirect compensation or gain performs
32 residential mortgage loan modification services or holds himself or
33 herself out as being able to perform residential mortgage loan
34 modification services.

35 (c) "Loan originator" does not include a person or entity that
36 only performs real estate brokerage activities and is licensed or
37 registered in accordance with applicable state law, unless the person
38 or entity is compensated by a lender, a mortgage broker, or other
39 mortgage loan originator or by any agent of such a lender, mortgage
40 broker, or other mortgage loan originator. For purposes of this

1 chapter, the term "real estate brokerage activity" means any activity
2 that involves offering or providing real estate brokerage services to
3 the public, including:

4 (i) Acting as a real estate agent or real estate broker for a
5 buyer, seller, lessor, or lessee of real property;

6 (ii) Bringing together parties interested in the sale, purchase,
7 lease, rental, or exchange of real property;

8 (iii) Negotiating, on behalf of any party, any portion of a
9 contract relating to the sale, purchase, lease, rental, or exchange
10 of real property, other than in connection with providing financing
11 with respect to such a transaction;

12 (iv) Engaging in any activity for which a person engaged in the
13 activity is required to be registered or licensed as a real estate
14 agent or real estate broker under any applicable law; and

15 (v) Offering to engage in any activity, or act in any capacity,
16 described in (c)(i) through (iv) of this subsection.

17 (d) "Loan originator" does not include a person or entity solely
18 involved in extensions of credit relating to timeshare plans, as that
19 term is defined in section 101(53D) of Title 11, United States Code.

20 (e) This subsection does not apply to employees of a housing
21 counseling agency approved by the United States department of housing
22 and urban development unless the employees of a housing counseling
23 agency are required under federal law to be licensed individually as
24 loan originators.

25 (12) "Loan processor" means an individual who performs clerical
26 or support duties as an employee at the direction of and subject to
27 the supervision and instruction of a person licensed, or exempt from
28 licensing, under this chapter.

29 (13) "Lock-in agreement" means an agreement with a borrower made
30 by a mortgage broker or loan originator, in which the mortgage broker
31 or loan originator agrees that, for a period of time, a specific
32 interest rate or other financing terms will be the rate or terms at
33 which it will make a residential mortgage loan available to that
34 borrower.

35 (14) "Mortgage broker" means any person who for direct or
36 indirect compensation or gain, or in the expectation of direct or
37 indirect compensation or gain (a) assists a person in obtaining or
38 applying to obtain a residential mortgage loan or performs
39 residential mortgage loan modification services or (b) holds himself
40 or herself out as being able to assist a person in obtaining or

1 applying to obtain a residential mortgage loan or provide residential
2 mortgage loan modification services.

3 (15) "Mortgage loan originator" has the same meaning as "loan
4 originator."

5 (16) "Nationwide mortgage licensing system and registry" means a
6 mortgage licensing system developed and maintained by the conference
7 of state bank supervisors ~~((and the American association of
8 residential mortgage regulators for the))~~ for licensing and
9 registration ~~((of mortgage loan originators))~~.

10 (17) "Person" means ~~((a natural person))~~ an individual,
11 corporation, company, limited liability ~~((corporation))~~ company,
12 partnership, ((or)) association, and all other legal entities.

13 (18) "Principal" means any person who controls, directly or
14 indirectly through one or more intermediaries, or alone or in concert
15 with others, a ten percent or greater interest in a partnership,
16 company, association, ~~((or))~~ corporation, limited liability company,
17 and the owner of a sole proprietorship.

18 (19) "Residential mortgage loan" means any loan primarily for
19 personal, family, or household use secured by a mortgage ~~((or))~~ deed
20 of trust ((or)) or other consensual security interest on a dwelling as
21 defined in the truth in lending act, or residential real estate upon
22 which is constructed or intended to be constructed a ~~((single-~~
23 ~~family))~~ dwelling ~~((or multiple family dwelling of four or less~~
24 ~~units))~~.

25 (20) "Residential mortgage loan modification" means a change in
26 one or more of a residential mortgage loan's terms or conditions.
27 Changes to a residential mortgage loan's terms or conditions include
28 but are not limited to forbearances; repayment plans; changes in
29 interest rates, loan terms, or loan types; capitalizations of
30 arrearages; or principal reductions.

31 (21) "Residential mortgage loan modification services" includes
32 negotiating, attempting to negotiate, arranging, attempting to
33 arrange, or otherwise offering to perform a residential mortgage loan
34 modification. "Residential mortgage loan modification services" also
35 includes the collection of data for submission to any entity
36 performing mortgage loan modification services.

37 (22) "S.A.F.E. act" means the secure and fair enforcement for
38 mortgage licensing act of 2008, or Title V of the housing and
39 economic recovery act of 2008 ("HERA"), P.L. 110-289, effective July
40 30, 2008, codified at 12 U.S.C. Sec. 5101 et seq.

1 (23) "Third-party provider" means any person other than a
2 mortgage broker or lender who provides goods or services to the
3 mortgage broker in connection with the preparation of the borrower's
4 residential mortgage loan and includes, but is not limited to, credit
5 reporting agencies, title companies, appraisers, structural and pest
6 inspectors, or escrow companies.

7 (24) "Third-party residential mortgage loan modification
8 services" means residential mortgage loan modification services
9 offered or performed by any person other than the owner or servicer
10 of the loan.

11 (25) "Unique identifier" means a number or other identifier
12 assigned by protocols established by the nationwide mortgage
13 licensing system and registry.

14 **Sec. 6.** RCW 19.146.020 and 2013 c 30 s 2 are each amended to
15 read as follows:

16 (1) The following are exempt from all provisions of this chapter:

17 (a) Any person doing business under the laws of the state of
18 Washington or the United States, and any federally insured depository
19 institution doing business under the laws of any other state,
20 relating to commercial banks, bank holding companies, savings banks,
21 trust companies, savings and loan associations, credit unions,
22 insurance companies, or real estate investment trusts as defined in
23 26 U.S.C. Sec. 856 and the affiliates, subsidiaries, and service
24 corporations thereof;

25 (b) Any person doing business under the consumer loan act is
26 exempt from this chapter only for that business conducted under the
27 authority and coverage of the consumer loan act;

28 (c) An attorney licensed to practice law in this state. However,
29 (i) all mortgage broker or loan originator services must be performed
30 by the attorney while engaged in the practice of law; (ii) all
31 mortgage broker or loan originator services must be performed under a
32 business that is publicly identified and operated as a law practice;
33 and (iii) all funds associated with the transaction and received by
34 the attorney must be deposited in, maintained in, and disbursed from
35 a trust account to the extent required by rules enacted by the
36 Washington supreme court regulating the conduct of attorneys;

37 (d) Any person doing any act under order of any court, except for
38 a person subject to an injunction to comply with any provision of
39 this chapter or any order of the director issued under this chapter;

1 (e) A real estate broker or salesperson licensed by the state who
2 obtains financing for a real estate transaction involving a bona fide
3 sale of real estate in the performance of his or her duties as a real
4 estate broker and who receives only the customary real estate
5 broker's or salesperson's commission in connection with the
6 transaction;

7 (f) The United States of America, the state of Washington, any
8 other state, and any Washington city, county, or other political
9 subdivision, and any agency, division, or corporate instrumentality
10 of any of the entities in this subsection (1)(f);

11 (g) A real estate broker who provides only information regarding
12 rates, terms, and lenders in connection with a CLI system, who
13 receives a fee for providing such information, who conforms to all
14 rules of the director with respect to the providing of such service,
15 and who discloses on a form approved by the director that to obtain a
16 loan the borrower must deal directly with a mortgage broker or
17 lender. However, a real estate broker shall not be exempt if he or
18 she does any of the following:

19 (i) Holds himself or herself out as able to obtain a loan from a
20 lender;

21 (ii) Accepts a loan application, or submits a loan application to
22 a lender;

23 (iii) Accepts any deposit for third-party services or any loan
24 fees from a borrower, whether such fees are paid before, upon, or
25 after the closing of the loan;

26 (iv) Negotiates rates or terms with a lender on behalf of a
27 borrower; or

28 (v) Provides the disclosure required by RCW 19.146.030(1);

29 (h) Registered mortgage loan originators, or any individual
30 required to be registered; (~~and~~)

31 (i) A manufactured or modular home retailer employee who performs
32 purely administrative or clerical tasks and who receives only the
33 customary salary or commission from the employer in connection with
34 the transaction; and

35 (j) Nonprofit housing organizations brokering residential
36 mortgage loans under housing programs that are funded in whole or in
37 part by federal or state programs if the primary purpose of the
38 programs is to assist low-income borrowers with purchasing,
39 repairing, or otherwise providing housing for low-income Washington
40 state residents.

1 (2) Any person otherwise exempted from the licensing provisions
2 of this chapter may voluntarily submit an application to the director
3 for a mortgage broker's license. The director shall review such
4 application and may grant or deny licenses to such applicants upon
5 the same grounds and with the same fees as may be applicable to
6 persons required to be licensed under this chapter.

7 (a) Upon receipt of a license under this subsection, the licensee
8 is required to continue to maintain a valid license, is subject to
9 all provisions of this chapter, and has no further right to claim
10 exemption from the provisions of this chapter except as provided in
11 (b) of this subsection.

12 (b) Any licensee under this subsection who would otherwise be
13 exempted from the requirements of licensing by this section may apply
14 to the director for exemption from licensing. The director shall
15 adopt rules for reviewing such applications and shall grant
16 exemptions from licensing to applications which are consistent with
17 those rules and consistent with the other provisions of this chapter.

18 **Sec. 7.** RCW 19.146.0201 and 2013 c 30 s 3 are each amended to
19 read as follows:

20 It is a violation of this chapter for ((a)) loan
21 originators~~((or))~~, mortgage brokers,~~((required to be licensed~~
22 ~~under))~~officers, directors, employees, independent contractors, or
23 any other person subject to this chapter to:

24 (1) Directly or indirectly employ any scheme, device, or artifice
25 to defraud or mislead borrowers or lenders or to defraud any person;

26 (2) Directly or indirectly engage in any unfair or deceptive
27 practice toward any person;

28 (3) Directly or indirectly obtain property by fraud or
29 misrepresentation;

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

34 (5) Solicit, advertise, or enter into a contract for specific
35 interest rates, points, or other financing terms unless the terms are
36 actually available at the time of soliciting, advertising, or
37 contracting from a person exempt from licensing under RCW
38 19.146.020(1)(f) or a lender with whom the mortgage broker maintains

1 a written correspondent or loan broker agreement under RCW
2 19.146.040;

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

6 (7) Make, in any manner, any false or deceptive statement or
7 representation with regard to the rates, points, or other financing
8 terms or conditions for a residential mortgage loan or engage in bait
9 and switch advertising;

10 (8) Negligently make any false statement or knowingly and
11 willfully make any omission of material fact in connection with any
12 reports filed by a (~~mortgage broker~~)licensee or in connection with
13 any investigation conducted by the department;

14 (9) Make any payment, directly or indirectly, to any appraiser of
15 a property, for the purposes of influencing the independent judgment
16 of the appraiser with respect to the value of the property;

17 (10) Advertise any rate of interest without conspicuously
18 disclosing the annual percentage rate implied by such rate of
19 interest;

20 (11) Fail to comply with state and federal laws applicable to the
21 activities governed by this chapter;

22 (12) Fail to pay third-party providers no later than thirty days
23 after the recording of the loan closing documents or ninety days
24 after completion of the third-party service, whichever comes first,
25 unless otherwise agreed or unless the third-party service provider
26 has been notified in writing that a bona fide dispute exists
27 regarding the performance or quality of the third-party service;

28 (13) Collect, charge, attempt to collect or charge or use or
29 propose any agreement purporting to collect or charge any fee
30 prohibited by RCW 19.146.030 or 19.146.070;

31 (14)(a) Except when complying with (b) and (c) of this
32 subsection, act as a loan originator in any transaction (i) in which
33 the loan originator acts or has acted as a real estate broker or
34 salesperson or (ii) in which another person doing business under the
35 same licensed real estate broker acts or has acted as a real estate
36 broker or salesperson;

37 (b) Prior to providing mortgage services to the borrower, a loan
38 originator, in addition to other disclosures required by this chapter
39 and other laws, (~~shall~~)must provide to the borrower the following
40 written disclosure:

1 THIS IS TO GIVE YOU NOTICE THAT I OR ONE OF MY ASSOCIATES
2 HAVE/HAS ACTED AS A REAL ESTATE BROKER OR SALESPERSON
3 REPRESENTING THE BUYER/SELLER IN THE SALE OF THIS PROPERTY TO
4 YOU. I AM ALSO A LOAN ORIGINATOR, AND WOULD LIKE TO PROVIDE
5 MORTGAGE SERVICES TO YOU IN CONNECTION WITH YOUR LOAN TO
6 PURCHASE THE PROPERTY.

7 YOU ARE NOT REQUIRED TO USE ME AS A LOAN ORIGINATOR IN
8 CONNECTION WITH THIS TRANSACTION. YOU ARE FREE TO COMPARISON
9 SHOP WITH OTHER MORTGAGE BROKERS AND LENDERS, AND TO SELECT
10 ANY MORTGAGE BROKER OR LENDER OF YOUR CHOOSING; and

11 (c) A real estate broker or salesperson licensed under chapter
12 18.85 RCW who also acts as a mortgage broker (~~(shall)~~)must carry on
13 such mortgage broker business activities and (~~(shall)~~)must maintain
14 such person's mortgage broker business records separate and apart
15 from the real estate broker activities conducted pursuant to chapter
16 18.85 RCW. Such activities (~~(shall be deemed)~~)are separate and apart
17 even if they are conducted at an office location with a common
18 entrance and mailing address, so long as each business is clearly
19 identified by a sign visible to the public, each business is
20 physically separated within the office facility, and no deception of
21 the public as to the separate identities of the broker business firms
22 results. This subsection (14)(c) (~~(shall)~~)does not require a real
23 estate broker or salesperson licensed under chapter 18.85 RCW who
24 also acts as a mortgage broker to maintain a physical separation
25 within the office facility for the conduct of its real estate and
26 mortgage broker activities where the director determines that
27 maintaining such physical separation would constitute an undue
28 financial hardship upon the mortgage broker and is unnecessary for
29 the protection of the public; (~~(or)~~)

30 (15) Fail to comply with any provision of RCW 19.146.030 through
31 19.146.080 or any rule adopted under those sections;

32 (16) Originate loans from any unlicensed location;

33 (17) Solicit or accept from any borrower at or near the time a
34 loan application is taken, and in advance of any foreclosure of the
35 borrower's existing residential mortgage loan or loans, any
36 instrument of conveyance of any interest in the borrower's primary
37 dwelling that is the subject of the residential mortgage loan or
38 loans; or

1 (18) Make a residential mortgage loan unless the loan is table
2 funded.

3 **Sec. 8.** RCW 19.146.030 and 2006 c 19 s 5 are each amended to
4 read as follows:

5 (1) Within three business days following receipt of a loan
6 application (~~((or any moneys))~~) from a borrower, a mortgage broker or
7 loan originator (~~((on behalf of the mortgage broker shall))~~)must
8 provide to (~~(each))~~the borrower a full written disclosure containing
9 an itemization and explanation of all fees and costs that the
10 borrower is required to pay in connection with obtaining a
11 residential mortgage loan, and specifying the fee or fees which inure
12 to the benefit of the mortgage broker and other such disclosures as
13 may be required by rule. A good faith estimate of a fee or cost
14 (~~((shall))~~)must be provided if the exact amount of the fee or cost is
15 not determinable. (~~((This subsection shall not be construed to require~~
16 ~~disclosure of the distribution or breakdown of loan fees, discount,~~
17 ~~or points between the mortgage broker and any lender or investor.))~~)

18 (2) The written disclosure (~~((shall))~~)must contain the following
19 information:

20 (a) The annual percentage rate, finance charge, amount financed,
21 total amount of all payments, number of payments, amount of each
22 payment, amount of points or prepaid interest and the conditions and
23 terms under which any loan terms may change between the time of
24 disclosure and closing of the loan; and if a variable rate, the
25 circumstances under which the rate may increase, any limitation on
26 the increase, the effect of an increase, and an example of the
27 payment terms resulting from an increase. Disclosure in compliance
28 with the requirements of the truth-in-lending act, 15 U.S.C. Sec.
29 1601 and Regulation Z, 12 C.F.R. (~~((See. 226))~~)Part 1026, as now or
30 hereafter amended, (~~((shall be deemed to comply))~~)is in compliance with
31 the disclosure requirements of this subsection;

32 (b) The itemized costs of any credit report, appraisal, title
33 report, title insurance policy, mortgage insurance, escrow fee,
34 property tax, insurance, structural or pest inspection, and any other
35 third-party provider's costs associated with the residential mortgage
36 loan. Disclosure through good faith estimates of settlement services
37 and special information booklets in compliance with the requirements
38 of the real estate settlement procedures act, 12 U.S.C. Sec. 2601,
39 and Regulation X, 24 C.F.R. (~~((See. 3500))~~)Part 1024, as now or

1 hereafter amended, (~~shall be deemed to comply~~) is in compliance with
2 the disclosure requirements of this subsection;

3 (c) If applicable, the cost, terms, duration, and conditions of a
4 lock-in agreement and whether a lock-in agreement has been entered,
5 and whether the lock-in agreement is guaranteed by the mortgage
6 broker or lender, and if a lock-in agreement has not been entered,
7 disclosure in a form acceptable to the director that the disclosed
8 interest rate and terms are subject to change;

9 (d) If applicable, a statement that if the borrower is unable to
10 obtain a loan for any reason, the mortgage broker must, within five
11 days of a written request by the borrower, give copies of any
12 appraisal, title report, or credit report paid for by the borrower to
13 the borrower, and transmit the appraisal, title report, or credit
14 report to any other mortgage broker or lender to whom the borrower
15 directs the documents to be sent;

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

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

22 (3) If subsequent to the written disclosure being provided under
23 this section, a mortgage broker or loan originator enters into a
24 lock-in agreement with a borrower or represents to the borrower that
25 the borrower has entered into a lock-in agreement, then no less than
26 three business days thereafter including Saturdays, the mortgage
27 broker or loan originator (~~shall~~) must deliver or send by first-
28 class mail to the borrower a written confirmation of the terms of the
29 lock-in agreement, which (~~shall~~) must include a copy of the
30 disclosure made under subsection (2)(c) of this section.

31 (4) A mortgage broker or loan originator on behalf of a mortgage
32 broker (~~shall~~) must not charge any fee that inures to the benefit of
33 the mortgage broker if it exceeds the fee disclosed on the written
34 disclosure pursuant to this section, unless (a) the need to charge
35 the fee was not reasonably foreseeable at the time the written
36 disclosure was provided and (b) the mortgage broker or loan
37 originator on behalf of a mortgage broker has provided to the
38 borrower, no less than three business days prior to the signing of
39 the loan closing documents, a clear written explanation of the fee
40 and the reason for charging a fee exceeding that which was previously

1 disclosed. However, if the borrower's closing costs on the final
2 settlement statement, excluding prepaid escrowed costs of ownership
3 as defined by rule, does not exceed the total closing costs in the
4 most recent good faith estimate, excluding prepaid escrowed costs of
5 ownership as defined by rule, no other disclosures (~~shall be~~)are
6 required by this subsection.

7 **Sec. 9.** RCW 19.146.040 and 2006 c 19 s 6 are each amended to
8 read as follows:

9 (1) Every contract between a mortgage broker, or a loan
10 originator, and a borrower (~~shall~~)must be in writing and (~~shall~~)
11 contain the entire agreement of the parties.

12 (2) Any contract under this section entered by a loan originator
13 (~~shall be~~)is binding on the mortgage broker.

14 (3) A mortgage broker (~~shall~~)must have a written
15 (~~correspondent or~~) loan broker agreement with a lender before any
16 solicitation of, or contracting with, the public.

17 **Sec. 10.** RCW 19.146.070 and 2006 c 19 s 8 are each amended to
18 read as follows:

19 (1) Except as otherwise permitted by this section, a mortgage
20 broker (~~shall~~)must not receive a fee, commission, or compensation
21 of any kind in connection with the preparation, negotiation, and
22 brokering of a residential mortgage loan unless a borrower actually
23 obtains a loan from a lender on the terms and conditions agreed upon
24 by the borrower and mortgage broker. A loan originator may not accept
25 a fee, commission, or compensation of any kind from borrowers in
26 connection with the preparation, negotiation, and brokering of a
27 residential mortgage loan.

28 (2) A mortgage broker may:

29 (a) If the mortgage broker has obtained for the borrower a
30 written commitment from a lender for a loan on the terms and
31 conditions agreed upon by the borrower and the mortgage broker, and
32 the borrower fails to close on the loan through no fault of the
33 mortgage broker, charge a fee not to exceed three hundred dollars for
34 services rendered, preparation of documents, or transfer of documents
35 in the borrower's file which were prepared or paid for by the
36 borrower if the fee is not otherwise prohibited by the Truth-in-
37 Lending Act, 15 U.S.C. Sec. 1601, and Regulation Z, 12 C.F.R. (~~See-~~
38 ~~226~~)Part 1026, as now or hereafter amended; or

1 (b) Solicit or receive fees for third party provider goods or
2 services in advance. Fees for any goods or services not provided must
3 be refunded to the borrower and the mortgage broker may not charge
4 more for the goods and services than the actual costs of the goods or
5 services charged by the third party provider.

6 (3) A loan originator may not solicit or receive fees for a
7 third-party provider of goods or services except that a loan
8 originator may transfer funds from a borrower to a licensed mortgage
9 broker, exempt mortgage broker, or third-party provider, if the loan
10 originator does not deposit, hold, retain, or use the funds for any
11 purpose other than the payment of bona fide fees to third-party
12 providers.

13 **Sec. 11.** RCW 19.146.205 and 2009 c 528 s 4 are each amended to
14 read as follows:

15 (1) Application for a mortgage broker license under this chapter
16 must be made to the nationwide mortgage licensing system and registry
17 and in the form prescribed by the director. The application
18 (~~shall~~)must contain at least the following information:

19 (a) The name, address, date of birth, and social security number
20 of the applicant, and any other names, dates of birth, or social
21 security numbers previously used by the applicant, unless waived by
22 the director;

23 (b) If the applicant is a partnership (~~(or)~~), association, or
24 limited liability company the name, address, date of birth, and
25 social security number of each general partner (~~(or)~~), principal, or
26 member of the association, and any other names, dates of birth, or
27 social security numbers previously used by the members, unless waived
28 by the director;

29 (c) If the applicant is a corporation, the name, address, date of
30 birth, and social security number of each officer, director,
31 registered agent, and each principal stockholder, and any other
32 names, dates of birth, or social security numbers previously used by
33 the officers, directors, registered agents, and principal
34 stockholders unless waived by the director;

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

37 (e) The name, address, date of birth, and social security number
38 of the applicant's designated broker, and any other names, dates of
39 birth, or social security numbers previously used by the designated

1 broker and a complete set of the designated broker's fingerprints
2 taken by an authorized law enforcement officer; and

3 (f)(i) Such other information regarding the applicant's or
4 designated broker's background, financial responsibility, experience,
5 character, and general fitness as the director may require by rule.

6 (ii) The director may waive one or more requirements of this
7 section or permit an applicant to submit other information in lieu of
8 the required information.

9 (2) As a part of or in connection with an application for any
10 license under this section, or periodically upon license renewal, the
11 applicant (~~shall~~)must furnish information concerning his or her
12 identity, including fingerprints for submission to the Washington
13 state patrol, the federal bureau of investigation, the nationwide
14 mortgage licensing system and registry, or any governmental agency or
15 entity authorized to receive this information for a state and
16 national criminal history background check; personal history;
17 experience; business record; purposes; and other pertinent facts, as
18 the director may reasonably require. As part of or in connection with
19 an application for a license under this chapter, the director is
20 authorized to receive criminal history record information that
21 includes nonconviction data as defined in RCW 10.97.030. The
22 department may only disseminate nonconviction data obtained under
23 this section to criminal justice agencies. This section does not
24 apply to financial institutions regulated under chapters 31.12 and
25 31.13 RCW and Titles 30A, 32, and 33 RCW.

26 (3) In order to reduce the points of contact which the federal
27 bureau of investigation may have to maintain, the director may use
28 the nationwide mortgage licensing system and registry as a channeling
29 agent for requesting information from and distributing information to
30 the department of justice or any governmental agency.

31 (4) In order to reduce the points of contact which the director
32 may have to maintain, the director may use the nationwide mortgage
33 licensing system and registry as a channeling agent for requesting
34 and distributing information to and from any source so directed by
35 the director.

36 (5) At the time of filing an application for a license under this
37 chapter, each applicant (~~shall~~)must pay to the director through the
38 nationwide mortgage licensing system and registry the appropriate
39 application fee in an amount determined by rule of the director in
40 accordance with RCW 43.24.086 to cover, but not exceed, the cost of

1 processing and reviewing the application. The director (~~shall~~)must
2 deposit the moneys in the financial services regulation fund, unless
3 the consumer services account is created as a dedicated,
4 nonappropriated account, in which case the director (~~shall~~)must
5 deposit the moneys in the consumer services account.

6 (6)(a) Except as provided in (b) of this subsection, each
7 applicant for a mortgage broker's license (~~shall~~)must file and
8 maintain a surety bond, in an amount which the director deems
9 adequate to protect the public interest, executed by the applicant as
10 obligor and by a surety company authorized to do a surety business in
11 this state as surety. The bonding requirement as established by the
12 director (~~shall~~)must take the form of a range of bond amounts which
13 (~~shall~~) vary according to the annual loan origination volume of the
14 licensee. The bond (~~shall~~)must run to the state of Washington as
15 obligee, and (~~shall~~)must run first to the benefit of the borrower
16 and then to the benefit of the state and any person or persons who
17 suffer loss by reason of the applicant's or its loan originator's
18 violation of any provision of this chapter or rules adopted under
19 this chapter. The bond (~~shall~~)must be conditioned that the obligor
20 as licensee will faithfully conform to and abide by this chapter and
21 all rules adopted under this chapter, and (~~shall~~)must reimburse all
22 persons who suffer loss by reason of a violation of this chapter or
23 rules adopted under this chapter. Borrowers (~~shall~~)must be given
24 priority over the state and other persons. The state and other third
25 parties (~~shall~~)must be allowed to receive distribution pursuant to
26 a valid claim against the remainder of the bond. In the case of
27 claims made by any person or entity who is not a borrower, no final
28 judgment may be entered prior to one hundred eighty days following
29 the date the claim is filed. The bond (~~shall~~)must be continuous and
30 may be canceled by the surety upon the surety giving written notice
31 to the director of its intent to cancel the bond. The cancellation
32 (~~shall~~)must be effective thirty days after the notice is received
33 by the director. Whether or not the bond is renewed, continued,
34 reinstated, reissued, or otherwise extended, replaced, or modified,
35 including increases or decreases in the penal sum, it (~~shall be~~)is
36 considered one continuous obligation, and the surety upon the bond
37 (~~shall not be~~)is not liable in an aggregate or cumulative amount
38 exceeding the penal sum set forth on the face of the bond. In no
39 event (~~shall~~)is the penal sum, or any portion thereof, at two or
40 more points in time be added together in determining the surety's

1 liability. The bond (~~shall~~)is 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) If the director determines that the bond required in (a) of
9 this subsection is not reasonably available, the director
10 (~~shall~~)must waive the requirements for such a bond. The mortgage
11 recovery fund account is created in the custody of the state
12 treasurer. The director is authorized to charge fees to fund the
13 account. All fees charged under this section, except those retained
14 by the director for administration of the (~~fund-[account]~~)account,
15 must be deposited into the mortgage recovery fund account.
16 Expenditures from the account may be used only for the same purposes
17 as the surety bond as described in (a) of this subsection. Only the
18 director or the director's designee may authorize expenditures from
19 the account. The account is subject to allotment procedures under
20 chapter 43.88 RCW, but an appropriation is not required for
21 expenditures. A person entitled to receive payment from the mortgage
22 recovery (~~fund-[account]~~)account may only receive reimbursement
23 after a court of competent jurisdiction has determined the actual
24 damages caused by the licensee. The director may determine by rule
25 the procedure for recovery; the amount each mortgage broker must pay
26 through the nationwide mortgage licensing system and registry for
27 deposit in the mortgage recovery (~~fund-[account]~~)account; and the
28 amount necessary to administer the (~~fund-[account]~~)account.

29 **Sec. 12.** RCW 19.146.220 and 2014 c 36 s 2 are each amended to
30 read as follows:

31 (1) The director may enforce all laws and rules relating to the
32 licensing of mortgage brokers and loan originators, grant or deny
33 licenses to mortgage brokers and loan originators, and hold hearings.

34 (2) The director may impose fines (~~(€)~~)and order restitution and
35 refunds against licensees (~~(€)~~), employees, independent contractors,
36 agents of licensees, and other persons subject to this chapter,
37 (~~(€)~~)and may deny, condition, suspend, decline to renew, decline to
38 reactivate, or revoke licenses for:

39 (a) Violations of orders, including cease and desist orders;

1 (b) False statements or omission of material information on the
2 application that, if known, would have allowed the director to deny
3 the application for the original license;

4 (c) Failure to pay a fee required by the director or maintain the
5 required bond;

6 (d) Failure to comply with any directive, order, or subpoena of
7 the director; or

8 (e) Any violation of this chapter.

9 (3) (~~The director may impose fines on an employee, loan~~
10 ~~originator, independent contractor, or agent of the licensee, or~~
11 ~~other person subject to this chapter for:~~

12 ~~(a) Any violations of this chapter; or~~

13 ~~(b) Failure to comply with any directive or order of the~~
14 ~~director.~~

15 ~~(4))~~ The director may issue orders directing a licensee, its
16 employee, loan originator, independent contractor, agent, or other
17 person subject to this chapter to cease and desist from conducting
18 business or take such other affirmative action as is necessary to
19 comply with this chapter.

20 ~~((5))~~(4) The director may issue orders removing from office or
21 prohibiting from participation in the conduct of the affairs of a
22 licensed mortgage broker, or both, any officer, principal, employee,
23 or loan originator of any licensed mortgage broker or any person
24 subject to licensing under this chapter for:

25 (a) Any violation of this chapter;

26 (b) False statements or omission of material information on the
27 application that, if known, would have allowed the director to deny
28 the application for the original license;

29 (c) Conviction of a gross misdemeanor involving dishonesty or
30 financial misconduct or a felony after obtaining a license; or

31 (d) Failure to comply with any directive or order of the
32 director.

33 ~~((6))~~(5) Each day's continuance of a violation or failure to
34 comply with any directive or order of the director is a separate and
35 distinct violation or failure.

36 ~~((7))~~(6) The statute of limitations on actions not subject to
37 RCW 4.16.160 that are brought under this chapter by the director is
38 five years.

39 ~~((8))~~(7) The director (~~shall~~)must establish by rule standards
40 for licensure of applicants licensed in other jurisdictions.

1 ~~((9))~~(8) The director ~~((shall))~~must immediately suspend the
2 license or certificate of a person who has been certified pursuant to
3 RCW 74.20A.320 by the department of social and health services as a
4 person who is not in compliance with a support order. If the person
5 has continued to meet all other requirements for reinstatement during
6 the suspension, reissuance of the license or certificate ~~((shall
7 be))~~is automatic upon the director's receipt of a release issued by
8 the department of social and health services stating that the
9 licensee is in compliance with the order.

10 **Sec. 13.** RCW 19.146.221 and 1994 c 33 s 13 are each amended to
11 read as follows:

12 (1) The director may, at his or her discretion ~~((and as provided~~
13 ~~for in RCW 19.146.220(2))~~, take any action ~~((specified in RCW~~
14 ~~19.146.220(1))~~as provided for in this chapter to enforce this
15 chapter. If the person subject to such action does not appear in
16 person or by counsel at the time and place designated for any
17 administrative hearing that may be held on the action then the person
18 shall be deemed to consent to the action. If the person subject to
19 the action consents, or if after hearing the director finds by a
20 preponderance of the evidence that any grounds for sanctions under
21 this chapter exist, then the director may impose any sanction
22 authorized by this chapter.

23 (2) The director may recover the state's costs and expenses for
24 prosecuting violations of this chapter including staff time spent
25 preparing for and attending administrative hearings and reasonable
26 attorneys' fees, unless, after a hearing, the director determines no
27 violation occurred.

28 **Sec. 14.** RCW 19.146.227 and 1994 c 33 s 14 are each amended to
29 read as follows:

30 Whenever the director determines that the public is likely to be
31 substantially injured by delay in issuing a cease and desist order,
32 the director may immediately issue a temporary cease and desist
33 order. The order may direct the licensee to discontinue any violation
34 of this chapter and take such affirmative action as is necessary to
35 comply with this chapter, may include a summary suspension of the
36 licensee's license, and may order the licensee to immediately cease
37 the conduct of business under this chapter. The order ~~((shall))~~
38 becomes effective at the time specified in the order. Every temporary

1 cease and desist order (~~shall~~)must include a provision that a
2 hearing will be held, within fourteen days unless otherwise specified
3 in chapter 34.05 RCW, upon request to determine whether the order
4 will become permanent.

5 If it appears that a person has engaged in an act or practice
6 constituting a violation of a provision of this chapter, or a rule or
7 order under this chapter, the director, with or without prior
8 administrative proceedings, may bring an action in the superior court
9 to enjoin the acts or practices and to enforce compliance with this
10 chapter or any rule or order under this chapter. Upon proper showing,
11 injunctive relief or temporary restraining orders (~~shall~~)must be
12 granted. The director (~~shall not be~~)is not required to post a bond
13 in any court proceedings.

14 **Sec. 15.** RCW 19.146.228 and 2009 c 528 s 5 are each amended to
15 read as follows:

16 The director (~~shall~~)must establish fees sufficient to cover,
17 but not exceed, the costs of administering this chapter. These fees
18 may include:

19 (1) An annual assessment paid by each licensee on or before a
20 date specified by rule;

21 (2) An investigation fee to cover the costs of any investigation
22 of the books and records of a licensee or other person subject to
23 this chapter; and

24 (3) An application fee to cover the costs of processing
25 applications made to the director under this chapter.

26 Mortgage brokers (~~and~~), loan originators (~~shall~~), and any
27 person subject to licensing under this chapter must not be charged
28 investigation fees for the processing of complaints when the
29 investigation determines that no violation of this chapter occurred
30 or when the mortgage broker or loan originator provides a remedy
31 satisfactory to the complainant and the director and no order of the
32 director is issued. All moneys, fees, and penalties collected under
33 the authority of this chapter (~~shall~~)must be deposited into the
34 financial services regulation fund, unless the consumer services
35 account is created as a dedicated, nonappropriated account, in which
36 case all moneys, fees, and penalties collected under this chapter
37 (~~shall~~)must be deposited in the consumer services account.

1 **Sec. 16.** RCW 19.146.265 and 1997 c 106 s 19 are each amended to
2 read as follows:

3 A licensed mortgage broker may apply to the director for
4 authority to establish one or more branch offices under the same or
5 different name as the main office upon the payment of a fee as
6 prescribed by the director by rule. ~~((Provided that))~~ The applicant
7 ~~((is))~~ must be in good standing with the department, as defined in
8 rule by the director, and the director ~~((shall))~~ must promptly issue a
9 ~~((duplicate))~~ license for each of the branch offices showing the
10 location of the main office and the particular branch. ~~((Each~~
11 ~~duplicate license shall be prominently displayed in the office for~~
12 ~~which it is issued.))~~

13 **Sec. 17.** RCW 19.146.300 and 2009 c 528 s 9 are each amended to
14 read as follows:

15 (1) Application for a loan originator license under this chapter
16 must be made to the nationwide mortgage licensing system and registry
17 and in the form prescribed by the director. The application
18 ~~((shall))~~ must contain at least the following information:

19 (a) The name, address, date of birth, and social security number
20 of the loan originator applicant, and any other names, dates of
21 birth, or social security numbers previously used by the loan
22 originator applicant, unless waived by the director; and

23 (b) Such other information regarding the loan originator
24 applicant's background, experience, character, and general fitness as
25 the director may require by rule or as deemed necessary by the
26 nationwide mortgage licensing system and registry.

27 (2)(a) As part of or in connection with an application for any
28 license under this section, or periodically upon license renewal, the
29 loan originator applicant ~~((shall))~~ must furnish information
30 concerning his or her identity, including fingerprints for submission
31 to the Washington state patrol, the federal bureau of investigation,
32 the nationwide mortgage licensing system and registry, or any
33 governmental agency or entity authorized to receive this information
34 for a state and national criminal history background check; personal
35 history; experience; business record; purposes; and other pertinent
36 facts, as the director may reasonably require. As part of or in
37 connection with an application for a license under this chapter, or
38 periodically upon license renewal, the director is authorized to
39 receive criminal history record information that includes

1 nonconviction data as defined in RCW 10.97.030. The department may
2 only disseminate nonconviction data obtained under this section to
3 criminal justice agencies. This section does not apply to financial
4 institutions regulated under chapters 31.12 and 31.13 RCW and Titles
5 30A, 32, and 33 RCW.

6 (b) In order to reduce the points of contact which the federal
7 bureau of investigation may have to maintain, the director may use
8 the nationwide mortgage licensing system and registry as a channeling
9 agent for requesting information from and distributing information to
10 the department of justice or any governmental agency.

11 (c) In order to reduce the points of contact which the director
12 may have to maintain, the director may use the nationwide mortgage
13 licensing system and registry as a channeling agent for requesting
14 and distributing information to and from any source so directed by
15 the director.

16 (d) As part of or in connection with an application for a license
17 under this section, the loan originator applicant must furnish to the
18 nationwide mortgage licensing system and registry personal history
19 and experience in a form prescribed by the nationwide mortgage
20 licensing system and registry, including the submission of
21 authorization for the nationwide mortgage licensing system and
22 registry and the director to obtain:

23 (i) An independent credit report obtained from a consumer
24 reporting agency described in section 603(p) of the federal fair
25 credit reporting act; and

26 (ii) Information related to any administrative, civil, or
27 criminal findings by any governmental jurisdiction.

28 (3) At the time of filing an application for a license under this
29 chapter, each loan originator applicant (~~shall~~)must pay to the
30 director the appropriate application fee in an amount determined by
31 rule of the director in accordance with RCW 19.146.228 to cover the
32 cost of processing and reviewing the application. The director
33 (~~shall~~)must deposit the moneys in the financial services regulation
34 fund.

35 (4) The director must establish by rule procedures for accepting
36 and processing incomplete applications.

37 **Sec. 18.** RCW 19.146.390 and 2009 c 528 s 17 are each amended to
38 read as follows:

1 Each mortgage broker licensee (~~shall~~)must submit (~~to~~)call
2 reports through the nationwide mortgage licensing system and registry
3 (~~reports of condition, which must be in the~~)in a form and (~~must~~
4 ~~contain~~)containing the information as prescribed by the director or
5 as deemed necessary by the nationwide mortgage licensing system and
6 registry (~~may require~~).

7 **Sec. 19.** RCW 31.04.015 and 2013 c 29 s 1 are each amended to
8 read as follows:

9 The definitions set forth in this section apply throughout this
10 chapter unless the context clearly requires a different meaning.

11 (1) "Add-on method" means the method of precomputing interest
12 payable on a loan whereby the interest to be earned is added to the
13 principal balance and the total plus any charges allowed under this
14 chapter is stated as the loan amount, without further provision for
15 the payment of interest except for failure to pay according to loan
16 terms. The director may adopt by rule a more detailed explanation of
17 the meaning and use of this method.

18 (2) "Applicant" means a person applying for a license under this
19 chapter.

20 (3) "Borrower" means any person who consults with or retains a
21 licensee or person subject to this chapter in an effort to obtain, or
22 who seeks information about obtaining a loan, regardless of whether
23 that person actually obtains such a loan. "Borrower" includes a
24 person who consults with or retains a licensee or person subject to
25 this chapter in an effort to obtain, or who seeks information about
26 obtaining a residential mortgage loan modification, regardless of
27 whether that person actually obtains a residential mortgage loan
28 modification.

29 (4) "Depository institution" has the same meaning as in section 3
30 of the federal deposit insurance act on July 26, 2009, and includes
31 credit unions.

32 (5) "Director" means the director of financial institutions.

33 (6) "Federal banking agencies" means the board of governors of
34 the federal reserve system, comptroller of the currency, director of
35 the office of thrift supervision, national credit union
36 administration, and federal deposit insurance corporation.

37 (7) "Individual servicing a mortgage loan" means a person on
38 behalf of a lender or servicer licensed by this state, who collects
39 or receives payments including payments of principal, interest,

1 escrow amounts, and other amounts due, on existing obligations due
2 and owing to the licensed lender or servicer for a residential
3 mortgage loan when the borrower is in default, or in reasonably
4 foreseeable likelihood of default, working with the borrower and the
5 licensed lender or servicer, collects data and makes decisions
6 necessary to modify either temporarily or permanently certain terms
7 of those obligations, or otherwise finalizing collection through the
8 foreclosure process.

9 (8) "Insurance" means life insurance, disability insurance,
10 property insurance, involuntary unemployment insurance, and such
11 other insurance as may be authorized by the insurance commissioner.

12 (9) "License" means a single license issued under the authority
13 of this chapter (~~with respect to a single place of business~~).

14 (10) "Licensee" means a person to whom one or more licenses have
15 been issued. "Licensee" also means any person, whether located within
16 or outside of this state, who fails to obtain a license required by
17 this chapter.

18 (11) "Loan" means a sum of money lent at interest or for a fee or
19 other charge and includes both open-end and closed-end loan
20 transactions.

21 (12) "Loan processor or underwriter" means an individual who
22 performs clerical or support duties as an employee at the direction
23 of and subject to the supervision and instruction of a person
24 licensed, or exempt from licensing, under this chapter.

25 (13) "Making a loan" means advancing, offering to advance, or
26 making a commitment to advance funds to a borrower for a loan.

27 (14) "Mortgage broker" means the same as defined in RCW
28 19.146.010, except that for purposes of this chapter, a licensee or
29 person subject to this chapter cannot receive compensation as both a
30 consumer loan licensee making the loan and as a consumer loan
31 licensee acting as the mortgage broker in the same loan transaction.

32 (15)(a) "Mortgage loan originator" means an individual who for
33 compensation or gain (i) takes a residential mortgage loan
34 application, or (ii) offers or negotiates terms of a residential
35 mortgage loan. "Mortgage loan originator" also includes individuals
36 who hold themselves out to the public as able to perform any of these
37 activities. "Mortgage loan originator" does not include any
38 individual who performs purely administrative or clerical tasks; and
39 does not include a person or entity solely involved in extensions of
40 credit relating to timeshare plans, as that term is defined in

1 section 101(53D) of Title 11, United States Code. For the purposes of
2 this definition, administrative or clerical tasks means the receipt,
3 collection, and distribution of information common for the processing
4 of a loan in the mortgage industry and communication with a consumer
5 to obtain information necessary for the processing of a residential
6 mortgage loan.

7 (b) "Mortgage loan originator" also includes an individual who
8 for direct or indirect compensation or gain performs residential
9 mortgage loan modification services or holds himself or herself out
10 as being able to perform residential mortgage loan modification
11 services.

12 (c) "Mortgage loan originator" does not include a person or
13 entity that only performs real estate brokerage activities and is
14 licensed or registered in accordance with applicable state law,
15 unless the person or entity is compensated by a lender, a mortgage
16 broker, or other mortgage loan originator or by any agent of such a
17 lender, mortgage broker, or other mortgage loan originator. For the
18 purposes of chapter 120, Laws of 2009, the term "real estate
19 brokerage activity" means any activity that involves offering or
20 providing real estate brokerage services to the public, including:

21 (i) Acting as a real estate agent or real estate broker for a
22 buyer, seller, lessor, or lessee of real property;

23 (ii) Bringing together parties interested in the sale, purchase,
24 lease, rental, or exchange of real property;

25 (iii) Negotiating, on behalf of any party, any portion of a
26 contract relating to the sale, purchase, lease, rental, or exchange
27 of real property, other than in connection with providing financing
28 with respect to such a transaction;

29 (iv) Engaging in any activity for which a person engaged in the
30 activity is required to be registered or licensed as a real estate
31 agent or real estate broker under any applicable law; and

32 (v) Offering to engage in any activity, or act in any capacity,
33 described in (c)(i) through (iv) of this subsection.

34 (d) This subsection does not apply to employees of a housing
35 counseling agency approved by the United States department of housing
36 and urban development unless the employees of a housing counseling
37 agency are required under federal law to be individually licensed as
38 mortgage loan originators.

39 (16) "Nationwide (~~(multistate)~~)mortgage licensing system" means a
40 licensing system developed and maintained by the conference of state

1 bank supervisors (~~and the American association of residential~~
2 ~~mortgage regulators for the~~)for licensing and registration (~~of~~
3 ~~mortgage loan originators and other licensing types~~)).

4 (17) "Officer" means an official appointed by the company for the
5 purpose of making business decisions or corporate decisions.

6 (18) "Person" includes individuals, partnerships, associations,
7 limited liability companies, limited liability partnerships, trusts,
8 corporations, and all other legal entities.

9 (19) "Principal" means any person who controls, directly or
10 indirectly through one or more intermediaries, alone or in concert
11 with others, a ten percent or greater interest in a partnership;
12 company; association or corporation; or a limited liability company,
13 and the owner of a sole proprietorship.

14 (20) "Registered mortgage loan originator" means any individual
15 who meets the definition of mortgage loan originator and is an
16 employee of a depository institution; a subsidiary that is owned and
17 controlled by a depository institution and regulated by a federal
18 banking agency; or an institution regulated by the farm credit
19 administration and is registered with, and maintains a unique
20 identifier through, the nationwide (~~multistate~~)mortgage licensing
21 system.

22 (21) "Residential mortgage loan" means any loan primarily for
23 personal, family, or household use that is secured by a mortgage,
24 deed of trust, or other (~~equivalent~~) consensual security interest
25 on a dwelling, as defined in (~~section 103(v) of~~) the truth in
26 lending act, or residential real estate upon which is constructed or
27 intended to be constructed a dwelling.

28 (22) "Residential mortgage loan modification" means a change in
29 one or more of a residential mortgage loan's terms or conditions.
30 Changes to a residential mortgage loan's terms or conditions include
31 but are not limited to forbearances; repayment plans; changes in
32 interest rates, loan terms, or loan types; capitalizations of
33 arrearages; or principal reductions.

34 (23) "Residential mortgage loan modification services" includes
35 negotiating, attempting to negotiate, arranging, attempting to
36 arrange, or otherwise offering to perform a residential mortgage loan
37 modification for compensation or gain. "Residential mortgage loan
38 modification services" also includes the collection of data for
39 submission to an entity performing mortgage loan modification
40 services.

1 (24) "S.A.F.E. act" means the secure and fair enforcement for
2 mortgage licensing act of 2008, Title V of the housing and economic
3 recovery act of 2008 ("HERA"), P.L. 110-289, effective July 30, 2008.

4 (25) "Senior officer" means an officer of a licensee at the vice
5 president level or above.

6 (26) "Service or servicing a loan" means on behalf of the lender
7 or investor of a residential mortgage loan: (a) Collecting or
8 receiving payments on existing obligations due and owing to the
9 lender or investor, including payments of principal, interest, escrow
10 amounts, and other amounts due; (b) collecting fees due to the
11 servicer; (c) working with the borrower and the licensed lender or
12 servicer to collect data and make decisions necessary to modify
13 certain terms of those obligations either temporarily or permanently;
14 (d) otherwise finalizing collection through the foreclosure process;
15 or (e) servicing a reverse mortgage loan.

16 (27) "Service or servicing a reverse mortgage loan" means,
17 pursuant to an agreement with the owner of a reverse mortgage loan:
18 Calculating, collecting, or receiving payments of interest or other
19 amounts due; administering advances to the borrower; and providing
20 account statements to the borrower or lender.

21 (28) "Simple interest method" means the method of computing
22 interest payable on a loan by applying the annual percentage interest
23 rate or its periodic equivalent to the unpaid balances of the
24 principal of the loan outstanding for the time outstanding.

25 (a) On a nonresidential loan each payment is applied first to any
26 unpaid penalties, fees, or charges, then to accumulated interest, and
27 the remainder of the payment applied to the unpaid balance of the
28 principal until paid in full. In using such method, interest
29 (~~shall~~)must not be payable in advance nor compounded. The
30 prohibition on compounding interest does not apply to reverse
31 mortgage loans made in accordance with the Washington state reverse
32 mortgage act. The director may adopt by rule a more detailed
33 explanation of the meaning and use of this method.

34 (b) On a residential mortgage loan payments are applied as
35 determined in the security instrument.

36 (29) "Third-party residential mortgage loan modification
37 services" means residential mortgage loan modification services
38 offered or performed by any person other than the owner or servicer
39 of the loan.

1 (30) "Third-party service provider" means any person other than
2 the licensee or a mortgage broker who provides goods or services to
3 the licensee or borrower in connection with the preparation of the
4 borrower's loan and includes, but is not limited to, credit reporting
5 agencies, real estate brokers or salespersons, title insurance
6 companies and agents, appraisers, structural and pest inspectors, or
7 escrow companies.

8 (31) "Unique identifier" means a number or other identifier
9 assigned by protocols established by the nationwide
10 (~~multistate~~)mortgage licensing system.

11 (32) "Affiliate" means any person who, directly or indirectly
12 through one or more intermediaries, controls, or is controlled by, or
13 is under common control with another person.

14 (33) "Department" means the state department of financial
15 institutions.

16 **Sec. 20.** RCW 31.04.025 and 2013 c 64 s 2 and 2013 c 29 s 2 are
17 each reenacted and amended to read as follows:

18 (1) Each loan made to a resident of this state by a licensee, or
19 persons subject to this chapter, is subject to the authority and
20 restrictions of this chapter.

21 (2) This chapter does not apply to the following:

22 (a) Any person doing business under, and as permitted by, any law
23 of this state or of the United States relating to banks, savings
24 banks, trust companies, savings and loan or building and loan
25 associations, or credit unions;

26 (b) Entities making loans under chapter 19.60 RCW (pawnbroking);

27 (c) Entities conducting transactions under chapter 63.14 RCW
28 (retail installment sales of goods and services), unless credit is
29 extended to purchase merchandise certificates, coupons, open or
30 closed loop stored value, or other similar items issued and
31 redeemable by a retail seller other than the retail seller extending
32 the credit;

33 (d) Entities making loans under chapter 31.45 RCW (check cashers
34 and sellers);

35 (e) Any person making a loan primarily for business, commercial,
36 or agricultural purposes unless the loan is secured by a lien on the
37 borrower's primary (~~residence~~)dwelling;

38 (f) Any person selling property owned by that person who provides
39 financing for the sale when the property does not contain a dwelling

1 and when the property serves as security for the financing. This
2 exemption is available for five or fewer transactions in a calendar
3 year. This exemption is not available to individuals subject to the
4 federal S.A.F.E. act or any person in the business of constructing or
5 acting as a contractor for the construction of residential dwellings.

6 (g) Any person making loans made to government or government
7 agencies or instrumentalities or making loans to organizations as
8 defined in the federal truth in lending act;

9 ~~((g))~~(h) Entities making loans under chapter 43.185 RCW
10 (housing trust fund);

11 ~~((h))~~(i) Entities making loans under programs of the United
12 States department of agriculture, department of housing and urban
13 development, or other federal government program that provides
14 funding or access to funding for single-family housing developments
15 or grants to low-income individuals for the purchase or repair of
16 single-family housing;

17 ~~((i))~~(j) Nonprofit housing organizations making loans, or loans
18 made, under housing programs that are funded in whole or in part by
19 federal or state programs if the primary purpose of the programs is
20 to assist low-income borrowers with purchasing or repairing housing
21 or the development of housing for low-income Washington state
22 residents;

23 ~~((j))~~(k) Entities making loans which are not residential
24 mortgage loans under a credit card plan;

25 ~~((k))~~(l) Individuals employed by a licensed residential
26 mortgage loan servicing company engaging in activities related to
27 servicing, unless ~~((sø))~~licensing is required by federal law or
28 regulation; and

29 ~~((l))~~(m) Entities licensed under chapter 18.44 RCW that process
30 payments on seller-financed loans secured by liens on real or
31 personal property.

32 (3) The director may, at his or her discretion, waive
33 applicability of the consumer loan company licensing provisions of
34 this chapter to other persons, not including individuals subject to
35 the S.A.F.E. act, making or servicing loans when the director
36 determines it necessary to facilitate commerce and protect consumers.
37 ~~((The director may adopt rules interpreting this section.))~~

38 (4) The burden of proving the application for an exemption or
39 exception from a definition, or a preemption of a provision of this

1 chapter, is upon the person claiming the exemption, exception, or
2 preemption.

3 (5) The director may adopt rules interpreting this section.

4 **Sec. 21.** RCW 31.04.027 and 2013 c 29 s 3 are each amended to
5 read as follows:

6 It is a violation of this chapter for a licensee, its officers,
7 directors, employees, or independent contractors, or any other person
8 subject to this chapter to:

9 (1) Directly or indirectly employ any scheme, device, or artifice
10 to defraud or mislead any borrower, to defraud or mislead any lender,
11 or to defraud or mislead any person;

12 (2) Directly or indirectly engage in any unfair or deceptive
13 practice toward any person;

14 (3) Directly or indirectly obtain property by fraud or
15 misrepresentation;

16 (4) Solicit or enter into a contract with a borrower that
17 provides in substance that the consumer loan company may earn a fee
18 or commission through the consumer loan company's best efforts to
19 obtain a loan even though no loan is actually obtained for the
20 borrower;

21 (5) Solicit, advertise, or enter into a contract for specific
22 interest rates, points, or other financing terms unless the terms are
23 actually available at the time of soliciting, advertising, or
24 contracting;

25 (6) Fail to make disclosures to loan applicants as required by
26 RCW 31.04.102 and any other applicable state or federal law;

27 (7) Make, in any manner, any false or deceptive statement or
28 representation with regard to the rates, points, or other financing
29 terms or conditions for a residential mortgage loan or engage in bait
30 and switch advertising;

31 (8) Negligently make any false statement or knowingly and
32 willfully make any omission of material fact in connection with any
33 reports filed with the department by a licensee or in connection with
34 any investigation conducted by the department;

35 (9) Make any payment, directly or indirectly, to any appraiser of
36 a property, for the purposes of influencing the independent judgment
37 of the appraiser with respect to the value of the property;

38 (10) Accept from any borrower at or near the time a loan is made
39 and in advance of any default an execution of, or induce any borrower

1 to execute, any instrument of conveyance, not including a mortgage or
2 deed of trust, to the lender of any ownership interest in the
3 borrower's primary (~~(residence)~~) dwelling that is the security for the
4 borrower's loan;

5 (11) Obtain at the time of closing a release of future damages
6 for usury or other damages or penalties provided by law or a waiver
7 of the provisions of this chapter;

8 (12) Advertise any rate of interest without conspicuously
9 disclosing the annual percentage rate implied by that rate of
10 interest;

11 (13) Violate any applicable state or federal law relating to the
12 activities governed by this chapter; or

13 (14) Make or originate loans from any unlicensed location.

14 **Sec. 22.** RCW 31.04.045 and 2014 c 36 s 5 are each amended to
15 read as follows:

16 (1) Application for a license under this chapter must be made to
17 the nationwide mortgage licensing system and registry or in the form
18 prescribed by the director. The application must contain at least the
19 following information:

20 (a) The name and the business addresses of the applicant;

21 (b) If the applicant is a partnership, limited liability company,
22 or association, the name of every member;

23 (c) If the applicant is a corporation, the name, residence
24 address, and telephone number of each officer and director;

25 (d) The street address, county, and municipality from which
26 business is to be conducted; and

27 (e) Such other information as the director may require by rule.

28 (2) As part of or in connection with an application for any
29 license under this section, or periodically upon license renewal,
30 each officer, director, and owner applicant (~~(shall)~~) must furnish
31 information concerning his or her identity, including fingerprints
32 for submission to the Washington state patrol, the federal bureau of
33 investigation, or any governmental agency or entity authorized to
34 receive this information for a state and national criminal history
35 background check; personal history; experience; business record;
36 purposes; and other pertinent facts, as the director may reasonably
37 require. As part of or in connection with an application for a
38 license under this chapter, or periodically upon license renewal, the
39 director is authorized to receive criminal history record information

1 that includes nonconviction data as defined in RCW 10.97.030. The
2 department may only disseminate nonconviction data obtained under
3 this section to criminal justice agencies. This section does not
4 apply to financial institutions regulated under chapters 31.12 and
5 31.13 RCW and Titles 30A, 32, and 33 RCW.

6 (3) At the time of filing an application for a license under this
7 chapter, each applicant shall pay to the director or through the
8 nationwide mortgage licensing system and registry an investigation
9 fee and the license fee in an amount determined by rule of the
10 director to be sufficient to cover the director's costs in
11 administering this chapter.

12 (4) Each applicant (~~shall~~)must file and maintain a surety bond,
13 approved by the director, executed by the applicant as obligor and by
14 a surety company authorized to do a surety business in this state as
15 surety, whose liability as such surety (~~shall~~)must not exceed in
16 the aggregate the penal sum of the bond. The penal sum of the bond
17 (~~shall~~)must be a minimum of thirty thousand dollars and based on
18 the annual dollar amount of loans originated or residential mortgage
19 loans serviced. The bond (~~shall~~)must run to the state of Washington
20 as obligee for the use and benefit of the state and of any person or
21 persons who may have a cause of action against the obligor under this
22 chapter. The bond (~~shall~~)must be conditioned that the obligor as
23 licensee will faithfully conform to and abide by this chapter and all
24 the rules adopted under this chapter. The bond will pay to the state
25 and any person or persons having a cause of action against the
26 obligor all moneys that may become due and owing to the state and
27 those persons under and by virtue of this chapter. The bond must be
28 continuous and may be canceled by the surety upon the surety giving
29 written notice to the director of its intent to cancel the bond. The
30 cancellation is effective forty-five days after the notice is
31 received by the director. In lieu of a surety bond, if the applicant
32 is a Washington business corporation, the applicant may maintain
33 unimpaired capital, surplus, and long-term subordinated debt in an
34 amount that at any time its outstanding promissory notes or other
35 evidences of debt (other than long-term subordinated debt) in an
36 aggregate sum do not exceed three times the aggregate amount of its
37 unimpaired capital, surplus, and long-term subordinated debt. The
38 director may define qualifying "long-term subordinated debt" for
39 purposes of this section.

1 (5) The director may waive one or more requirements of this
2 section or permit an applicant to submit other information in lieu of
3 the required information.

4 **Sec. 23.** RCW 31.04.075 and 2001 c 81 s 6 are each amended to
5 read as follows:

6 The licensee may not maintain more than one place of business
7 under the same license, but the director may issue more than one
8 license to the same licensee upon application by the licensee in a
9 form and manner established by the director.

10 Whenever a licensee wishes to change the place of business to a
11 street address other than that (~~designated in the license~~)reported
12 in the nationwide mortgage licensing system and registry, the
13 licensee (~~shall~~)must give prior written notice to the director (~~as~~
14 ~~required by rule~~), pay the (~~license~~) fee, and obtain the
15 director's approval.

16 **Sec. 24.** RCW 31.04.093 and 2014 c 36 s 6 are each amended to
17 read as follows:

18 (1) The director (~~shall~~)must enforce all laws and rules
19 relating to the licensing and regulation of licensees and persons
20 subject to this chapter.

21 (2) The director may deny applications for licenses for:

22 (a) Failure of the applicant to demonstrate within its
23 application for a license that it meets the requirements for
24 licensing in RCW 31.04.045 and 31.04.055;

25 (b) Violation of an order issued by the director under this
26 chapter or another chapter administered by the director, including
27 but not limited to cease and desist orders and temporary cease and
28 desist orders;

29 (c) Revocation or suspension of a license to conduct lending or
30 residential mortgage loan servicing, or to provide settlement
31 services associated with lending or residential mortgage loan
32 servicing, by this state, another state, or by the federal government
33 within five years of the date of submittal of a complete application
34 for a license; or

35 (d) Filing an incomplete application when that incomplete
36 application has been filed with the department for sixty or more
37 days, provided that the director has given notice to the licensee
38 that the application is incomplete, informed the applicant why the

1 application is incomplete, and allowed at least twenty days for the
2 applicant to complete the application.

3 (3) The director may condition, suspend, or revoke a license
4 issued under this chapter if the director finds that:

5 (a) The licensee has failed to pay any fee due the state of
6 Washington, has failed to maintain in effect the bond or permitted
7 substitute required under this chapter, or has failed to comply with
8 any specific order or demand of the director lawfully made and
9 directed to the licensee in accordance with this chapter;

10 (b) The licensee, either knowingly or without the exercise of due
11 care, has violated any provision of this chapter or any rule adopted
12 under this chapter; ((~~or~~))

13 (c) A fact or condition exists that, if it had existed at the
14 time of the original application for the license, clearly would have
15 allowed the director to deny the application for the original
16 license(~~(. The director may revoke or suspend only the particular~~
17 ~~license with respect to which grounds for revocation or suspension~~
18 ~~may occur or exist unless the director finds that the grounds for~~
19 ~~revocation or suspension are of general application to all offices or~~
20 ~~to more than one office operated by the licensee, in which case, the~~
21 ~~director may revoke or suspend all of the licenses issued to the~~
22 ~~licensee)); or~~

23 (d) The licensee failed to comply with any directive, order, or
24 subpoena issued by the director under this chapter.

25 The director may condition, revoke, or suspend only the particular
26 license with respect to which grounds for conditioning, revocation,
27 or suspension may occur or exist or the director may condition,
28 revoke, or suspend all of the licenses issued to the licensee.

29 (4) The director may impose fines of up to one hundred dollars
30 per day, per violation, upon the licensee, its employee or loan
31 originator, or other person subject to this chapter for:

32 (a) Any violation of this chapter; or

33 (b) Failure to comply with any directive, order, or subpoena
34 issued by the director under this chapter.

35 (5) The director may issue an order directing the licensee, its
36 employee or loan originator, or other person subject to this chapter
37 to:

38 (a) Cease and desist from conducting business in a manner that is
39 injurious to the public or violates any provision of this chapter;

1 (b) Take such affirmative action as is necessary to comply with
2 this chapter; ((~~or~~))

3 (c) Make a refund or restitution to a borrower or other person
4 who is damaged as a result of a violation of this chapter;

5 (d) Refund all fees received through any violation of this
6 chapter.

7 (6) The director may issue an order removing from office or
8 prohibiting from participation in the affairs of any licensee, or
9 both, any officer, principal, employee or mortgage loan originator,
10 or any person subject to this chapter for:

11 (a) False statements or omission of material information from an
12 application for a license that, if known, would have allowed the
13 director to deny the original application for a license;

14 (b) Conviction of a gross misdemeanor involving dishonesty or
15 financial misconduct or a felony;

16 (c) Suspension or revocation of a license to engage in lending or
17 residential mortgage loan servicing, or perform a settlement service
18 related to lending or residential mortgage loan servicing, in this
19 state or another state;

20 (d) Failure to comply with any order or subpoena issued under
21 this chapter;

22 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or
23 31.04.221; or

24 (f) Failure to obtain a license for activity that requires a
25 license.

26 (7) Except to the extent prohibited by another statute, the
27 director may engage in informal settlement of complaints or
28 enforcement actions including, but not limited to, payment to the
29 department for purposes of financial literacy and education programs
30 authorized under RCW 43.320.150. If any person subject to this
31 chapter makes a payment to the department under this section, the
32 person may not advertise such payment.

33 (8) Whenever the director determines that the public is likely to
34 be substantially injured by delay in issuing a cease and desist
35 order, the director may immediately issue a temporary cease and
36 desist order. The order may direct the licensee to discontinue any
37 violation of this chapter, to take such affirmative action as is
38 necessary to comply with this chapter, and may include a summary
39 suspension of the licensee's license and may order the licensee to
40 immediately cease the conduct of business under this chapter. The

1 order (~~shall~~) becomes effective at the time specified in the order.
2 Every temporary cease and desist order (~~shall~~)must include a
3 provision that a hearing will be held upon request to determine
4 whether the order will become permanent. Such hearing (~~shall~~)must
5 be held within fourteen days of receipt of a request for a hearing
6 unless otherwise specified in chapter 34.05 RCW.

7 (9) A licensee may surrender a license by delivering to the
8 director written notice of surrender, but the surrender does not
9 affect the licensee's civil or criminal liability, if any, for acts
10 committed before the surrender, including any administrative action
11 initiated by the director to suspend or revoke a license, impose
12 fines, compel the payment of restitution to borrowers or other
13 persons, or exercise any other authority under this chapter. The
14 statute of limitations on actions not subject to RCW 4.16.160 that
15 are brought under this chapter by the director is five years.

16 (10) The revocation, suspension, or surrender of a license does
17 not impair or affect the obligation of a preexisting lawful contract
18 between the licensee and a borrower.

19 (11) Every license issued under this chapter remains in force and
20 effect until it has been surrendered, revoked, or suspended in
21 accordance with this chapter. However, the director may on his or her
22 own initiative reinstate suspended licenses or issue new licenses to
23 a licensee whose license or licenses have been revoked if the
24 director finds that the licensee meets all the requirements of this
25 chapter.

26 (12) A license issued under this chapter expires upon the
27 licensee's failure to comply with the annual assessment requirements
28 in RCW 31.04.085, and the rules. The department must provide notice
29 of the expiration to the address of record provided by the licensee.
30 On the 15th day after the department provides notice, if the
31 assessment remains unpaid, the license expires. The licensee must
32 receive notice prior to expiration and have the opportunity to stop
33 the expiration as set forth in rule.

34 NEW SECTION. **Sec. 25.** A new section is added to chapter 31.04
35 RCW to read as follows:

36 (1) A residential mortgage loan servicer licensee must maintain
37 liquidity, operating reserves, and a tangible net worth in accordance
38 with generally accepted accounting principles as determined by the
39 director. The director may adopt rules to interpret this subsection.

1 (2) A residential mortgage loan servicer that is a Fannie Mae or
2 Freddie Mac-approved servicer meets the requirements of subsection
3 (1) of this section if the liquidity, operating reserves, and
4 tangible net worth each meet the standards of the government-
5 sponsored enterprise for which they are approved. For loans serviced
6 that would not otherwise be subject to the liquidity, operating
7 reserves, and tangible net worth requirements of Fannie Mae or
8 Freddie Mac, the residential mortgage loan servicer must maintain
9 liquidity, operating reserves, and tangible net worth consistent with
10 the highest standards of the government-sponsored entity or entities
11 for which they are approved.

12 (3) If a licensee's liquidity, operating reserves, or tangible
13 net worth fall below the amount required under subsection (1) or (2)
14 of this section, the director or the director's designee may initiate
15 an action.

16 NEW SECTION. **Sec. 26.** A new section is added to chapter 31.04
17 RCW to read as follows:

18 Upon application by the director and upon a showing that the
19 interests of borrowers or creditors so requires, the superior court
20 may appoint a receiver to take over, operate, or liquidate any
21 residential mortgage loan servicer.

22 **Sec. 27.** RCW 31.04.102 and 2013 c 29 s 6 are each amended to
23 read as follows:

24 (1) For all loans made by a licensee that are not secured by a
25 lien on real property, the licensee must make disclosures in
26 compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and
27 regulation Z, 12 C.F.R. Part ((226))1026, and all other applicable
28 federal laws and regulations.

29 (2) For all loans made by a licensee that are secured by a lien
30 on real property, the licensee ((shall))must provide to each borrower
31 within three business days following receipt of a loan application a
32 written disclosure containing an itemized estimation and explanation
33 of all fees and costs that the borrower is required to pay in
34 connection with obtaining a loan from the licensee. A good faith
35 estimate of a fee or cost ((shall))must be provided if the exact
36 amount of the fee or cost is not available when the disclosure is
37 provided. Disclosure in a form which complies with the requirements
38 of the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12

1 C.F.R. Part ~~((226))~~1026, the real estate settlement procedures act
2 and regulation X, 24 C.F.R. ~~((Sec. 3500))~~Part 1024, and all other
3 applicable federal laws and regulations, as now or hereafter amended,
4 ~~((shall be deemed to))~~ constitutes compliance with this disclosure
5 requirement. Each licensee ~~((shall))~~must comply with all other
6 applicable federal and state laws and regulations.

7 (3) In addition, for all loans made by the licensee that are
8 secured by a lien on real property, the licensee must provide to the
9 borrower an estimate of the annual percentage rate on the loan and a
10 disclosure of whether or not the loan contains a prepayment penalty
11 within three days of receipt of a loan application. The annual
12 percentage rate must be calculated in compliance with the truth in
13 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part
14 ~~((226))~~1024. If a licensee provides the borrower with a disclosure in
15 compliance with the requirements of the truth in lending act within
16 three business days of receipt of a loan application, then the
17 licensee has complied with this subsection. If the director
18 determines that the federal government has required a disclosure that
19 substantially meets the objectives of this subsection, then the
20 director may make a determination by rule that compliance with this
21 federal disclosure requirement constitutes compliance with this
22 subsection.

23 (4) In addition for all consumer loans made by the licensee that
24 are secured by a lien on real property, the licensee must comply with
25 RCW 19.144.020.

26 **Sec. 28.** RCW 31.04.105 and 2013 c 29 s 7 are each amended to
27 read as follows:

28 Every licensee may:

29 (1) Lend money at a rate that does not exceed twenty-five percent
30 per annum as determined by the simple interest method of calculating
31 interest owed;

32 (2) In connection with the making of a loan, charge the borrower
33 a nonrefundable, prepaid, loan origination fee not to exceed four
34 percent of the first twenty thousand dollars and two percent
35 thereafter of the principal amount of the loan advanced to or for the
36 direct benefit of the borrower, which fee may be included in the
37 principal balance of the loan;

38 (3) Agree with the borrower for the payment of fees to third
39 parties other than the licensee who provide goods or services to the

1 licensee in connection with the preparation of the borrower's loan,
2 including, but not limited to, credit reporting agencies, title
3 companies, appraisers, structural and pest inspectors, and escrow
4 companies, when such fees are actually paid by the licensee to a
5 third party for such services or purposes and may include such fees
6 in the amount of the loan. However, no charge may be collected unless
7 a loan is made, except for reasonable fees properly incurred for a
8 credit report and in connection with the appraisal of property by a
9 qualified, independent, professional, third-party appraiser selected
10 by the borrower and approved by the lender or in the absence of
11 borrower selection, selected by the lender;

12 (4) In connection with the making of a loan secured by real
13 estate, when the borrower actually obtains a loan, agree with the
14 borrower to pay a fee to a mortgage broker that is not owned by the
15 licensee or under common ownership with the licensee and that
16 performed services in connection with the origination of the loan. A
17 licensee may not receive compensation as a mortgage broker in
18 connection with any loan made by the licensee;

19 (5) Collect at the time of the loan closing up to but not
20 exceeding forty-five days of prepaid interest;

21 (6) Charge and collect a penalty of not more than ten percent of
22 any installment payment delinquent ten days or more;

23 (7) Collect from the debtor reasonable attorneys' fees, actual
24 expenses, and costs incurred in connection with the collection of a
25 delinquent debt, a repossession, or a foreclosure when a debt is
26 referred for collection to an attorney who is not a salaried employee
27 of the licensee;

28 (8) Make open-end loans as provided in this chapter;

29 (9) Charge and collect a fee for dishonored checks in an amount
30 approved by the director; and

31 (10) In accordance with Title 48 RCW, sell insurance covering
32 real and personal property, covering the life or disability or both
33 of the borrower, and covering the involuntary unemployment of the
34 borrower.

35 **Sec. 29.** RCW 31.04.145 and 2012 c 17 s 5 are each amended to
36 read as follows:

37 (1) For the purpose of discovering violations of this chapter or
38 securing information lawfully required under this chapter, the
39 director may at any time, either personally or by designees,

1 investigate or examine the loans and business and, wherever located,
2 the books, accounts, records, papers, documents, files, and other
3 information used in the business of every licensee and of every
4 person who is engaged in the business making or assisting in the
5 making of loans at interest rates authorized by this chapter, whether
6 the person acts or claims to act as principal or agent, or under or
7 without the authority of this chapter. The director or designated
8 representative:

9 (a) (~~shall~~) Must have free access to the employees, offices, and
10 places of business, books, accounts, papers, documents, other
11 information, records, files, safes, and vaults of all such persons
12 during normal business hours;

13 (b) May require the attendance of and examine under oath all
14 persons whose testimony may be required about the loans or the
15 business or the subject matter of any investigation, examination, or
16 hearing and may require such person to produce books, accounts,
17 papers, records, files, and any other information the director or
18 designated persons deem relevant to the inquiry;

19 (c) May require by directive, subpoena, or any other lawful means
20 the production of original books, accounts, papers, records, files,
21 and other information; may require that such original books,
22 accounts, papers, records, files, and other information be copied; or
23 may make copies of such original books, accounts, papers, records,
24 files, or other information;

25 (d) May issue a subpoena or subpoena duces tecum requiring
26 attendance by any person identified in this section or compelling
27 production of any books, accounts, papers, records, files, or other
28 documents or information identified in this section.

29 (2) The director (~~shall~~) must make such periodic examinations of
30 the affairs, business, office, and records of each licensee as
31 determined by rule.

32 (3) Every licensee examined or investigated by the director or
33 the director's designee (~~shall~~) must pay to the director the cost of
34 the examination or investigation of each licensed place of business
35 as determined by rule by the director.

36 (4) In order to carry out the purposes of this section, the
37 director may:

38 (a) Retain attorneys, accountants, or other professionals and
39 specialists as examiners, auditors, or investigators to conduct or
40 assist in the conduct of examinations or investigations;

1 (b) Enter into agreements or relationships with other government
2 officials or regulatory associations in order to improve efficiencies
3 and reduce regulatory burden by sharing resources, standardized or
4 uniform methods or procedures, and documents, records, information,
5 or evidence obtained under this section;

6 (c) Use, hire, contract, or employ public or privately available
7 analytical systems, methods, or software to examine or investigate
8 the licensee, individual, or person subject to chapter 120, Laws of
9 2009;

10 (d) Accept and rely on examination or investigation reports made
11 by other government officials, within or without this state;

12 (e) Accept audit reports made by an independent certified public
13 accountant for the licensee, individual, or person subject to chapter
14 120, Laws of 2009 in the course of that part of the examination
15 covering the same general subject matter as the audit and may
16 incorporate the audit report in the report of the examination, report
17 of investigation, or other writing of the director; or

18 (f) Assess the licensee, individual, or person subject to chapter
19 120, Laws of 2009 the cost of the services in (a) of this subsection.

20 **Sec. 30.** RCW 31.04.205 and 2001 c 81 s 16 are each amended to
21 read as follows:

22 (1) The director or designated persons may, at his or her
23 discretion, take such action as provided for in this chapter to
24 enforce this chapter. If the person subject to such action does not
25 appear in person or by counsel at the time and place designated for
26 any administrative hearing that may be held on the action, then the
27 person (~~shall be~~)is deemed to consent to the action. If the person
28 subject to the action consents, or if after hearing the director
29 finds by a preponderance of the evidence that any grounds for
30 sanctions under this chapter exist, then the director may impose any
31 sanction authorized by this chapter.

32 (2) The director may recover the state's costs and expenses for
33 prosecuting violations of this chapter including staff time spent
34 preparing for and attending administrative hearings and reasonable
35 attorneys' fees unless, after a hearing, the director determines no
36 violation occurred.

37 **Sec. 31.** RCW 31.04.221 and 2013 c 29 s 9 are each amended to
38 read as follows:

1 An individual defined as a mortgage loan originator (~~shall~~)must
2 not engage in the business of a mortgage loan originator without
3 first obtaining and maintaining annually a license under this
4 chapter. Each licensed mortgage loan originator must register with
5 and maintain a valid unique identifier issued by the nationwide
6 (~~multistate~~)mortgage licensing system.

7 **Sec. 32.** RCW 31.04.224 and 2012 c 17 s 6 are each amended to
8 read as follows:

9 The following are exempt from licensing as mortgage loan
10 originators under this chapter:

11 (1) Registered mortgage loan originators, or any individual
12 required to be registered while actively employed by a covered
13 financial institution as defined in regulation G, 12 C.F.R. Part
14 1007.102;

15 (2) (~~A licensed~~)An attorney licensed in Washington who
16 negotiates the terms of a residential mortgage loan on behalf of a
17 client as an ancillary matter to the attorney's representation of the
18 client, unless the attorney is compensated by a lender, a mortgage
19 broker, or other mortgage loan originator or by any agent of a
20 lender, mortgage broker, or other mortgage loan originator;

21 (3) Any individual who offers or negotiates terms of a
22 residential mortgage loan with or on behalf of an immediate family
23 member; or

24 (4) Any individual who offers or negotiates terms of a
25 residential mortgage loan secured by a dwelling that served as the
26 individual's residence.

27 **Sec. 33.** RCW 31.04.247 and 2009 c 120 s 18 are each amended to
28 read as follows:

29 (1) The director (~~shall~~)must issue and deliver a mortgage loan
30 originator license if, after investigation, the director makes at a
31 minimum the following findings:

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

33 (b) The applicant has met the requirements of this chapter;

34 (c) The applicant has never had a mortgage loan originator
35 license revoked in any governmental jurisdiction, except that, for
36 the purposes of this subsection, a subsequent formal vacation of such
37 revocation is not a revocation;

1 (d) The applicant has not been convicted of a gross misdemeanor
2 involving dishonesty or financial misconduct or has not been
3 convicted of, or pled guilty or nolo contendere to, a felony in a
4 domestic, foreign, or military court (i) during the seven-year period
5 preceding the date of the application for licensing and registration;
6 or (ii) at any time preceding the date of application, if the felony
7 involved an act of fraud, dishonesty, breach of trust, or money
8 laundering;

9 (e) The applicant has demonstrated financial responsibility,
10 character, and general fitness such as to command the confidence of
11 the community and to warrant a determination that the mortgage loan
12 originator will operate honestly, fairly, and efficiently within the
13 purposes of chapter 120, Laws of 2009. For the purposes of this
14 section, an applicant has not demonstrated financial responsibility
15 when the applicant shows disregard in the management of his or her
16 financial condition. A determination that an individual has shown
17 disregard in the management of his or her financial condition may
18 include, but is not limited to, an assessment of: Current outstanding
19 judgments, except judgments solely as a result of medical expenses;
20 current outstanding tax liens or other government liens and filings;
21 foreclosures within the last three years; or a pattern of seriously
22 delinquent accounts within the past three years;

23 (f) The applicant has completed the prelicensing education
24 requirement as required by this chapter;

25 (g) The applicant has passed a written test that meets the test
26 requirement as required by this chapter;

27 (h) The consumer loan licensee that the applicant works for has
28 met the surety bond requirement as required by this chapter;

29 (i) The applicant has not been found to be in violation of this
30 chapter or rules adopted under this chapter;

31 (j) The mortgage loan originator licensee has completed, during
32 the calendar year preceding a licensee's annual license renewal date,
33 continuing education as required by this chapter.

34 (2) If the director finds the conditions of this section have not
35 been met, the director (~~shall~~)must not issue the mortgage loan
36 originator license. The director (~~shall~~)must notify the applicant
37 of the denial and return to the mortgage loan originator applicant
38 any remaining portion of the license fee that exceeds the
39 department's actual cost to investigate the license.

1 **Sec. 34.** RCW 31.04.277 and 2010 c 35 s 8 are each amended to
2 read as follows:

3 Each consumer loan company licensee who makes, services, or
4 brokers a loan secured by real property (~~shall~~)must submit
5 (~~to~~)call reports through the nationwide mortgage licensing system
6 and registry (~~reports of condition, which must be in the~~)in a form
7 and (~~must contain~~)containing the information (~~as~~)prescribed by
8 the director or as deemed necessary by the nationwide mortgage
9 licensing system and registry (~~may require~~).

10 **Sec. 35.** RCW 31.04.290 and 2013 c 29 s 10 are each amended to
11 read as follows:

12 (1) A residential mortgage loan servicer must comply with the
13 following requirements:

14 (a) (~~The requirements of chapter 19.148 RCW;~~

15 ~~b~~) Any fee that is assessed by a servicer must be assessed
16 within forty-five days of the date on which the fee was incurred and
17 must be explained clearly and conspicuously in a statement mailed to
18 the borrower at the borrower's last known address no more than thirty
19 days after assessing the fee;

20 (~~c~~)(b) All amounts received by a servicer on a residential
21 mortgage loan at the address where the borrower has been instructed
22 to make payments must be accepted and credited, or treated as
23 credited, within one business day of the date received, provided that
24 the borrower has provided sufficient information to credit the
25 account. If a servicer uses the scheduled method of accounting, any
26 regularly scheduled payment made prior to the scheduled due date must
27 be credited no later than the due date. If any payment is received
28 and not credited, or treated as credited, the borrower must be
29 notified of the disposition of the payment within ten business days
30 by mail at the borrower's last known address. The notification must
31 identify the reason the payment was not credited or treated as
32 credited to the account, as well as any actions the borrower must
33 take to make the residential mortgage loan current;

34 (~~d~~)(c) Any servicer that exercises the authority to collect
35 escrow amounts on a residential mortgage loan held for the borrower
36 for payment of insurance, taxes, and other charges with respect to
37 the property (~~shall~~)must collect and make all such payments from
38 the escrow account and ensure that no late penalties are assessed or
39 other negative consequences result for the borrower;

1 ~~((e))~~(d) The servicer ~~((shall))~~must make reasonable attempts to
2 comply with a borrower's request for information about the
3 residential mortgage loan account and to respond to any dispute
4 initiated by the borrower about the loan account. The servicer:

5 (i) Must maintain written or electronic records of each written
6 request for information regarding a dispute or error involving the
7 borrower's account until the residential mortgage loan is paid in
8 full, sold, or otherwise satisfied; and

9 (ii) Must provide a written statement to the borrower within
10 fifteen business days of receipt of a written request from the
11 borrower. The borrower's request must include the name and account
12 number, if any, of the borrower, a statement that the account is or
13 may be in error, and sufficient detail regarding the information
14 sought by the borrower to permit the servicer to comply. At a
15 minimum, the servicer's response to the borrower's request must
16 include the following information:

17 (A) Whether the account is current or, if the account is not
18 current, an explanation of the default and the date the account went
19 into default;

20 (B) The current balance due on the residential mortgage loan,
21 including the principal due, the amount of funds, if any, held in a
22 suspense account, the amount of the escrow balance known to the
23 servicer, if any, and whether there are any escrow deficiencies or
24 shortages known to the servicer;

25 (C) The identity, address, and other relevant information about
26 the current holder, owner, or assignee of the residential mortgage
27 loan; and

28 (D) The telephone number and mailing address of a servicer
29 representative with the information and authority to answer questions
30 and resolve disputes; and

31 ~~((f))~~(e) Promptly correct any errors and refund any fees
32 assessed to the borrower resulting from the servicer's error.

33 (2) In addition to the statement in subsection (1)~~((e))~~(d)(ii)
34 of this section, a borrower may request more detailed information
35 from a servicer, and the servicer must provide the information within
36 fifteen business days of receipt of a written request from the
37 borrower. The request must include the name and account number, if
38 any, of the borrower, a statement that the account is or may be in
39 error, and provide sufficient detail to the servicer regarding

1 information sought by the borrower. If requested by the borrower this
2 statement must include:

3 (a) A copy of the original note, or if unavailable, an affidavit
4 of lost note; and

5 (b) A statement that identifies and itemizes all fees and charges
6 assessed under the loan transaction and provides a full payment
7 history identifying in a clear and conspicuous manner all of the
8 debits, credits, application of and disbursement of all payments
9 received from or for the benefit of the borrower, and other activity
10 on the residential mortgage loan including escrow account activity
11 and suspense account activity, if any. The period of the account
12 history (~~shall~~)must cover at a minimum the two-year period prior to
13 the date of the receipt of the request for information. If the
14 servicer has not serviced the residential mortgage loan for the
15 entire two-year time period the servicer (~~shall~~)must provide the
16 information going back to the date on which the servicer began
17 servicing the home loan, and identify the previous servicer, if
18 known. If the servicer claims that any delinquent or outstanding sums
19 are owed on the home loan prior to the two-year period or the period
20 during which the servicer has serviced the residential mortgage loan,
21 the servicer (~~shall~~)must provide an account history beginning with
22 the month that the servicer claims any outstanding sums are owed on
23 the residential mortgage loan up to the date of the request for the
24 information. The borrower may request annually one statement free of
25 charge.

26 **Sec. 36.** RCW 31.04.520 and 2009 c 149 s 4 are each amended to
27 read as follows:

28 The borrower in a proprietary reverse mortgage transaction has
29 the same right to rescind the transaction as provided in the truth in
30 lending act, Regulation Z, 12 C.F.R. (~~Sec. 226~~)Part 1026.

31 NEW SECTION. **Sec. 37.** The following acts or parts of acts are
32 each repealed:

33 (1) RCW 19.146.290 (Licensee to provide director with annual
34 report of mortgage broker activity) and 2006 c 19 s 18; and

35 (2) RCW 19.146.330 (Loan originator—Limit on applications taken)
36 and 2006 c 19 s 22.

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