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ENGROSSED SECOND SUBSTITUTE SENATE BILL 6029

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State of Washington

65th Legislature

2018 Regular Session

By Senate Ways & Means (originally sponsored by Senators Lias, Ranker, Fain, Frockt, Billig, Darneille, Palumbo, Rolfes, Keiser, Cleveland, Pedersen, Hunt, Wellman, Conway, Chase, Saldaña, Kuderer, Hasegawa, and Mullet; by request of Attorney General)

READ FIRST TIME 02/06/18.

1 AN ACT Relating to establishing a student loan bill of rights;  
2 amending RCW 28B.10.285, 43.320.110, 31.04.027, 31.04.035, 31.04.093,  
3 31.04.102, 31.04.145, 31.04.165, 31.04.277, and 31.04.310; reenacting  
4 and amending RCW 31.04.015; adding new sections to chapter 28B.77  
5 RCW; adding new sections to chapter 31.04 RCW; and creating new  
6 sections.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 28B.77  
9 RCW to read as follows:

10 (1) The council shall designate a student loan advocate within  
11 the office to provide timely assistance to any student education loan  
12 borrower with any student education loan. The student loan advocate  
13 may hire additional staff as necessary to implement this section.

14 (2) The student loan advocate receives and reviews complaints  
15 from student education loan borrowers. Complaints regarding student  
16 education loan servicers licensed or subject to licensing under  
17 chapter 31.04 RCW must be referred to the department of financial  
18 institutions. The department of financial institutions investigates  
19 complaints received by the student loan advocate, and from the public  
20 who may also submit complaints directly to the department of  
21 financial institutions.

1 (3) The student loan advocate, in collaboration with the attorney  
2 general's office, receives, reviews, and refers to the attorney  
3 general's consumer protection division all other complaints from  
4 student education loan borrowers regarding student education loan  
5 servicers whose activities are not subject to licensure by chapter  
6 31.04 RCW.

7 (4) The student loan advocate, the department of financial  
8 institutions, and the office of the attorney general shall confer  
9 annually regarding the student education loan servicer complaints,  
10 the proper referral processes for those complaints, and the reporting  
11 requirements of the advocate under chapter 31.04 RCW and this  
12 section.

13 (5) The student loan advocate has the following duties:

14 (a) Compile and analyze data on student education loan borrower  
15 complaints received and referred to the department of financial  
16 institutions and the office of the attorney general;

17 (b) Assist student education loan borrowers in understanding  
18 rights and responsibilities under the terms of student education  
19 loans, including reviewing the complete student education loan  
20 history for any student education loan borrower who has provided  
21 written consent for the review;

22 (c) Provide information to the public, agencies, legislators, and  
23 others regarding the problems and concerns of student education loan  
24 borrowers and make recommendations for resolving those problems and  
25 concerns;

26 (d) Analyze and monitor the development and implementation of  
27 federal, state, and local laws, rules, regulations, and policies  
28 relating to student education loan borrowers and recommend any  
29 changes the student loan advocate deems necessary;

30 (e) Assess the number of residents with federal student education  
31 loans who have applied for, received, or are awaiting a decision on  
32 forgiveness or discharge of a student education loan on a comparable  
33 annual basis, subject to the availability of applicable data;

34 (f) Disseminate information concerning the availability of the  
35 student loan advocate to assist student education loan borrowers and  
36 potential student education loan borrowers, as well as institutions  
37 of higher education, student education loan servicers, and any other  
38 participant in student education loan lending, with any student  
39 education loan concerns;

1 (g) Take any action reasonably calculated or intended to assist  
2 student education loan borrowers, including providing assistance  
3 applying for forgiveness or discharge of a student education loan and  
4 communicating with a student education loan servicer to resolve a  
5 complaint received by the advocate from a student education loan  
6 borrower; and

7 (h) Take any other actions necessary to fulfill the duties of the  
8 student loan advocate as provided in chapter 31.04 RCW and this  
9 section.

10 (6) By October 1, 2020, the student loan advocate shall establish  
11 and maintain a student education loan borrower education course that  
12 includes educational presentations and materials regarding issues  
13 surrounding student education loans. The course must include, but not  
14 be limited to, key loan terms, documentation requirements, monthly  
15 payment obligations, income-driven repayment options, loan  
16 forgiveness, refund, and discharge, state-based tuition recovery,  
17 disclosures, federal consumer information and warnings, federal  
18 regulations intended to protect federal student loan borrowers,  
19 options for submitting complaints to the student loan advocate and  
20 state and federal agencies, and specific benefits and options for  
21 military service members and veterans.

22 (7) By December 31, 2020, the council shall submit a report to  
23 the appropriate committees of the legislature having jurisdiction  
24 over matters relating to financial institutions and higher education.  
25 The council shall report on: (a) The implementation of this section;  
26 (b) the overall effectiveness of the student loan advocate; (c) the  
27 types of complaints received regarding student education loan  
28 borrowing, student education loan repayments and servicing, and how  
29 these complaints are resolved; and (d) other data on outstanding  
30 student education loan issues faced by borrowers.

31 (8) Implementation of this section by the council is subject to  
32 the availability of amounts appropriated and the balance of the  
33 student loan advocate account.

34 **Sec. 2.** RCW 28B.10.285 and 2017 c 154 s 2 are each amended to  
35 read as follows:

36 (1) The definitions in this subsection apply throughout this  
37 section unless the context clearly requires otherwise.

38 (a) "Educational institution" includes any entity that is an  
39 institution of higher education as defined in RCW 28B.10.016, a

1 degree-granting institution as defined in RCW 28B.85.010, a private  
2 vocational school as defined in RCW 28C.10.020, or school as defined  
3 in RCW 18.16.020.

4 (b) "Student education loan" means any loan solely for personal  
5 use to finance postsecondary education and costs of attendance at an  
6 educational institution.

7 (2) (~~Subject to the availability of amounts appropriated for~~  
8 ~~this specific purpose,~~) An educational institution must provide to  
9 an enrolled student who has applied for student financial aid a  
10 notification including the following information about the student  
11 education loans the educational institution has certified:

12 (a) An estimate, based on information available at the time the  
13 notification is provided, of the:

14 (i) Total amount of student education loans taken out by the  
15 student;

16 (ii) Potential total payoff amount of the student education loans  
17 incurred or a range of the total payoff amount, including principal  
18 and interest;

19 (iii) The monthly repayment amount that the student may incur for  
20 the amount of student education loans the student has taken out,  
21 based on the federal loan repayment plan borrowers are automatically  
22 enrolled in if they do not select an alternative repayment plan;  
23 (~~and~~)

24 (iv) A statement that income-driven repayment plans may allow a  
25 federal student loan borrower to reduce their monthly payment  
26 according to a percentage of their income, and a brief summary of the  
27 potentially applicable plans; and

28 (v) Percentage of the aggregate federal direct loan borrowing  
29 limit applicable to the student's program of study the student has  
30 reached at the time the information is sent to the student; and

31 (b) Consumer information about the differences between private  
32 student loans and federal student loans, including a brief overview  
33 of the availability of income-((based)) driven repayment plans and  
34 loan forgiveness programs for federal loans.

35 (3) The notification provided under subsection (2) of this  
36 section must include a statement that the estimates and ranges  
37 provided are general in nature and not meant as a guarantee or  
38 promise of the actual projected amount. It must also include a  
39 statement that a variety of repayment plans are available for federal

1 student loans that may limit the monthly repayment amount based on  
2 income.

3 (4) The notification must include information about how to access  
4 resources for student education loan borrowers provided by federal or  
5 state agencies, such as a student education loan debt hotline and web  
6 site or student ~~((education))~~ loan ~~((ombuds))~~ advocate, federal  
7 student loan repayment calculator, complaint portals, or other  
8 available resources. This information must include contact  
9 information for the student loan advocate established pursuant to  
10 section 1 of this act.

11 (5) An educational institution must provide the notification  
12 required in subsection (2) of this section via email. In addition,  
13 the educational institution may provide the notification in writing,  
14 in an electronic format, or in person.

15 (6) An educational institution does not incur liability,  
16 including for actions under chapter 19.86 RCW by the attorney  
17 general, for any good faith representations made under subsection (2)  
18 of this section.

19 (7) Educational institutions must begin providing the  
20 notification required under subsection (2) of this section by July 1,  
21 2018, each time a financial aid package that includes a new or  
22 revised student education loan is offered to the student.

23 (8) Subject to the availability of amounts appropriated for this  
24 specific purpose, an organization representing the public four-year  
25 colleges and universities, an organization representing the private  
26 nonprofit institutions, the state board for community and technical  
27 colleges under chapter 28B.50 RCW, the workforce training and  
28 education coordinating board as defined in RCW 28C.18.020, and the  
29 department of licensing under chapter 46.01 RCW, must develop a form  
30 for the educational institutions to use to report compliance by July  
31 1, 2018.

32 (9) Beginning December 1, 2019, and biannually thereafter until  
33 December 25, 2025, the organizations under subsection (8) of this  
34 section must submit a report in compliance with RCW 43.01.036 to the  
35 legislature that details how the educational institutions are in  
36 compliance with this section.

37 NEW SECTION. Sec. 3. A new section is added to chapter 31.04  
38 RCW to read as follows:

1 (1) The director shall establish fees by rule sufficient to cover  
2 the costs of administering the department's program for student  
3 education loan servicers and the student achievement council's  
4 student loan advocate. These fees may include:

5 (a) An annual assessment specified in rule by the director paid  
6 by each licensee on or before the annual assessment due date;

7 (b) A late fee for late payment of the annual assessment as  
8 specified in rule by the director;

9 (c) Hourly investigation and examination fees to cover the costs  
10 of any investigation or examination of the books and records of a  
11 licensee or other person subject to this chapter;

12 (d) A nonrefundable application fee to cover the costs of  
13 processing license applications made to the director under this  
14 chapter;

15 (e) An initial license fee to cover the period from the date of  
16 licensure to the end of the calendar year in which the license is  
17 initially granted; and

18 (f) A transaction fee or set of transaction fees to cover the  
19 administrative costs associated with processing changes in control,  
20 changes of address, and other administrative changes as specified in  
21 rule by the director.

22 (2) The director shall ensure that when an examination or  
23 investigation, or any part of the examination or investigation, of  
24 any licensee applicant or person subject to licensing under this  
25 chapter requires travel and services outside this state by the  
26 director or designee, the licensee applicant or person subject to  
27 licensing under this chapter that is the subject of the examination  
28 or investigation shall pay the actual travel expenses incurred by the  
29 director or designee conducting the examination or investigation.

30 (3) All moneys, fees, and penalties collected for the  
31 department's program for student education loan servicing shall be  
32 deposited into the financial services regulation fund, except as  
33 provided in RCW 43.320.110.

34 (4) The director's obligations or duties under chapter . . . ,  
35 Laws of 2018 (this act) are subject to section 21 of this act.

36 **Sec. 4.** RCW 43.320.110 and 2017 3rd sp.s. c 1 s 976 are each  
37 amended to read as follows:

38 (1) There is created a local fund known as the "financial  
39 services regulation fund" which shall consist of all moneys received

1 by the divisions of the department of financial institutions, except  
2 for the division of securities which shall deposit thirteen percent  
3 of all moneys received, except as provided in RCW 43.320.115, and  
4 which shall be used for the purchase of supplies and necessary  
5 equipment; the payment of salaries, wages, and utilities; the  
6 establishment of reserves; and other incidental costs required for  
7 the proper regulation of individuals and entities subject to  
8 regulation by the department. The state treasurer shall be the  
9 custodian of the fund. Disbursements from the fund shall be on  
10 authorization of the director of financial institutions or the  
11 director's designee. In order to maintain an effective expenditure  
12 and revenue control, the fund shall be subject in all respects to  
13 chapter 43.88 RCW, but no appropriation is required to permit  
14 expenditures and payment of obligations from the fund.

15 (2) During the ((2015-2017)) 2017-2019 fiscal biennium, the  
16 legislature may transfer from the financial services regulation fund  
17 to the state general fund such amounts as reflect the excess fund  
18 balance of the fund. During the ((2015-2017 and)) 2017-2019 fiscal  
19 ((biennia)) biennium, moneys from the financial services regulation  
20 fund may be appropriated for the family prosperity account program at  
21 the department of commerce and for the operations of the department  
22 of revenue.

23 (3)(a) Beginning in the 2020-2021 fiscal year, the state  
24 treasurer shall annually transfer from the fund to the student loan  
25 advocate account created in section 5 of this act, the greater of one  
26 hundred seventy-five thousand dollars or twenty percent of the annual  
27 assessment derived from student education loan servicing.

28 (b) The department must provide information to the state  
29 treasurer regarding the amount of the annual assessment derived from  
30 student education loan servicing.

31 (4) The director's obligations or duties under chapter . . . ,  
32 Laws of 2018 (this act) are subject to section 21 of this act.

33 NEW SECTION. Sec. 5. A new section is added to chapter 28B.77  
34 RCW to read as follows:

35 The student loan advocate account is created in the custody of  
36 the state treasurer. Expenditures from the account may be used only  
37 for the purpose of covering the costs of administering the student  
38 loan advocate program created in section 1 of this act. Only the  
39 executive director of the council or the director's designee may

1 authorize expenditures from the account. The account is subject to  
2 allotment procedures under chapter 43.88 RCW, but an appropriation is  
3 not required for expenditure.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 31.04  
5 RCW to read as follows:

6 (1) In addition to complying with any applicable federal program  
7 requirements, a student education loan servicer must comply with the  
8 following requirements:

9 (a) Any fee that is assessed by a servicer must be assessed  
10 within forty-five days of the date on which the fee was incurred and  
11 must be explained clearly and conspicuously in a statement mailed to  
12 the borrower at the borrower's last known address no more than thirty  
13 days after assessing the fee, or provided via email if the borrower  
14 has assented to receive electronic communications;

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

29 (c) The servicer must make reasonable attempts to comply with a  
30 borrower's request for information about the student education loan  
31 account and to respond to any dispute initiated by the borrower about  
32 the loan account. The servicer:

33 (i) Must maintain written or electronic records of each written  
34 request for information regarding a dispute or error involving the  
35 borrower's account until the student education loan is paid in full,  
36 sold, or otherwise satisfied; and

37 (ii) Must provide a written statement to the borrower within  
38 fifteen business days of receipt of a written request from the  
39 borrower. The borrower's request must include the name and account



1 number, if any, of the borrower, a statement that the account is or  
2 may be in error, and sufficient detail regarding the information  
3 sought by the borrower to permit the servicer to comply. At a  
4 minimum, the servicer's response to the borrower's request must  
5 include the following information:

6 (A) Whether the account is current or, if the account is not  
7 current, an explanation of the default and the date the account went  
8 into default;

9 (B) The current balance due on the student education loan,  
10 including the principal due, the amount of funds, if any, held in a  
11 suspense account, if any, and whether there are any shortages known  
12 to the servicer;

13 (C) The identity, address, and other relevant information about  
14 the current holder, owner, or assignee of the student education loan;  
15 and

16 (D) The telephone number and mailing address of a servicer  
17 representative with the information and authority to answer questions  
18 and resolve disputes;

19 (d) Promptly correct any errors and refund any fees assessed to  
20 the borrower resulting from the servicer's error; and

21 (e) In the event that a borrower applies for or attempts to  
22 certify progress toward a discharge or refund of amounts paid on  
23 their federal student education loans with the United States  
24 department of education, the servicer must provide explanations to  
25 the borrower on any decision made with respect to their application.

26 (2) In addition, a borrower may request more detailed information  
27 from a servicer, and the servicer must provide the information within  
28 fifteen business days of receipt of a written request from the  
29 borrower. The request must include the name and account number, if  
30 any, of the borrower, a statement that the account is or may be in  
31 error, and provide sufficient detail to the servicer regarding  
32 information sought by the borrower. If requested by the borrower this  
33 statement must include:

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

36 (b) A statement that identifies and itemizes all fees and charges  
37 assessed under the loan transaction and provides a full payment  
38 history identifying in a clear and conspicuous manner all of the  
39 debits, credits, application of and disbursement of all payments  
40 received from or for the benefit of the borrower, and other activity

1 on the student education loan including suspense account activity, if  
2 any. The period of the account history must cover at a minimum the  
3 two-year period prior to the date of the receipt of the request for  
4 information. If the servicer has not serviced the student education  
5 loan for the entire two-year time period the servicer must provide  
6 the information going back to the date on which the servicer began  
7 servicing the loan, and identify the previous servicer, if known. If  
8 the servicer claims that any delinquent or outstanding sums are owed  
9 on the loan prior to the two-year period or the period during which  
10 the servicer has serviced the student education loan, the servicer  
11 must provide an account history beginning with the month that the  
12 servicer claims any outstanding sums are owed on the student  
13 education loan up to the date of the request for the information. The  
14 borrower may request annually one statement free of charge.

15 (3) When acquiring servicing rights from another servicer, a  
16 receiving servicer must:

17 (a) Notify the student education loan borrowers no more than  
18 sixty days and no less than forty-five days before the effective date  
19 of the transfer of the students' loans to provide them with:

20 (i) The effective date of the transfer of servicing, and the date  
21 at which the receiving servicer will begin to accept payments  
22 relating to the loan, if different;

23 (ii) The name, address, and toll-free telephone number for both  
24 the transferring and receiving servicers' designated points of  
25 contact at which the borrower can obtain answers to inquiries;

26 (iii) A statement that the transfer of servicing does not affect  
27 any term or condition of the student education loan other than the  
28 entity servicing the loan;

29 (iv) Information about how to obtain a payment history from both  
30 the transferring or receiving servicer, including a count of payments  
31 that qualify toward any forgiveness options, as applicable;

32 (v) A notification indicating whether an alternative repayment  
33 plan or loan consolidation application is pending; and

34 (vi) Information about how to appropriately direct and submit a  
35 complaint to the United States department of education, the student  
36 loan advocate, federal student loan ombuds, and other relevant  
37 federal agencies that collect borrower complaints, in the event of a  
38 servicing error;

39 (b) Continue processing loan modification requests, including  
40 applications for income-driven repayment, loan forgiveness, or loan

1 consolidation, received by the receiving servicer or the transferring  
2 servicer during the transfer process; and

3 (c) Retain records necessary to maintain the borrower's  
4 uninterrupted enrollment in their existing repayment plan.

5 (4) When transferring or selling the servicing of loans a  
6 transferring servicer must:

7 (a) Notify the student education loan borrowers no more than  
8 sixty days and no less than forty-five days before the effective date  
9 of the transfer of the students' loans to provide them with:

10 (i) The effective date of the transfer of servicing, and the date  
11 at which the transferring servicer will no longer accept payments  
12 relating to the loan, if different;

13 (ii) The name, address, and toll-free telephone number for the  
14 transferring and receiving servicers' designated points of contact at  
15 which the borrower can obtain answers to inquiries; and

16 (iii) A statement that the transfer of servicing does not affect  
17 any term or condition of the student education loan other than the  
18 entity servicing the loan; and

19 (b) Inform the receiving servicer if a loan modification request  
20 is pending.

21 (5) Licensees shall provide, free of charge on the licensee's web  
22 site, information or links to information regarding repayment and  
23 loan forgiveness options that may be available to borrowers, as well  
24 as the availability of the student loan advocate to provide  
25 assistance. This information or these links shall be prominently  
26 placed and provided via written correspondence or email with the  
27 borrower at least once per calendar year.

28 (6) In addition to keeping records in compliance with this  
29 chapter and section 1 of this act, licensees shall collect, maintain,  
30 and report to the department specific information about the loans in  
31 the licensee's portfolio. Such information shall include, but not be  
32 limited by: Loan volume, default, refinance and modification  
33 information, loan type (subsidized, deferred, etc.) information, and  
34 collection practices.

35 (7) The director may adopt all rules necessary to implement this  
36 section. The director may, at his or her discretion, waive  
37 applicability of the provisions of this section when the director  
38 determines it necessary to facilitate commerce and protect consumers.

39 (8) The director's obligations or duties under chapter . . . ,  
40 Laws of 2018 (this act) are subject to section 21 of this act.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 31.04  
2    RCW to read as follows:

3        A student education loan servicer licensee must maintain  
4    liquidity, operating reserves, and a tangible net worth in accordance  
5    with generally accepted accounting principles as determined by the  
6    director. The director may adopt rules to implement this section. The  
7    director's obligations or duties under this section are subject to  
8    section 21 of this act.

9        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 31.04  
10    RCW to read as follows:

11        (1) In addition to complying with federal and state law,  
12    including all requirements under chapter 18.28 RCW and this chapter,  
13    any person providing third-party student education loan modification  
14    services must:

15        (a) Not charge or receive any money or other valuable  
16    consideration prior to full and complete performance of the services  
17    the person has agreed to perform for the borrower;

18        (b) Not charge total fees in excess of usual and customary  
19    charges, or total fees that are not reasonable in light of the  
20    service provided; and

21        (c) Immediately inform the borrower in writing if the owner or  
22    servicer of the student education loan requires additional  
23    information or documentation from the borrower, or if it becomes  
24    apparent that a modification, refinancing, consolidation, or change  
25    in repayment plans on the student education loan is not possible.

26        (2) As a condition for providing third-party student education  
27    loan modification services, a person providing the services shall  
28    not:

29        (a) Require or encourage a borrower to sign a waiver of his or  
30    her legal defenses, counterclaims, and other legal rights against the  
31    person for future acts;

32        (b) Represent, expressly or by implication, that funds paid to  
33    the person providing third-party student education loan modification  
34    services will be applied to the borrower's student education loan  
35    balance;

36        (c) Require or encourage a borrower to waive his or her right to  
37    receive notice before the owner or servicer of the loan initiates  
38    collection proceedings;

1 (d) Require or encourage a borrower to agree to pay charges not  
2 enumerated in any agreement between the borrower and the lender,  
3 servicer, or owner of the loan;

4 (e) Require or encourage a borrower to:

5 (i) Cease communication with the lender, investor, loan servicer,  
6 or United States department of education; or

7 (ii) Change his or her contact information to that of the third-  
8 party education loan servicer or any other third party;

9 (f) Misrepresent, expressly or by implication, the availability,  
10 performance, cost, or characteristics of any alternative to for-  
11 profit third-party student education loan modification services  
12 through which the consumer can obtain assistance with refinancing of,  
13 consolidation of, application for discharge of or refund of amounts  
14 paid toward, or change of repayment plans for a student education  
15 loan, including communicating directly with the servicer, applying  
16 through or communicating with the United States department of  
17 education, communicating with any other government agency, or using  
18 any nonprofit agency or program;

19 (g) Misrepresent, expressly or by implication, the amount of  
20 money or the percentage of the debt amount a student education loan  
21 borrower may save by engaging the person's third-party student  
22 education loan modification services;

23 (h) Misrepresent, expressly or by implication, the total cost to  
24 purchase the third-party student education loan modification  
25 services;

26 (i) Misrepresent, expressly or by implication, the terms,  
27 conditions, limitations, contingencies, or requirements to reapply or  
28 recertify eligibility for any refinancing of, consolidation of, or  
29 change of repayment plans for a student education loan;

30 (j) Misrepresent, expressly or by implication, any affiliation,  
31 connection, or relationship with the United States department of  
32 education or its contracted entities;

33 (k) Misrepresent, expressly or by implication, the impact on a  
34 borrower's credit history, score, or report that will result from  
35 engaging the person's third-party student education loan modification  
36 services; or

37 (l) Change a borrower's login information, personal  
38 identification number, or contact information on file with a servicer  
39 or the United States department of education, including without  
40 limitation telephone number, address, and email address.

1 (3) In any inconsistency between this chapter and chapter 18.28  
2 RCW, this chapter shall control.

3 **Sec. 9.** RCW 31.04.015 and 2015 c 229 s 19 are each reenacted and  
4 amended to read as follows:

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

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

14 (2) "Affiliate" means any person who, directly or indirectly  
15 through one or more intermediaries, controls, or is controlled by, or  
16 is under common control with another person.

17 (3) "Applicant" means a person applying for a license under this  
18 chapter.

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

28 (5) "Department" means the state department of financial  
29 institutions.

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

33 (7) "Director" means the director of financial institutions.

34 (8) "Educational institution" means any entity that is a degree-  
35 granting institution as defined in RCW 28B.85.010, a private  
36 vocational school as defined in RCW 28C.10.020, or school as defined  
37 in RCW 18.16.020.

38 (9) "Federal banking agencies" means the board of governors of  
39 the federal reserve system, comptroller of the currency, director of

1 the office of thrift supervision, national credit union  
2 administration, and federal deposit insurance corporation.

3 ~~((9))~~ (10) "Individual servicing a mortgage loan" means a  
4 person on behalf of a lender or servicer licensed by this state, who  
5 collects or receives payments including payments of principal,  
6 interest, escrow amounts, and other amounts due, on existing  
7 obligations due and owing to the licensed lender or servicer for a  
8 residential mortgage loan when the borrower is in default, or in  
9 reasonably foreseeable likelihood of default, working with the  
10 borrower and the licensed lender or servicer, collects data and makes  
11 decisions necessary to modify either temporarily or permanently  
12 certain terms of those obligations, or otherwise finalizing  
13 collection through the foreclosure process.

14 ~~((10))~~ (11) "Insurance" means life insurance, disability  
15 insurance, property insurance, involuntary unemployment insurance,  
16 and such other insurance as may be authorized by the insurance  
17 commissioner.

18 ~~((11))~~ (12) "License" means a single license issued under the  
19 authority of this chapter.

20 ~~((12))~~ (13) "Licensee" means a person to whom one or more  
21 licenses have been issued. "Licensee" also means any person, whether  
22 located within or outside of this state, who fails to obtain a  
23 license required by this chapter.

24 ~~((13))~~ (14) "Loan" means a sum of money lent at interest or for  
25 a fee or other charge and includes both open-end and closed-end loan  
26 transactions.

27 ~~((14))~~ (15) "Loan processor or underwriter" means an individual  
28 who performs clerical or support duties as an employee at the  
29 direction of and subject to the supervision and instruction of a  
30 person licensed, or exempt from licensing, under this chapter.

31 ~~((15))~~ (16) "Making a loan" means advancing, offering to  
32 advance, or making a commitment to advance funds to a borrower for a  
33 loan.

34 ~~((16))~~ (17) "Mortgage broker" means the same as defined in RCW  
35 19.146.010, except that for purposes of this chapter, a licensee or  
36 person subject to this chapter cannot receive compensation as both a  
37 consumer loan licensee making the loan and as a consumer loan  
38 licensee acting as the mortgage broker in the same loan transaction.

39 ~~((17))~~ (18)(a) "Mortgage loan originator" means an individual  
40 who for compensation or gain (i) takes a residential mortgage loan

1 application, or (ii) offers or negotiates terms of a residential  
2 mortgage loan. "Mortgage loan originator" also includes individuals  
3 who hold themselves out to the public as able to perform any of these  
4 activities. "Mortgage loan originator" does not include any  
5 individual who performs purely administrative or clerical tasks; and  
6 does not include a person or entity solely involved in extensions of  
7 credit relating to timeshare plans, as that term is defined in  
8 section 101(53D) of Title 11, United States Code. For the purposes of  
9 this definition, administrative or clerical tasks means the receipt,  
10 collection, and distribution of information common for the processing  
11 of a loan in the mortgage industry and communication with a consumer  
12 to obtain information necessary for the processing of a residential  
13 mortgage loan.

14 (b) "Mortgage loan originator" also includes an individual who  
15 for direct or indirect compensation or gain performs residential  
16 mortgage loan modification services or holds himself or herself out  
17 as being able to perform residential mortgage loan modification  
18 services.

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

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

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

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

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

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



1 (d) This subsection does not apply to employees of a housing  
2 counseling agency approved by the United States department of housing  
3 and urban development unless the employees of a housing counseling  
4 agency are required under federal law to be individually licensed as  
5 mortgage loan originators.

6 ~~((18))~~ (19) "Nationwide mortgage licensing system" means a  
7 licensing system developed and maintained by the conference of state  
8 bank supervisors for licensing and registration.

9 ~~((19))~~ (20) "Officer" means an official appointed by the  
10 company for the purpose of making business decisions or corporate  
11 decisions.

12 ~~((20))~~ (21) "Person" includes individuals, partnerships,  
13 associations, limited liability companies, limited liability  
14 partnerships, trusts, corporations, and all other legal entities.

15 ~~((21))~~ (22) "Principal" means any person who controls, directly  
16 or indirectly through one or more intermediaries, alone or in concert  
17 with others, a ten percent or greater interest in a partnership;  
18 company; association or corporation; or a limited liability company,  
19 and the owner of a sole proprietorship.

20 ~~((22))~~ (23) "Registered mortgage loan originator" means any  
21 individual who meets the definition of mortgage loan originator and  
22 is an employee of a depository institution; a subsidiary that is  
23 owned and controlled by a depository institution and regulated by a  
24 federal banking agency; or an institution regulated by the farm  
25 credit administration and is registered with, and maintains a unique  
26 identifier through, the nationwide mortgage licensing system.

27 ~~((23))~~ (24) "Residential mortgage loan" means any loan  
28 primarily for personal, family, or household use that is secured by a  
29 mortgage, deed of trust, or other consensual security interest on a  
30 dwelling, as defined in the truth in lending act, or residential real  
31 estate upon which is constructed or intended to be constructed a  
32 dwelling.

33 ~~((24))~~ (25) "Residential mortgage loan modification" means a  
34 change in one or more of a residential mortgage loan's terms or  
35 conditions. Changes to a residential mortgage loan's terms or  
36 conditions include but are not limited to forbearances; repayment  
37 plans; changes in interest rates, loan terms, or loan types;  
38 capitalizations of arrearages; or principal reductions.

39 ~~((25))~~ (26) "Residential mortgage loan modification services"  
40 includes negotiating, attempting to negotiate, arranging, attempting

1 to arrange, or otherwise offering to perform a residential mortgage  
2 loan modification for compensation or gain. "Residential mortgage  
3 loan modification services" also includes the collection of data for  
4 submission to an entity performing mortgage loan modification  
5 services.

6 ~~((+26+))~~ (27) "S.A.F.E. act" means the secure and fair  
7 enforcement for mortgage licensing act of 2008, Title V of the  
8 housing and economic recovery act of 2008 ("HERA"), P.L. 110-289,  
9 effective July 30, 2008.

10 ~~((+27+))~~ (28) "Senior officer" means an officer of a licensee at  
11 the vice president level or above.

12 ~~((+28+))~~ (29) "Service or servicing a loan" means on behalf of  
13 the lender or investor of a residential mortgage loan: (a) Collecting  
14 or receiving payments on existing obligations due and owing to the  
15 lender or investor, including payments of principal, interest, escrow  
16 amounts, and other amounts due; (b) collecting fees due to the  
17 servicer; (c) working with the borrower and the licensed lender or  
18 servicer to collect data and make decisions necessary to modify  
19 certain terms of those obligations either temporarily or permanently;  
20 (d) otherwise finalizing collection through the foreclosure process;  
21 or (e) servicing a reverse mortgage loan.

22 ~~((+29+))~~ (30) "Service or servicing a reverse mortgage loan"  
23 means, pursuant to an agreement with the owner of a reverse mortgage  
24 loan: Calculating, collecting, or receiving payments of interest or  
25 other amounts due; administering advances to the borrower; and  
26 providing account statements to the borrower or lender.

27 ~~((+30+))~~ (31) "Simple interest method" means the method of  
28 computing interest payable on a loan by applying the annual  
29 percentage interest rate or its periodic equivalent to the unpaid  
30 balances of the principal of the loan outstanding for the time  
31 outstanding.

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

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

3 ~~((31))~~ (32) "Student education loan" means any loan solely for  
4 personal use to finance postsecondary education and costs of  
5 attendance at an educational institution. A student education loan  
6 includes a loan made to refinance a student education loan. A student  
7 education loan does not include a payment plan or accounts receivable  
8 at a higher education institution as defined in RCW 28B.07.020(4)  
9 only during the time of a student's enrollment in the higher  
10 education institution, not to include a refinanced payment plan or  
11 accounts receivable, an extension of credit under an open-end  
12 consumer credit plan, a reverse mortgage transaction, a residential  
13 mortgage transaction, or any other loan that is secured by real  
14 property or a dwelling.

15 (33) "Student education loan borrower" means: (a) Any resident of  
16 this state who has received or agreed to pay a student education  
17 loan; or (b) any person who shares responsibility with such resident  
18 for repaying the student education loan.

19 (34) "Student education loan servicer" means any person, wherever  
20 located, responsible for the servicing of any student education loan  
21 to any student education loan borrower.

22 (35) "Student education loan servicing" or "service a student  
23 education loan" means: (a) Receiving any scheduled periodic payments  
24 from a student education loan borrower pursuant to the terms of a  
25 student education loan; (b) applying the payments of principal and  
26 interest and such other payments with respect to the amounts received  
27 from a student education loan borrower, as may be required pursuant  
28 to the terms of a student education loan; (c) working with the  
29 student education loan borrower to collect data, or collecting data,  
30 to make decisions to modify the loan; or (d) performing other  
31 administrative services with respect to a student education loan  
32 including collection activities. "Student education loan servicing"  
33 does not include third-party student education loan modification  
34 services.

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

39 ~~((32))~~ (37) "Third-party service provider" means any person  
40 other than the licensee or a mortgage broker who provides goods or

1 services to the licensee or borrower in connection with the  
2 preparation of the borrower's loan and includes, but is not limited  
3 to, credit reporting agencies, real estate brokers or salespersons,  
4 title insurance companies and agents, appraisers, structural and pest  
5 inspectors, or escrow companies.

6 ~~((33))~~ (38) "Third-party student education loan modification  
7 services" means for compensation or other consideration by or on  
8 behalf of the borrower working with the student education loan  
9 borrower or his or her representative to collect data or prepare or  
10 submit documents, or collecting data and preparing or submitting  
11 documents, to modify, refinance, or consolidate the loan, or change  
12 repayment plans.

13 (39) "Unique identifier" means a number or other identifier  
14 assigned by protocols established by the nationwide mortgage  
15 licensing system.

16 NEW SECTION. **Sec. 10.** A new section is added to chapter 31.04  
17 RCW to read as follows:

18 (1) The following are subject to the student education loan  
19 servicer requirements in this chapter, but are exempt from having to  
20 obtain and maintain a license in accordance with this chapter:

21 (a) Trade, technical, vocational, or apprentice programs that  
22 teach skills related to a specific job, and postsecondary schools  
23 that service their own student education loans;

24 (b) Persons servicing five or fewer student education loans;

25 (c) Guarantors of federal student loans that do not also service  
26 federal student loans;

27 (d) The United States or any department or agency thereof, to the  
28 extent it is servicing student education loans that it originated;  
29 and

30 (e) Any state, county, city, or any department or agency thereof,  
31 but only to the extent it is servicing student education loans that  
32 it originated.

33 (2) Persons providing third-party student education loan  
34 modification services are exempt from having to obtain and maintain a  
35 license in accordance with this chapter.

36 (3) The department may refer to the attorney general's consumer  
37 protection division complaints regarding entities subject to this  
38 section.

1       **Sec. 11.** RCW 31.04.027 and 2015 c 229 s 21 are each amended to  
2 read as follows:

3       (1) It is a violation of this chapter for a licensee, its  
4 officers, directors, employees, or independent contractors, or any  
5 other person subject to this chapter to:

6       ~~((+1))~~ (a) Directly or indirectly employ any scheme, device, or  
7 artifice to defraud or mislead any borrower, to defraud or mislead  
8 any lender, or to defraud or mislead any person;

9       ~~((+2))~~ (b) Directly or indirectly engage in any unfair or  
10 deceptive practice toward any person;

11       ~~((+3))~~ (c) Directly or indirectly obtain property by fraud or  
12 misrepresentation;

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

18       ~~((+5))~~ (e) Solicit, advertise, or enter into a contract for  
19 specific interest rates, points, or other financing terms unless the  
20 terms are actually available at the time of soliciting, advertising,  
21 or contracting;

22       ~~((+6))~~ (f) Fail to make disclosures to loan applicants as  
23 required by RCW 31.04.102 and any other applicable state or federal  
24 law;

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

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

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

37       ~~((+10))~~ (j) Accept from any borrower at or near the time a loan  
38 is made and in advance of any default an execution of, or induce any  
39 borrower to execute, any instrument of conveyance, not including a  
40 mortgage or deed of trust, to the lender of any ownership interest in

1 the borrower's primary dwelling that is the security for the  
2 borrower's loan;

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

6 ~~((12))~~ (l) Advertise any rate of interest without conspicuously  
7 disclosing the annual percentage rate implied by that rate of  
8 interest;

9 ~~((13))~~ (m) Violate any applicable state or federal law relating  
10 to the activities governed by this chapter; or

11 ~~((14))~~ (n) Make or originate loans from any unlicensed  
12 location.

13 (2) It is a violation of this chapter for a student education  
14 loan servicer to:

15 (a) Conduct licensable activity from any unlicensed location;

16 (b) Misrepresent or omit any material information in connection  
17 with the servicing of a student education loan including, but not  
18 limited to, misrepresenting the amount, nature, conditions, or terms  
19 of any fee or payment due or claimed to be due on a student education  
20 loan, the terms and conditions of the loan agreement, the  
21 availability of loan discharge or forgiveness options, the  
22 availability and terms of and process for enrolling in income-driven  
23 repayment, or the borrower's obligations under the loan;

24 (c) Provide inaccurate information to a credit bureau, thereby  
25 harming a student education loan borrower's creditworthiness,  
26 including failing to report both the favorable and unfavorable  
27 payment history of the student education loan;

28 (d) Fail to report to a consumer credit bureau at least annually  
29 if the student education loan servicer regularly reports information  
30 to a credit bureau;

31 (e) Refuse to communicate with an authorized representative of  
32 the student education loan borrower who provides a written  
33 authorization signed by the student education loan borrower. However,  
34 the student education loan servicer may adopt procedures reasonably  
35 related to verifying that the representative is in fact authorized to  
36 act on behalf of the student education loan borrower;

37 (f) Refuse to communicate with the student education loan  
38 borrower or an authorized representative of the student education  
39 loan borrower;

1 (g) Apply payments made by a borrower to the outstanding balance  
2 of a student education loan, or allocate a payment across a group of  
3 student education loans, in a manner that does not conform with the  
4 borrower's stated intent. However, this subsection (2)(g) does not  
5 require application of a student education loan in a manner contrary  
6 to the express terms of the promissory note;

7 (h) Fail to respond within fifteen calendar days to  
8 communications from the student loan advocate, or within such  
9 shorter, reasonable time as the student loan advocate may request in  
10 his or her communication; or

11 (i) Fail to provide a response within fifteen calendar days to a  
12 consumer complaint submitted to the servicer by the student loan  
13 advocate. If necessary, a licensee may request additional time up to  
14 a maximum of forty-five calendar days, provided that such request is  
15 accompanied by an explanation why such additional time is reasonable  
16 and necessary.

17 (3) The director's obligations or duties under chapter . . . ,  
18 Laws of 2018 (this act) are subject to section 21 of this act.

19 **Sec. 12.** RCW 31.04.035 and 2013 c 29 s 4 are each amended to  
20 read as follows:

21 (1) No person may make secured or unsecured loans of money or  
22 things in action, or extend credit, or service or modify the terms or  
23 conditions of residential mortgage loans, or service or modify  
24 student education loans, without first obtaining and maintaining a  
25 license in accordance with this chapter, except those exempt under  
26 RCW 31.04.025 or not subject to licensure under section 10 of this  
27 act.

28 (2) If a transaction violates subsection (1) of this section,  
29 any:

30 (a) Nonthird-party fees charged in connection with the  
31 origination of the residential mortgage loan must be refunded to the  
32 borrower, excluding interest charges; and

33 (b) Fees or interest charged in the making of a nonresidential  
34 loan must be refunded to the borrower.

35 (3) The director's obligations or duties under chapter . . . ,  
36 Laws of 2018 (this act) are subject to section 21 of this act.

37 **Sec. 13.** RCW 31.04.093 and 2015 c 229 s 24 are each amended to  
38 read as follows:

1 (1) The director must enforce all laws and rules relating to the  
2 licensing and regulation of licensees and persons subject to this  
3 chapter. However, the director's obligation under this subsection  
4 does not arise until the rules required under section 6 of this act  
5 are adopted or until January 1, 2019, whichever is sooner.

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

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

10 (b) Violation of an order issued by the director under this  
11 chapter or another chapter administered by the director, including  
12 but not limited to cease and desist orders and temporary cease and  
13 desist orders;

14 (c) Revocation or suspension of a license to conduct lending  
15 ~~((~~or~~))~~, residential mortgage loan servicing, student education loan  
16 servicing, or to provide settlement services associated with lending  
17 ~~((~~or~~))~~, residential mortgage loan servicing, or student education  
18 loan servicing, by this state, another state, or by the federal  
19 government within five years of the date of submittal of a complete  
20 application for a license; or

21 (d) Filing an incomplete application when that incomplete  
22 application has been filed with the department for sixty or more  
23 days, provided that the director has given notice to the licensee  
24 that the application is incomplete, informed the applicant why the  
25 application is incomplete, and allowed at least twenty days for the  
26 applicant to complete the application.

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

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

34 (b) The licensee, either knowingly or without the exercise of due  
35 care, has violated any provision of this chapter or any rule adopted  
36 under this chapter;

37 (c) A fact or condition exists that, if it had existed at the  
38 time of the original application for the license, clearly would have  
39 allowed the director to deny the application for the original  
40 license; or



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

3 The director may condition, revoke, or suspend only the particular  
4 license with respect to which grounds for conditioning, revocation,  
5 or suspension may occur or exist or the director may condition,  
6 revoke, or suspend all of the licenses issued to the licensee.

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

10 (a) Any violation of this chapter; or

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

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

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

18 (b) Take such affirmative action as is necessary to comply with  
19 this chapter;

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

22 (d) Refund all fees received through any violation of this  
23 chapter.

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

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

31 (b) Conviction of a gross misdemeanor involving dishonesty or  
32 financial misconduct or a felony;

33 (c) Suspension or revocation of a license to engage in lending  
34 ~~((or))~~, residential mortgage loan servicing, student education loan  
35 servicing, or perform a settlement service related to lending or  
36 residential mortgage loan servicing, in this state or another state;

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

39 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or  
40 31.04.221; or

1 (f) Failure to obtain a license for activity that requires a  
2 license.

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

10 (8) Whenever the director determines that the public is likely to  
11 be substantially injured by delay in issuing a cease and desist  
12 order, the director may immediately issue a temporary cease and  
13 desist order. The order may direct the licensee to discontinue any  
14 violation of this chapter, to take such affirmative action as is  
15 necessary to comply with this chapter, and may include a summary  
16 suspension of the licensee's license and may order the licensee to  
17 immediately cease the conduct of business under this chapter. The  
18 order becomes effective at the time specified in the order. Every  
19 temporary cease and desist order must include a provision that a  
20 hearing will be held upon request to determine whether the order will  
21 become permanent. Such hearing must be held within fourteen days of  
22 receipt of a request for a hearing unless otherwise specified in  
23 chapter 34.05 RCW.

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

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

36 (11) Every license issued under this chapter remains in force and  
37 effect until it has been surrendered, revoked, or suspended in  
38 accordance with this chapter. However, the director may on his or her  
39 own initiative reinstate suspended licenses or issue new licenses to  
40 a licensee whose license or licenses have been revoked if the

1 director finds that the licensee meets all the requirements of this  
2 chapter.

3 (12) A license issued under this chapter expires upon the  
4 licensee's failure to comply with the annual assessment requirements  
5 in RCW 31.04.085, and the rules. The department must provide notice  
6 of the expiration to the address of record provided by the licensee.  
7 On the 15th day after the department provides notice, if the  
8 assessment remains unpaid, the license expires. The licensee must  
9 receive notice prior to expiration and have the opportunity to stop  
10 the expiration as set forth in rule.

11 (13) The director's obligations or duties under chapter . . . ,  
12 Laws of 2018 (this act) are subject to section 21 of this act.

13 **Sec. 14.** RCW 31.04.102 and 2015 c 229 s 27 are each amended to  
14 read as follows:

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

20 (2) For all loans made by a licensee that are secured by a lien  
21 on real property, the licensee must provide to each borrower within  
22 three business days following receipt of a loan application a written  
23 disclosure containing an itemized estimation and explanation of all  
24 fees and costs that the borrower is required to pay in connection  
25 with obtaining a loan from the licensee. A good faith estimate of a  
26 fee or cost must be provided if the exact amount of the fee or cost  
27 is not available when the disclosure is provided. Disclosure in a  
28 form which complies with the requirements of the truth in lending  
29 act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 1026, the  
30 real estate settlement procedures act and regulation X, 24 C.F.R.  
31 Part 1024, and all other applicable federal laws and regulations, as  
32 now or hereafter amended, constitutes compliance with this disclosure  
33 requirement. Each licensee must comply with all other applicable  
34 federal and state laws and regulations.

35 (3) In addition, for all loans made by the licensee that are  
36 secured by a lien on real property, the licensee must provide to the  
37 borrower an estimate of the annual percentage rate on the loan and a  
38 disclosure of whether or not the loan contains a prepayment penalty  
39 within three days of receipt of a loan application. The annual

1 percentage rate must be calculated in compliance with the truth in  
2 lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part  
3 1024. If a licensee provides the borrower with a disclosure in  
4 compliance with the requirements of the truth in lending act within  
5 three business days of receipt of a loan application, then the  
6 licensee has complied with this subsection. If the director  
7 determines that the federal government has required a disclosure that  
8 substantially meets the objectives of this subsection, then the  
9 director may make a determination by rule that compliance with this  
10 federal disclosure requirement constitutes compliance with this  
11 subsection.

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

15 (5) In addition for all consumer loans made by a licensee that  
16 are a refinance of a federal student education loan, the licensee  
17 must provide to the borrower a clear and conspicuous disclosure that  
18 some repayment and forgiveness options available under federal  
19 student education loan programs, including without limitation income-  
20 driven repayment plans, economic hardship deferments, or public  
21 service loan forgiveness, will no longer be available to the borrower  
22 if he or she chooses to refinance federal student education loans  
23 with one or more consumer loans.

24 (6) The director's obligations or duties under chapter . . . ,  
25 Laws of 2018 (this act) are subject to section 21 of this act.

26 **Sec. 15.** RCW 31.04.145 and 2015 c 229 s 29 are each amended to  
27 read as follows:

28 (1) For the purpose of discovering violations of this chapter or  
29 securing information lawfully required under this chapter, the  
30 director may at any time, either personally or by designees,  
31 investigate or examine the loans and business and, wherever located,  
32 the books, accounts, records, papers, documents, files, and other  
33 information used in the business of every licensee and of every  
34 person (~~who is engaged in the business making or assisting in the~~  
35 ~~making of loans at interest rates authorized by~~) subject to this  
36 chapter, whether the person acts or claims to act as principal or  
37 agent, or under or without the authority of this chapter. The  
38 director or designated representative:

1 (a) Must have free access to the employees, offices, and places  
2 of business, books, accounts, papers, documents, other information,  
3 records, files, safes, and vaults of all such persons during normal  
4 business hours;

5 (b) May require the attendance of and examine under oath all  
6 persons whose testimony may be required about the loans or the  
7 business or the subject matter of any investigation, examination, or  
8 hearing and may require such person to produce books, accounts,  
9 papers, records, files, and any other information the director or  
10 designated persons deem relevant to the inquiry;

11 (c) May require by directive, subpoena, or any other lawful means  
12 the production of original books, accounts, papers, records, files,  
13 and other information; may require that such original books,  
14 accounts, papers, records, files, and other information be copied; or  
15 may make copies of such original books, accounts, papers, records,  
16 files, or other information;

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

21 (2) The director must make such periodic examinations of the  
22 affairs, business, office, and records of each licensee as determined  
23 by rule.

24 (3) Every licensee examined or investigated by the director or  
25 the director's designee must pay to the director the cost of the  
26 examination or investigation of each licensed place of business as  
27 determined by rule by the director.

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

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

33 (b) Enter into agreements or relationships with other government  
34 officials or regulatory associations in order to improve efficiencies  
35 and reduce regulatory burden by sharing resources, standardized or  
36 uniform methods or procedures, and documents, records, information,  
37 or evidence obtained under this section;

38 (c) Use, hire, contract, or employ public or privately available  
39 analytical systems, methods, or software to examine or investigate

1 the licensee, individual, or person subject to chapter 120, Laws of  
2 2009;

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

5 (e) Accept audit reports made by an independent certified public  
6 accountant for the licensee, individual, or person subject to chapter  
7 120, Laws of 2009 in the course of that part of the examination  
8 covering the same general subject matter as the audit and may  
9 incorporate the audit report in the report of the examination, report  
10 of investigation, or other writing of the director; or

11 (f) Assess the licensee, individual, or person subject to chapter  
12 120, Laws of 2009 the cost of the services in (a) of this subsection.

13 (5) The director's obligations or duties under chapter . . . ,  
14 Laws of 2018 (this act) are subject to section 21 of this act.

15 **Sec. 16.** RCW 31.04.165 and 2010 c 35 s 7 are each amended to  
16 read as follows:

17 (1) The director has the power, and broad administrative  
18 discretion, to administer and interpret this chapter to facilitate  
19 the delivery of financial services to the citizens of this state by  
20 (~~consumer loan companies, residential mortgage loan servicers, and~~  
21 ~~mortgage loan originators~~) persons subject to this chapter. The  
22 director shall adopt all rules necessary to administer this chapter  
23 and to ensure complete and full disclosure by licensees of lending  
24 transactions governed by this chapter.

25 (2) If it appears to the director that a licensee is conducting  
26 business in an injurious manner or is violating any provision of this  
27 chapter, the director may order or direct the discontinuance of any  
28 such injurious or illegal practice.

29 (3) For purposes of this section, "conducting business in an  
30 injurious manner" means conducting business in a manner that violates  
31 any provision of this chapter, or that creates the reasonable  
32 likelihood of a violation of any provision of this chapter.

33 (4) The director or designated persons, with or without prior  
34 administrative action, may bring an action in superior court to  
35 enjoin the acts or practices that constitute violations of this  
36 chapter and to enforce compliance with this chapter or any rule or  
37 order made under this chapter. Upon proper showing, injunctive relief  
38 or a temporary restraining order shall be granted. The director shall  
39 not be required to post a bond in any court proceedings.

1       (5) The director's obligations or duties under chapter . . . ,  
2 Laws of 2018 (this act) are subject to section 21 of this act.

3       **Sec. 17.** RCW 31.04.277 and 2015 c 229 s 34 are each amended to  
4 read as follows:

5       Each consumer loan company licensee (~~who makes, services, or~~  
6 ~~brokers a loan secured by real property~~) must submit call reports  
7 through the nationwide mortgage licensing system (~~and registry~~) in  
8 a form and containing the information prescribed by the director or  
9 as deemed necessary by the nationwide mortgage licensing system (~~and~~  
10 ~~registry~~)).

11       The director's obligations or duties under chapter . . . , Laws of  
12 2018 (this act) are subject to section 21 of this act.

13       **Sec. 18.** RCW 31.04.310 and 2015 c 229 s 26 are each amended to  
14 read as follows:

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

19       The director's obligations or duties under chapter . . . , Laws of  
20 2018 (this act) are subject to section 21 of this act.

21       NEW SECTION.   **Sec. 19.** (1) The Washington state institute for  
22 public policy shall conduct a study on student loan authorities that  
23 refinance existing federal and private undergraduate and graduate  
24 student loans from the proceeds of tax-exempt bonds. In conducting  
25 the study, the institute shall:

26       (a) Review guidance on the subject issued by the United States  
27 treasury;

28       (b) Review the structure and characteristics of state-operated  
29 loan refinance programs in other states, including borrower  
30 requirements;

31       (c) Review available literature on the impacts of borrower  
32 requirements of similar programs;

33       (d) Estimate potential savings and costs to undergraduate and  
34 graduate borrowers from differences in interest rates of loans  
35 refinanced by the state as compared to similarly situated borrowers  
36 of federal direct loans and private loans, issued one, five, and ten  
37 years ago; and

1 (e) Consider the value of repayment and forgiveness options that  
2 may be lost to a borrower of a federal student education loan who  
3 chooses to refinance, including income-driven repayment options,  
4 economic hardship deferments, or public service loan forgiveness.

5 (2) The Washington state institute for public policy shall submit  
6 a report on its findings to the higher education committees of the  
7 legislature by December 31, 2018.

8 NEW SECTION. **Sec. 20.** A new section is added to chapter 31.04  
9 RCW to read as follows:

10 The requirements of this act do not apply to any person doing  
11 business under, and as permitted by, any law of this state or of the  
12 United States relating to banks, savings banks, trust companies,  
13 savings and loan or building and loan associations, or credit unions.

14 NEW SECTION. **Sec. 21.** The department of financial institutions  
15 and the director or director's designees do not have any enforcement,  
16 examination, or reporting obligations or duties under this act until  
17 January 1, 2019, or until the final adoption of rules pursuant to  
18 this act, whichever is sooner.

19 NEW SECTION. **Sec. 22.** If any provision of this act or its  
20 application to any person or circumstance is held invalid, the  
21 remainder of the act or the application of the provision to other  
22 persons or circumstances is not affected.

23 NEW SECTION. **Sec. 23.** This act may be known and cited as the  
24 Washington student education loan bill of rights.

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