

**Chapter 31.04 RCW
CONSUMER LOAN ACT**

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Business license system exemption: RCW 19.02.800.

Department of financial institutions: Chapter 43.320 RCW.

RCW 31.04.015 Definitions. The definitions set forth in this section apply throughout this chapter unless the context clearly requires a different meaning.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Mortgage loan originator" does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such a lender, mortgage broker, or other mortgage loan originator. For the purposes of chapter 120, Laws of 2009, the term "real estate brokerage

activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

- (i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
- (ii) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;
- (iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing with respect to such a transaction;
- (iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and
- (v) Offering to engage in any activity, or act in any capacity, described in (c)(i) through (iv) of this subsection.

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

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

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

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

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

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

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

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

(26) "Residential mortgage loan modification services" includes negotiating, attempting to negotiate, arranging, attempting to arrange, or otherwise offering to perform a residential mortgage loan modification for compensation or gain. "Residential mortgage loan modification services" also includes the collection of data for

submission to an entity performing mortgage loan modification services.

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

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

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

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

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

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

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

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

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

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

(35) "Student education loan servicing" or "service a student education loan" means: (a) Receiving any scheduled periodic payments

from a student education loan borrower pursuant to the terms of a student education loan; (b) applying the payments of principal and interest and such other payments with respect to the amounts received from a student education loan borrower, as may be required pursuant to the terms of a student education loan; (c) working with the student education loan borrower to collect data, or collecting data, to make decisions to modify the loan; or (d) performing other administrative services with respect to a student education loan including collection activities. "Student education loan servicing" does not include third-party student education loan modification services.

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

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

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

(39) "Unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system. [2018 c 62 s 9. Prior: 2015 c 229 s 19; 2013 c 29 s 1; 2010 c 35 s 1; prior: 2009 c 149 s 12; 2009 c 120 s 2; 2001 c 81 s 1; 1994 c 92 s 161; 1991 c 208 s 2.]

Findings—Declarations—2009 c 120: "The legislature finds and declares that accessibility to credit is vital to the citizens of this state. The legislature declares that it is essential for the protection of citizens of this state and the stability of the state's economy that standards for licensing and regulation of the business practices of lenders be imposed. The legislature further finds that the activities of lenders and mortgage loan originators and the origination or offering of financing for residential real property have a direct, valuable, and immediate impact upon this state's consumers, this state's economy, the neighborhoods and communities of this state, and the housing and real estate industry. The legislature therefore declares that this act is necessary to encourage responsible lending in all credit transactions, to protect borrowers, and to preserve access to credit in the residential real estate lending market." [2009 c 120 s 1.]

RCW 31.04.025 Application of chapter. (1) Each loan made to a resident of or a person physically located in this state by a licensee, or persons subject to this chapter, is subject to the authority and restrictions of this chapter.

(2) A person may not engage in any device, subterfuge, or pretense to evade the requirements of this chapter including, but not

limited to: Making loans disguised as personal property sale and leaseback transactions; disguising loan proceeds as a cash rebate for the pretextual installment sale of goods or services; or making, offering, assisting, or arranging a debtor to obtain a loan with a greater rate of interest, consideration, or charge than permitted by this chapter through any method, including mail, telephone, internet, or any electronic means regardless of whether the person has a physical location in the state.

(3) If a loan exceeds the rate permitted under this chapter, a person is a lender making a loan subject to the requirements of this chapter notwithstanding the fact that the person purports to act as an agent, service provider, or in another capacity for another person that is exempt from this chapter, if, among other things:

(a) The person holds, acquires, or maintains, directly or indirectly, the predominant economic interest in the loan; or

(b) The totality of the circumstances indicate that the person is the lender, and the transaction is structured to evade the requirements of this chapter.

(4) This chapter does not apply to the following:

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

(b) Any person making loans under chapter 19.60 RCW (pawnbroking);

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

(d) Any person making loans under chapter 31.45 RCW (check cashers and sellers);

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

(f) Any person selling property owned by that person who provides financing for the sale when the property does not contain a dwelling and when the property serves as security for the financing. This exemption is available for five or fewer transactions in a calendar year. This exemption is not available to individuals subject to the federal S.A.F.E. act or any person in the business of constructing or acting as a contractor for the construction of residential dwellings;

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

(h) Any person making loans under chapter 43.185A RCW (housing trust fund);

(i) Any person making loans under programs of the United States department of agriculture, department of housing and urban development, or other federal government program that provides funding or access to funding for single-family housing developments or grants to low-income individuals for the purchase or repair of single-family housing;

(j) Nonprofit housing organizations making loans, or loans made, under housing programs that are funded in whole or in part by federal or state programs if the primary purpose of the programs is to assist

low-income borrowers with purchasing or repairing housing or the development of housing for low-income Washington state residents;

(k) Any person making loans which are not residential mortgage loans under a credit card plan;

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

(m) Any person licensed under chapter 18.44 RCW that process[es] payments on seller-financed loans secured by liens on real or personal property; and

(n) Any person that extends money or credit to another person on a nonrecourse basis in exchange for a contingent right to receive an amount of the potential proceeds of any award, judgment, settlement, verdict, or other resolution from a pending legal action. This exemption does not apply to any person that requires repayment in the event the person does not prevail in their civil proceeding.

(5) The director may, at his or her discretion, waive applicability of the consumer loan company licensing provisions of this chapter to other persons, not including individuals subject to the S.A.F.E. act, making or servicing loans when the director determines it necessary to facilitate commerce and protect consumers.

(6) The burden of proving the application for an exemption or exception from a definition, or a preemption of a provision of this chapter, is upon the person claiming the exemption, exception, or preemption.

(7) The director may adopt rules interpreting this section.
[2024 c 249 s 2; 2023 c 275 s 15; 2015 c 229 s 20. Prior: 2013 c 64 s 2; 2013 c 29 s 2; 2012 c 17 s 1; prior: 2011 c 191 s 1; prior: 2009 c 311 s 1; 2009 c 120 s 3; 2008 c 78 s 1; 2001 c 81 s 2; 1991 c 208 s 4.]

Short title—2024 c 249: "This act may be known and cited as the predatory loan prevention act." [2024 c 249 s 1.]

Application—2024 c 249: "This act shall apply prospectively only. The changes made to chapter 31.04 RCW by this act shall not be construed to apply to any loan issued prior to June 6, 2024, unless the loan is renegotiated or modified after June 6, 2024." [2024 c 249 s 5.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

Severability—2008 c 78: "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2008 c 78 s 5.]

RCW 31.04.027 Violations of chapter. (1) It is a violation of this chapter for a licensee, its officers, directors, employees, or independent contractors, or any other person subject to this chapter to:

(a) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead any borrower, to defraud or mislead any lender, or to defraud or mislead any person;

(b) Directly or indirectly engage in any unfair or deceptive practice toward any person;

(c) Directly or indirectly obtain property by fraud or misrepresentation;

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

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

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

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

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

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

(j) Accept from any borrower at or near the time a loan is made and in advance of any default an execution of, or induce any borrower to execute, any instrument of conveyance, not including a mortgage or deed of trust, to the lender of any ownership interest in the borrower's primary dwelling that is the security for the borrower's loan;

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

(l) Advertise any rate of interest without conspicuously disclosing the annual percentage rate implied by that rate of interest;

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

(n) Make or originate loans from any unlicensed location. It is not a violation for a licensed mortgage loan originator to originate loans from an unlicensed location if that location is the licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with RCW 31.04.075; or

(o) Engage in any device, subterfuge, or pretense to evade the requirements of this chapter including, but not limited to, making, offering, or assisting a borrower to obtain a loan with a greater rate of interest, consideration, or charge than is permitted by this chapter.

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

(a) Conduct licensable activity from any unlicensed location;

(b) Misrepresent or omit any material information in connection with the servicing of a student education loan including, but not limited to, misrepresenting the amount, nature, conditions, or terms of any fee or payment due or claimed to be due on a student education

loan, the terms and conditions of the loan agreement, the availability of loan discharge or forgiveness options, the availability and terms of and process for enrolling in income-driven repayment, or the borrower's obligations under the loan;

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

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

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

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

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

(h) Fail to respond within 15 calendar days to communications from the student loan advocate, or within such shorter, reasonable time as the student loan advocate may request in his or her communication; or

(i) Fail to provide a response within 15 calendar days to a consumer complaint submitted to the servicer by the student loan advocate. If necessary, a licensee may request additional time up to a maximum of 45 calendar days, provided that such request is accompanied by an explanation why such additional time is reasonable and necessary.

(3) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2024 c 249 s 3; 2021 c 15 s 1; 2018 c 62 s 11; 2015 c 229 s 21; 2013 c 29 s 3; 2012 c 17 s 2; 2011 c 191 s 2; 2001 c 81 s 3.]

Short title—Application—2024 c 249: See notes following RCW 31.04.025.

RCW 31.04.035 License required—When violation occurs. (1) No person may engage in any activity subject to this chapter without first obtaining and maintaining a license in accordance with this chapter.

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

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

(b) Loan that is not a residential mortgage loan is null, void, uncollectable, and unenforceable.

(3) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2024 c 249 s 4; 2018 c 62 s 12; 2013 c 29 s 4; 2010 c 35 s 2; 2009 c 120 s 4; 2008 c 78 s 2; 1991 c 208 s 3.]

Short title—Application—2024 c 249: See notes following RCW 31.04.025.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

Severability—2008 c 78: See note following RCW 31.04.025.

RCW 31.04.045 License—Application—Background checks—Fee—Surety bond. (1) Application for a license under this chapter must be made to the nationwide mortgage licensing system and registry or in the form prescribed by the director. The application must contain at least the following information:

- (a) The name and the business addresses of the applicant;
 - (b) If the applicant is a partnership, limited liability company, or association, the name of every member;
 - (c) If the applicant is a corporation, the name, residence address, and telephone number of each officer and director;
 - (d) The street address, county, and municipality from which business is to be conducted; and
 - (e) Such other information as the director may require by rule.
- (2) As part of or in connection with an application for any license under this section, or periodically upon license renewal, each officer, director, and owner applicant must furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles 30A, 32, and 33 RCW.

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

(4) Each applicant must file and maintain a surety bond, approved by the director, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety, whose liability as such surety must not exceed in the aggregate the penal sum of the bond. The penal sum of the bond must be a minimum of thirty thousand dollars and based on the annual dollar amount of loans

originated or residential mortgage loans serviced. The bond must run to the state of Washington as obligee for the use and benefit of the state and of any person or persons who may have a cause of action against the obligor under this chapter. The bond must be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all the rules adopted under this chapter. The bond will pay to the state and any person or persons having a cause of action against the obligor all moneys that may become due and owing to the state and those persons under and by virtue of this chapter. The bond must be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation is effective forty-five days after the notice is received by the director. In lieu of a surety bond, if the applicant is a Washington business corporation, the applicant may maintain unimpaired capital, surplus, and long-term subordinated debt in an amount that at any time its outstanding promissory notes or other evidences of debt (other than long-term subordinated debt) in an aggregate sum do not exceed three times the aggregate amount of its unimpaired capital, surplus, and long-term subordinated debt. The director may define qualifying "long-term subordinated debt" for purposes of this section.

(5) The director may waive one or more requirements of this section or permit an applicant to submit other information in lieu of the required information. [2015 c 229 s 22; 2014 c 36 s 5; 2010 c 35 s 3; 2009 c 120 s 5; 2001 c 81 s 4; 1994 c 92 s 162; 1991 c 208 s 5.]

Effective date—2009 c 120 s 5: "In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, section 5 of this act takes effect January 1, 2010." [2009 c 120 s 32.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.055 License—Director's duties. (1) The director shall issue and deliver a license to the applicant to make loans in accordance with this chapter at the location specified in the application if, after investigation, the director finds that:

(a) The applicant has paid all required fees;

(b) The applicant has submitted a complete application in compliance with RCW 31.04.045;

(c) Neither the applicant nor its officers or principals have had a license issued under this section or any other section, in this state or another state, revoked or suspended within the last five years of the date of filing of the application;

(d) Neither the applicant nor any of its officers or principals have been convicted of a gross misdemeanor involving dishonesty or financial misconduct or a felony or a violation of the banking laws of this state or of the United States within seven years of the filing of an application;

(e) The financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the community and to warrant a belief that the business will be operated honestly, fairly, and efficiently within the purposes of this chapter; and

(f) Neither the applicant nor any of its principals have provided unlicensed residential mortgage loan modification services in this state in the five years prior to the filing of the present application.

(2) If the director does not find the conditions of subsection (1) of this section have been met, the director shall not issue the license. The director shall notify the applicant of the denial and return to the applicant the bond posted and the sum paid by the applicant as a license fee, retaining the investigation fee to cover the costs of investigating the application. The director shall approve or deny every application for license under this chapter within ninety days from the filing of a complete application with the fees and the approved bond. [2010 c 35 s 4; 2001 c 81 s 5; 1994 c 92 s 163; 1991 c 208 s 6.]

RCW 31.04.065 License—Information contained. The license shall state the address at which the business is to be conducted and shall state fully the name of the licensee, and if the licensee is a copartnership or association, the names of its members, and if a corporation, the date and place of its incorporation. The license is not transferable or assignable. [2012 c 17 s 3; 1991 c 208 s 7.]

RCW 31.04.075 Licensee—Place of business. (1) The licensee may not maintain more than one place of business under the same license unless:

(a) The director authorizes more than one license to the same licensee upon approval of an application by the licensee in a form and manner established by the director; or

(b) The place of business is a licensed mortgage loan originator's residence and the licensed mortgage loan originator and licensed sponsoring company comply with state and federal information security requirements and all other requirements set forth in rule for mortgage loan originators working from their residences as provided in this chapter and in rule, consistent with the purposes of this section.

(2) Whenever a licensee wishes to change the place of business to a street address other than that reported in the nationwide mortgage licensing system and registry, the licensee must give prior written notice to the director, pay the fee, and obtain the director's approval. [2021 c 15 s 2; 2015 c 229 s 23; 2001 c 81 s 6; 1994 c 92 s 164; 1991 c 208 s 8.]

RCW 31.04.085 Licensee—Assessment—Bond—Time of payment. (1) A licensee shall, for each license held by any person, on or before the first day of each March, pay to the director an annual assessment as determined by rule by the director. The licensee shall be responsible for payment of the annual assessment for the previous calendar year if the licensee had a license for any time during the preceding calendar year, regardless of whether they surrendered their license during the calendar year or whether their license was suspended or revoked. At the same time the licensee shall file with the director the required bond or otherwise demonstrate compliance with RCW 31.04.045.

(2) The director may establish a different yearly assessment fee for persons servicing residential mortgage loans. [2010 c 35 s 5; 2001 c 81 s 7; 1994 c 92 s 165; 1991 c 208 s 9.]

RCW 31.04.093 Licensing—Applications—Regulation of licensees—Director's duties and authority—Fines—Orders—Statute of limitations.

(1) The director must enforce all laws and rules relating to the licensing and regulation of licensees and persons subject to this chapter. However, the director's obligation under this subsection does not arise until the rules required under RCW 31.04.405 are adopted or until January 1, 2019, whichever is sooner.

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

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

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

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

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

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

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

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

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

(d) The licensee failed to comply with any directive, order, or subpoena issued by the director under this chapter. The director may condition, revoke, or suspend only the particular license with respect to which grounds for conditioning, revocation, or suspension may occur or exist or the director may condition, revoke, or suspend all of the licenses issued to the licensee.

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

(a) Any violation of this chapter; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(9) A licensee may surrender a license by delivering to the director written notice of surrender, but the surrender does not affect the licensee's civil or criminal liability, if any, for acts committed before the surrender, including any administrative action initiated by the director to suspend or revoke a license, impose

finances, compel the payment of restitution to borrowers or other persons, or exercise any other authority under this chapter. The statute of limitations on actions not subject to RCW 4.16.160 that are brought under this chapter by the director is five years.

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

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

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

(13) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 13; 2015 c 229 s 24; 2014 c 36 s 6; 2013 c 29 s 5; 2012 c 17 s 4; 2010 c 35 s 6; 2001 c 81 s 8; 1994 c 92 s 166; 1991 c 208 s 10.]

RCW 31.04.102 Loans secured, or not secured, by lien on real property—Licensee's obligations—Disclosure of fees and costs to borrower—Time limits. (1) For all loans made by a licensee that are not secured by a lien on real property, the licensee must make disclosures in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part 1026, and all other applicable federal laws and regulations.

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

(3) In addition, for all loans made by the licensee that are secured by a lien on real property, the licensee must provide to the borrower an estimate of the annual percentage rate on the loan and a disclosure of whether or not the loan contains a prepayment penalty within three days of receipt of a loan application. The annual percentage rate must be calculated in compliance with the truth in lending act, 15 U.S.C. Sec. 1601 and regulation Z, 12 C.F.R. Part

1024. If a licensee provides the borrower with a disclosure in compliance with the requirements of the truth in lending act within three business days of receipt of a loan application, then the licensee has complied with this subsection. If the director determines that the federal government has required a disclosure that substantially meets the objectives of this subsection, then the director may make a determination by rule that compliance with this federal disclosure requirement constitutes compliance with this subsection.

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

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

(6) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 14; 2015 c 229 s 27; 2013 c 29 s 6; 2009 c 120 s 6; 2002 c 346 s 1; 2001 c 81 s 9.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.105 Licensee—Powers—Restrictions. Every licensee may:

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

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

(3) Agree with the borrower for the payment of fees to third parties other than the licensee who provide goods or services to the licensee in connection with the preparation of the borrower's loan, including, but not limited to, credit reporting agencies, title companies, appraisers, structural and pest inspectors, and escrow companies, when such fees are actually paid by the licensee to a third party for such services or purposes and may include such fees in the amount of the loan. However, no charge may be collected unless a loan is made, except for reasonable fees properly incurred for a credit report and in connection with the appraisal of property by a qualified, independent, professional, third-party appraiser selected by the borrower and approved by the lender or in the absence of borrower selection, selected by the lender;

(4) In connection with the making of a loan secured by real estate, when the borrower actually obtains a loan, agree with the

borrower to pay a fee to a mortgage broker that is not owned by the licensee or under common ownership with the licensee and that performed services in connection with the origination of the loan. A licensee may not receive compensation as a mortgage broker in connection with any loan made by the licensee;

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

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

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

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

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

(10) In accordance with Title 48 RCW, sell insurance covering real and personal property, covering the life or disability or both of the borrower, and covering the involuntary unemployment of the borrower. [2015 c 229 s 28; 2013 c 29 s 7; 2009 c 120 s 7; 2001 c 81 s 10; 1998 c 28 s 1; 1994 c 92 s 167; 1993 c 190 s 1; 1991 c 208 s 11.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.115 Open-end loan—Requirements—Restrictions—Options.

(1) As used in this section, "open-end loan" means an agreement between a licensee and a borrower that expressly states that the loan is made in accordance with this chapter and that provides that:

(a) A licensee may permit the borrower to obtain advances of money from the licensee from time to time, or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(b) The amount of each advance and permitted charges and costs are debited to the borrower's account, and payments and other credits are credited to the same account;

(c) The charges are computed on the unpaid principal balance, or balances, of the account from time to time; and

(d) The borrower has the privilege of paying the account in full at any time without prepayment penalty or, if the account is not in default, in monthly installments of fixed or determinable amounts as provided in the agreement.

(2) (a) Interest charges on an open-end loan shall not exceed twenty-five percent per annum computed in each billing cycle by any of the following methods:

(i) By converting the annual rate to a daily rate, and multiplying the daily rate by the daily unpaid principal balance of the account, in which case each daily rate is determined by dividing the annual rate by three hundred sixty-five;

(ii) By multiplying a monthly rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the monthly rate is one-twelfth of the annual rate, and the average

daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle; or

(iii) By converting the annual rate to a daily rate, and multiplying the daily rate by the average daily unpaid principal balance of the account in the billing cycle, in which case the daily rate is determined by dividing the annual rate by three hundred sixty-five, and the average daily unpaid principal balance is the sum of the amount unpaid each day during the cycle divided by the number of days in the cycle.

For all of the methods of computation specified in this subsection (2)(a), the billing cycle shall be monthly, and the unpaid principal balance on any day shall be determined by adding to the balance unpaid, as of the beginning of that day, all advances and other permissible amounts charged to the borrower, and deducting all payments and other credits made or received that day. A billing cycle is considered monthly if the closing date of the cycle is on the same date each month, or does not vary by more than four days from that date.

(b) Reverse mortgage loans made in accordance with the Washington state reverse mortgage act are not subject to the interest charge computation restrictions or billing cycle requirements in this section.

(3) In addition to the charges permitted under subsection (2) of this section, the licensee may contract for and receive an annual fee, payable each year in advance, for the privilege of opening and maintaining an open-end loan account. Except as prohibited or limited by this section, the licensee may also contract for and receive on an open-end loan any additional charge permitted by this chapter on other loans, subject to the conditions and restrictions otherwise pertaining to those charges.

(4)(a) If credit life or credit disability insurance is provided, the additional charge for credit life insurance or credit disability insurance shall be calculated in each billing cycle by applying the current monthly premium rate for the insurance, at the rate approved by the insurance commissioner to the entire outstanding balances in the borrower's open-end loan account, or so much thereof as the insurance covers using any of the methods specified in subsection (2)(a) of this section for the calculation of interest charges; and

(b) The licensee shall not cancel credit life or disability insurance written in connection with an open-end loan because of delinquency of the borrower in the making of the required minimum payments on the loan, unless one or more of the payments is past due for a period of ninety days or more; and the licensee shall advance to the insurer the amounts required to keep the insurance in force during that period, which amounts may be debited to the borrower's account.

(5) A security interest in real or personal property may be taken to secure an open-end loan. Any such security interest may be retained until the open-end account is terminated. The security interest shall be promptly released if (a) there has been no outstanding balance in the account for twelve months and the borrower either does not have or surrenders the unilateral right to create a new outstanding balance; or (b) the account is terminated at the borrower's request and paid in full.

(6) The licensee may from time to time increase the rate of interest being charged on the unpaid principal balance of the borrower's open-end loans if the licensee mails or delivers written notice of the change to the borrower at least thirty days before the

effective date of the increase unless the increase has been earlier agreed to by the borrower. However, the borrower may choose to terminate the open-end account and the licensee shall allow the borrower to repay the unpaid balance incurred before the effective date of the rate increase upon the existing open-end loan account terms and interest rate unless the borrower incurs additional debt on or after the effective date of the rate increase or otherwise agrees to the new rate.

(7) The licensee shall deliver a copy of the open-end loan agreement to the borrower at the time the open-end account is created. The agreement must contain the name and address of the licensee and of the principal borrower, and must contain such specific disclosures as may be required by rule of the director. In adopting the rules the director shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act.

(8) Except in the case of an account that the licensee deems to be uncollectible, or with respect to which delinquency collection procedures have been instituted, the licensee shall deliver to the borrower at the end of each billing cycle in which there is an outstanding balance of more than one dollar in the account, or with respect to which interest is imposed, a periodic statement in the form required by the director. In specifying such form the director shall consider Regulation Z promulgated by the board of governors of the federal reserve system under the federal consumer credit protection act. [2009 c 149 s 13; 1994 c 92 s 168; 1993 c 405 s 1; 1991 c 208 s 12.]

RCW 31.04.125 Loan restrictions—Interest calculations. (1) No licensee may make a loan using any method of calculating interest other than the simple interest method; except that the add-on method of calculating interest may be used for a loan not secured by real property or personal property used as a residence when the repayment period does not exceed three years and fifteen days after the loan origination date.

(2) No licensee may make a loan using the add-on method to calculate interest that does not provide for a refund to the borrower or a credit to the borrower's account of any unearned interest when the loan is repaid before the original maturity date in full by cash, by a new loan, by refinancing, or otherwise before the final due date. The refund must be calculated using the actuarial method, unless a sum equal to two or more installments has been prepaid and the account is not in arrears and continues to be paid ahead, in which case the interest on the account must be recalculated by the simple interest method with the refund of unearned interest made as if the loan had been made using the simple interest method. When computing an actuarial refund, the lender may round the annual rate used to the nearest quarter of one percent.

In computing a required refund of unearned interest, a prepayment made on or before the fifteenth day after the scheduled payment date is deemed to have been made on the payment date preceding the prepayment. In the case of prepayment before the first installment due date, the company may retain an amount not to exceed one-thirtieth of the first month's interest charge for each day between the origination date of the loan and the actual date of prepayment.

(3) No licensee may provide credit life or disability insurance in an amount greater than that required to pay off the total balance owing on the date of the borrower's death net of refunds in the case of credit life insurance, or all minimum payments that become due on the loan during the covered period of disability in the case of credit disability insurance. The lender may not require any such insurance.

(4) Except in the case of loans by mail, where the borrower has sufficient time to review papers before returning them, no licensee may prepare loan papers in advance of the loan closing without having reviewed with the borrower the terms and conditions of the loan to include the type and amount of insurance, if any, requested by the borrower. [2007 c 208 s 1; 1995 c 9 s 1; 1991 c 208 s 13.]

RCW 31.04.135 Advertisements or promotions. No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money that is false, misleading, or deceptive. [1991 c 208 s 14.]

RCW 31.04.143 Subpoena authority—Application—Contents—Notice—Fees. (1) The director or authorized assistants may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed documents, records, or evidence are located, or in Thurston county. The application must:

(a) State that an order is sought under this section;

(b) Adequately specify the documents, records, evidence, or testimony; and

(c) Include a declaration made under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents, records, evidence, or testimony are reasonably related to an investigation within the department's authority.

(2) When an application under this section is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the documents, records, evidence, or testimony.

(3) The director or authorized assistants may seek approval and a court may issue an order under this section without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. An application for court approval is subject to the fee and process set forth in RCW 36.18.012(3). [2011 c 93 s 9.]

Finding—Intent—2011 c 93: See note following RCW 18.44.425.

RCW 31.04.145 Investigations and examinations—Director's duties and powers—Production of information—Costs. (1) For the purpose of discovering violations of this chapter or securing information

lawfully required under this chapter, the director may at any time, either personally or by designees, investigate or examine the loans and business and, wherever located, the books, accounts, records, papers, documents, files, and other information used in the business of every licensee and of every person subject to this chapter, whether the person acts or claims to act as principal or agent, or under or without the authority of this chapter. The director or designated representative:

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 15; 2015 c 229 s 29; 2012 c 17 s 5; 2009 c 120 s 8; 2001 c 81 s 11; 1995 c 9 s 2; 1994 c 92 s 169; 1991 c 208 s 15.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.155 Licensee—Recordkeeping—Director's access—Report requirement—Failure to report. The licensee shall keep and use in the business such books, accounts, records, papers, documents, files, and other information as will enable the director to determine whether the licensee is complying with this chapter and with the rules adopted by the director under this chapter. The director shall have free access to such books, accounts, records, papers, documents, files, and other information wherever located. Every licensee shall preserve the books, accounts, records, papers, documents, files, and other information relevant to a loan for at least three years after making the final entry on any loan. No licensee or person subject to examination or investigation under this chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, accounts, records, papers, documents, files, or other information.

Each licensee shall, on or before the first day of March of each year, file a report with the director giving such relevant information as the director may reasonably require concerning the business and operations of each licensed place of business conducted during the preceding calendar year. The report must be made under oath and must be in the form prescribed by the director, who shall make and publish annually an analysis and recapitulation of the reports. Every licensee that fails to file a report that is required to be filed by this chapter within the time required under this chapter is subject to a penalty of fifty dollars per day for each day's delay. The attorney general may bring a civil action in the name of the state for recovery of any such penalty. [2013 c 29 s 8; 2001 c 81 s 12; 1994 c 92 s 170; 1991 c 208 s 16.]

RCW 31.04.165 Director—Broad administrative discretion—Rule making—Actions in superior court. (1) The director has the power, and broad administrative discretion, to administer and interpret this chapter to facilitate the delivery of financial services to the citizens of this state by persons subject to this chapter. The director shall adopt all rules necessary to administer this chapter and to ensure complete and full disclosure by licensees of lending transactions governed by this chapter.

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

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

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

(5) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 16; 2010 c 35 s 7; 2009 c 120 s 30; 2001 c 81 s 13; 1994 c 92 s 171; 1991 c 208 s 17.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.168 Director—Powers under chapter 19.144 RCW. The director or the director's designee may take such action as provided for in this chapter to enforce, investigate, or examine persons covered by chapter 19.144 RCW. [2008 c 108 s 16.]

Findings—2008 c 108: See RCW 19.144.005.

RCW 31.04.175 Violations—No penalty prescribed—Gross misdemeanor—Good faith exception. (1) A person who violates, or knowingly aids or abets in the violation of any provision of this chapter, for which no penalty has been prescribed, and a person who fails to perform any act that it is his or her duty to perform under this chapter and for which failure no penalty has been prescribed, is guilty of a gross misdemeanor.

(2) No provision imposing civil penalties or criminal liability under this chapter or rule adopted under this chapter applies to an act taken or omission made in good faith in conformity with a written notice, interpretation, or examination report of the director or his or her agent. [2001 c 81 s 14; 1994 c 92 s 172; 1991 c 208 s 18.]

RCW 31.04.202 Application of administrative procedure act. The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies under this chapter, and any review or appeal of such action, shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW. [2001 c 81 s 15.]

RCW 31.04.205 Enforcement of chapter—Director's discretion—Hearing—Sanctions—Recovery of costs. (1) The director or designated persons may, at his or her discretion, take such action as provided for in this chapter to enforce this chapter. If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action, then the person is deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for

sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

(2) The director may recover the state's costs and expenses for prosecuting violations of this chapter including staff time spent preparing for and attending administrative hearings and reasonable attorneys' fees unless, after a hearing, the director determines no violation occurred. [2015 c 229 s 30; 2001 c 81 s 16.]

RCW 31.04.208 Application of consumer protection act. The legislature finds that the practices governed by this chapter are matters vitally affecting the public interest for the purpose of applying the consumer protection act, chapter 19.86 RCW. Any violation of this chapter is not reasonable in relation to the development and preservation of business and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce in violation of RCW 19.86.020. Remedies provided by chapter 19.86 RCW are cumulative and not exclusive. [2001 c 81 s 17.]

RCW 31.04.211 Application of chapter—2009 c 120. The authority of this chapter remains in effect, whether such a licensee, individual, or person subject to chapter 120, Laws of 2009 acts or claims to act under any licensing or registration law of this state, or claims to act without such an authority. [2009 c 120 s 9.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.221 Mortgage loan originator—License required—Unique identifier required. An individual defined as a mortgage loan originator must not engage in the business of a mortgage loan originator without first obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system. [2015 c 229 s 31; 2013 c 29 s 9; 2009 c 120 s 10.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.224 Licensing exemptions—Residential mortgage loans. The following are exempt from licensing as mortgage loan originators under this chapter:

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

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

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

(4) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence. [2015 c 229 s 32; 2012 c 17 s 6; 2009 c 120 s 11.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.227 Mortgage loan origination—Independent contractors. An independent contractor may not engage in residential mortgage loan origination activities as a loan processor unless the independent contractor obtains and maintains a license under this chapter. Each independent contractor *loan processor licensed as a mortgage loan originator must have and maintain a valid unique identifier issued by the nationwide mortgage licensing system **and registry. [2009 c 120 s 12.]

Reviser's note: *(1) The term "loan processor" was changed to "loan processor or underwriter" by 2013 c 29 s 1.

** (2) The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.231 Individual loan processor—Licensing exemptions. An individual engaging solely in *loan processor activities, who does not represent to the public, through advertising or other means of communicating or providing information including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that such an individual can or will perform any of the activities of a mortgage loan originator is not required to obtain and maintain a mortgage loan originator license under this chapter. [2009 c 120 s 13.]

***Reviser's note:** The term "loan processor" was changed to "loan processor or underwriter" by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.234 Mortgage loan originator license—Application form and content. Applicants for a mortgage loan originator license shall apply on a form as prescribed by the director. Each form must contain content as set forth by rule, regulation, instruction, or procedure of the director and may be changed or updated as necessary by the director in order to carry out the purposes of this chapter, but must not be inconsistent with that required by the nationwide mortgage licensing system *and registry. [2009 c 120 s 14.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.237 Use of nationwide mortgage licensing system and registry. In order to fulfill the purposes of chapter 120, Laws of 2009, the director is authorized to establish relationships or contracts with the nationwide mortgage licensing system *and registry or other entities designated by the nationwide mortgage licensing system *and registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this chapter. [2009 c 120 s 15.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.241 Mortgage loan originator application—Required submission and use of personal information. (1) As part of or in connection with an application for any license under this section, or periodically upon license renewal, the mortgage loan originator applicant shall furnish information concerning his or her identity, including fingerprints for submission to the Washington state patrol, the federal bureau of investigation, the nationwide mortgage licensing system *and registry, or any governmental agency or entity authorized to receive this information for a state and national criminal history background check; personal history; experience; business record; purposes; and other pertinent facts, as the director may reasonably require. As part of or in connection with an application for a license under this chapter, or periodically upon license renewal, the director is authorized to receive criminal history record information that includes nonconviction data as defined in RCW 10.97.030. The department may only disseminate nonconviction data obtained under this section to criminal justice agencies. This section does not apply to financial institutions regulated under chapters 31.12 and 31.13 RCW and Titles **30, 32, and 33 RCW.

(2) As part of or in connection with an application for any license under this section, the mortgage loan originator applicant shall furnish information pertaining to personal history and experience in a form prescribed by the nationwide mortgage licensing system *and registry, including (a) the submission of authorization for the nationwide mortgage licensing system *and registry and the director to obtain an independent credit report obtained from a consumer reporting agency described in section 603(p) of the federal fair credit reporting act, and (b) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

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

(4) In order to reduce the points of contact which the director may have to maintain, the director may use the nationwide mortgage

licensing system *and registry as a channeling agent for requesting and distributing information to and from any source so directed by the director. [2009 c 120 s 16.]

Reviser's note: *(1) The term "and registry" was removed by 2013 c 29 s 1.

** (2) Title 30 RCW was recodified and/or repealed pursuant to 2014 c 37, effective January 5, 2015.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.244 Mortgage loan originator application—Required information—Fees. (1) The application for a mortgage loan originator license must contain at least the following information:

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

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

(2) At the time of filing an application for a license or a license renewal under this chapter, each mortgage loan originator applicant shall pay to the director through the nationwide mortgage licensing system *and registry the application or renewal fee of up to one hundred fifty dollars. The director shall deposit the moneys in the financial services regulation fund. [2009 c 120 s 17.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.247 Issuance of mortgage loan originator license—Necessary findings. (1) The director must issue and deliver a mortgage loan originator license if, after investigation, the director makes at a minimum the following findings:

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

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

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

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

(e) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of

the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of chapter 120, Laws of 2009. For the purposes of this section, an applicant has not demonstrated financial responsibility when the applicant shows disregard in the management of his or her financial condition. A determination that an individual has shown disregard in the management of his or her financial condition may include, but is not limited to, an assessment of: Current outstanding judgments, except judgments solely as a result of medical expenses; current outstanding tax liens or other government liens and filings; foreclosures within the last three years; or a pattern of seriously delinquent accounts within the past three years;

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

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

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

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

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

(2) If the director finds the conditions of this section have not been met, the director must not issue the mortgage loan originator license. The director must notify the applicant of the denial and return to the mortgage loan originator applicant any remaining portion of the license fee that exceeds the department's actual cost to investigate the license. [2015 c 229 s 33; 2009 c 120 s 18.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.251 Mortgage loan originator license—Renewal—Surrender—Rules. (1) A mortgage loan originator license issued under this section expires annually. The director shall establish rules regarding the mortgage loan originator license renewal process created under this chapter. At a minimum a mortgage loan originator may not renew a license under this chapter unless the mortgage loan originator continues to meet the minimum standards for a license, and has satisfied the annual continuing education requirements.

(2) A mortgage loan originator licensee may surrender a license by delivering to the director through the nationwide mortgage licensing system *and registry written notice of surrender, but the surrender does not affect the mortgage loan originator licensee's civil or criminal liability or any administrative actions arising from acts or omissions occurring before such a surrender. [2009 c 120 s 19.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.254 Mortgage loan originator licensing process—Rules—Interim procedures. For the purposes of implementing an orderly and efficient mortgage loan originator licensing process, the director may establish licensing rules and interim procedures for licensing and acceptance of applications. For previously registered or licensed individuals the director may establish expedited review and licensing procedures. [2009 c 120 s 20.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.257 Mortgage loan originator interim license. To prevent undue delay in the issuance of a mortgage loan originator license and to facilitate the business of a mortgage loan originator, an interim license with a fixed date of expiration may be issued when the director determines that the mortgage loan originator has substantially fulfilled the requirements for mortgage loan originator licensing. The director may adopt rules describing the information required before an interim license can be granted. [2009 c 120 s 21.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.261 Mortgage loan originator—Prelicensing education requirements. (1) Each mortgage loan originator applicant shall complete at least twenty hours of prelicensing education approved by the nationwide mortgage licensing system *and registry. The prelicensing education shall include at least three hours of federal law and regulations; three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; two hours of training related to lending standards for the nontraditional mortgage product marketplace; and at least two hours of training specifically related to Washington law.

(2) A mortgage loan originator applicant having successfully completed the prelicensing education requirements approved by the nationwide mortgage licensing system *and registry for any state shall be accepted as credit towards completion of prelicensing education requirements in this state.

(3) This chapter does not preclude any prelicensing education course, as approved by the nationwide mortgage licensing system *and registry, that is provided by the employer of the mortgage loan originator applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such an employer or entity. Prelicensing education may be offered either in a classroom, online, or by any other means approved by the nationwide mortgage licensing system *and registry. [2009 c 120 s 22.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.264 Mortgage loan originator—Testing requirements.

(1) To obtain a mortgage loan originator license, an individual must pass a test developed by the nationwide mortgage licensing system *and registry and administered by a test provider approved by the nationwide mortgage licensing system *and registry based upon reasonable standards.

(2) An individual is not considered to have passed a test unless the individual achieves a test score of not less than seventy-five percent correct answers to questions.

(a) An individual may retake a test three consecutive times with each consecutive taking occurring at least thirty days after the preceding test.

(b) After failing three consecutive tests, an individual must wait at least six months before taking the test again.

(c) A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer must retake the test, not taking into account any time during which that individual is a registered mortgage loan originator.

(3) This section does not prohibit a test provider approved by the nationwide mortgage licensing system *and registry from providing a test at the location of the employer of the mortgage loan originator applicant or any subsidiary or affiliate of the employer of the applicant, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator. [2009 c 120 s 23.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.267 Mortgage loan originator—Continuing education requirements.

(1) A licensed mortgage loan originator must complete a minimum of eight hours of continuing education approved by the nationwide mortgage licensing system *and registry which must include at least three hours of federal law and regulations; two hours of ethics, which must include instruction on fraud, consumer protection, and fair lending issues; and two hours of training related to lending standards for the nontraditional mortgage product marketplace. Additionally, the director may require at least one hour of continuing education on Washington law provided by and administered through an approved provider.

(2) The nationwide mortgage licensing system *and registry must review and approve continuing education courses. Review and approval of a continuing education course must include review and approval of the course provider.

(3) A licensed mortgage loan originator may only receive credit for a continuing education course in the year in which the course is taken, and may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) A licensed mortgage loan originator who is an instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours credit for every one hour taught.

(5) A person having successfully completed the education requirements approved by the nationwide mortgage licensing system *and registry for any state must have their credits accepted as credit towards completion of continuing education requirements in this state.

(6) This section does not preclude any education course, as approved by the nationwide mortgage licensing system *and registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity. Continuing education may be offered either in a classroom, online, or by any other means approved by the nationwide mortgage licensing system *and registry. [2009 c 120 s 24.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.271 Mortgage loan originators—System information may be challenged. The director shall establish a process whereby mortgage loan originators may challenge information entered into the nationwide mortgage licensing system *and registry by the director. [2009 c 120 s 25.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.274 Information provided to nationwide mortgage licensing system and registry—Confidentiality—Restrictions on sharing. (1) Except as otherwise provided in section 1512 of the S.A.F.E. act, the requirements under any federal law or chapter 42.56 RCW regarding the privacy or confidentiality of any information or material provided to the nationwide mortgage licensing system *and registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to that information or material, continues to apply to the information or material after the information or material has been disclosed to the nationwide mortgage licensing system *and registry. Information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or state law.

(2) For the purposes under subsection (1) of this section, the director is authorized to enter agreements or sharing arrangements with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators, or other associations representing governmental agencies as established by rule, regulation, or order of the director.

(3) Information or material that is subject to a privilege or confidentiality under subsection (1) of this section is not subject to:

(a) Disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(b) Subpoena or discovery, or admission into evidence, in any private civil action or administrative process unless, with respect to any privilege held by the nationwide mortgage licensing system *and registry with respect to that information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of that person, that privilege.

(4) Chapter 42.56 RCW relating to the disclosure of confidential supervisory information or any information or material described in subsection (1) of this section that is inconsistent with subsection (1) of this section is superseded by the requirements of this section.

(5) This section does not apply to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the nationwide mortgage licensing system *and registry for access by the public. [2009 c 120 s 26.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.277 Consumer loan companies—When reports of condition are required. Each consumer loan company licensee must submit call reports through the nationwide mortgage licensing system in a form and containing the information prescribed by the director or as deemed necessary by the nationwide mortgage licensing system.

The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 17; 2015 c 229 s 34; 2010 c 35 s 8; 2009 c 120 s 27.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.281 Reports of violation—2009 c 120. The director is authorized to regularly report violations of chapter 120, Laws of 2009, as well as enforcement actions and other relevant information, to the nationwide mortgage licensing system *and registry. [2009 c 120 s 28.]

***Reviser's note:** The term "and registry" was removed by 2013 c 29 s 1.

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.284 Mortgage loan originator—Unique identifier—Display. The unique identifier of any mortgage loan originator must be clearly shown on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as established by rule, regulation,

or order of the director. This section does not apply to consumer loan company licensees. [2009 c 120 s 29.]

Findings—Declaration—2009 c 120: See note following RCW 31.04.015.

RCW 31.04.290 Residential mortgage loan servicer—Requirements—Written detailed information. (1) A residential mortgage loan servicer must comply with the following requirements:

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

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

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

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

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

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

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

(B) The current balance due on the residential mortgage loan, including the principal due, the amount of funds, if any, held in a

suspense account, the amount of the escrow balance known to the servicer, if any, and whether there are any escrow deficiencies or shortages known to the servicer;

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

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

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

(2) In addition to the statement in subsection (1)(d)(ii) of this section, a borrower may request more detailed information from a servicer, and the servicer must provide the information within fifteen business days of receipt of a written request from the borrower. The request must include the name and account number, if any, of the borrower, a statement that the account is or may be in error, and provide sufficient detail to the servicer regarding information sought by the borrower. If requested by the borrower this statement must include:

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

(b) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the residential mortgage loan including escrow account activity and suspense account activity, if any. The period of the account history must cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the residential mortgage loan for the entire two-year time period the servicer must provide the information going back to the date on which the servicer began servicing the home loan, and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the home loan prior to the two-year period or the period during which the servicer has serviced the residential mortgage loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the residential mortgage loan up to the date of the request for the information. The borrower may request annually one statement free of charge. [2015 c 229 s 35; 2013 c 29 s 10; 2010 c 35 s 9.]

RCW 31.04.293 Residential mortgage loan modification services—Written disclosure summary—Limitation on fees—Rules. (1) In addition to any other requirements under federal or state law, an advance fee may not be collected for residential mortgage loan modification services.

(2) A written disclosure summary of all material terms of the services to be provided must be provided to the borrower.

(3) The department shall adopt by rule a model written disclosure summary, and any other rules necessary to implement this section. This may include, but is not limited to, usual and customary fees for

residential mortgage loan modification services. [2013 c 29 s 11; 2010 c 35 s 10.]

RCW 31.04.297 Third-party residential mortgage loan modification services providers—Duties—Restrictions. (1) In addition to complying with federal law and all requirements for loan originators under this chapter, third-party residential mortgage loan modification services providers must:

(a) Provide a written disclosure summary as described in RCW 31.04.293;

(b) Not receive advance fees;

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

(d) Immediately inform the borrower in writing if the owner of the loan requires additional information from the borrower, or if it becomes apparent that a residential mortgage loan modification is not possible.

(2) As a condition for providing a loan modification or loan modification services, third-party residential mortgage loan modification services providers and individuals servicing a residential mortgage loan must not require or encourage a borrower to:

(a) Sign a waiver of his or her legal defenses, counterclaims, and other legal rights against the servicer for future acts;

(b) Sign a waiver of his or her right to contest a future foreclosure;

(c) Waive his or her right to receive notice before the owner or servicer of the loan initiates foreclosure proceedings;

(d) Agree to pay charges not enumerated in any agreement between the borrower and the lender, servicer, or owner of the loan; or

(e) Cease communication with the lender, investor, or loan servicer.

(3) Failure to comply with subsection (1) of this section is a violation of RCW 19.144.080. [2013 c 29 s 12; 2010 c 35 s 11.]

RCW 31.04.300 Residential mortgage loan servicer—Liquidity, operating reserves, tangible net worth requirements. (1) A residential mortgage loan servicer licensee must maintain liquidity, operating reserves, and a tangible net worth in accordance with generally accepted accounting principles as determined by the director. The director may adopt rules to interpret this subsection.

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

(3) If a licensee's liquidity, operating reserves, or tangible net worth fall below the amount required under subsection (1) or (2)

of this section, the director or the director's designee may initiate an action. [2015 c 229 s 25.]

RCW 31.04.310 Residential mortgage or student education loan servicer—Appointment of receiver. Upon application by the director and upon a showing that the interests of borrowers or creditors so requires, the superior court may appoint a receiver to take over, operate, or liquidate any residential mortgage or student education loan servicer.

The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 18; 2015 c 229 s 26.]

RCW 31.04.400 Program for student education loan servicers—Student achievement council's student loan advocate—Costs—Fees. (1) The director shall establish fees by rule sufficient to cover the costs of administering the department's program for student education loan servicers and the student achievement council's student loan advocate. These fees may include:

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

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

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

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

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

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

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

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

(4) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 3.]

RCW 31.04.405 Requirements for a student education loan servicer
~~—Borrower request for information—Transfer of service rights—Records~~
~~—Rules—Director's obligations.~~ (1) In addition to complying with any applicable federal program requirements, a student education loan servicer must comply with the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A statement that identifies and itemizes all fees and charges assessed under the loan transaction and provides a full payment history identifying in a clear and conspicuous manner all of the debits, credits, application of and disbursement of all payments received from or for the benefit of the borrower, and other activity on the student education loan including suspense account activity, if any. The period of the account history must cover at a minimum the two-year period prior to the date of the receipt of the request for information. If the servicer has not serviced the student education loan for the entire two-year time period the servicer must provide the information going back to the date on which the servicer began servicing the loan, and identify the previous servicer, if known. If the servicer claims that any delinquent or outstanding sums are owed on the loan prior to the two-year period or the period during which the servicer has serviced the student education loan, the servicer must provide an account history beginning with the month that the servicer claims any outstanding sums are owed on the student education loan up to the date of the request for the information. The borrower may request annually one statement free of charge.

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

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

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

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

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

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

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

(vi) Information about how to appropriately direct and submit a complaint to the United States department of education, the student loan advocate, federal student loan ombuds, and other relevant federal

agencies that collect borrower complaints, in the event of a servicing error;

(b) Continue processing loan modification requests, including applications for income-driven repayment, loan forgiveness, or loan consolidation, received by the receiving servicer or the transferring servicer during the transfer process; and

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

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

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

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

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

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

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

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

(6) In addition to keeping records in compliance with this chapter and RCW 28B.77.007, licensees shall collect, maintain, and report to the department specific information about the loans in the licensee's portfolio. Such information shall include, but not be limited by: Loan volume, default, refinance and modification information, loan type (subsidized, deferred, etc.) information, and collection practices.

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

(8) The director's obligations or duties under chapter 62, Laws of 2018 are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 6.]

RCW 31.04.410 Student education loan servicer licensee. A student education loan servicer licensee must maintain liquidity, operating reserves, and a tangible net worth in accordance with generally accepted accounting principles as determined by the director. The director may adopt rules to implement this section. The director's obligations or duties under this section are subject to section 21, chapter 62, Laws of 2018. [2018 c 62 s 7.]

RCW 31.04.415 Third-party student education loan modification services—Restrictions—Requirements. (1) In addition to complying with federal and state law, including all requirements under chapter 18.28 RCW and this chapter, any person providing third-party student education loan modification services must:

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

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

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

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

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

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

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

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

(e) Require or encourage a borrower to:

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

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

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

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

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

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

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

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

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

(3) In any inconsistency between this chapter and chapter 18.28 RCW, this chapter shall control. [2018 c 62 s 8.]

RCW 31.04.420 Subject to student education loan servicer requirements—Exempt from licensing. (1) The following are subject to the student education loan servicer requirements in this chapter, but are exempt from having to obtain and maintain a license in accordance with this chapter:

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

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

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

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

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

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

(3) The department may refer to the attorney general's consumer protection division complaints regarding entities subject to this section. [2018 c 62 s 10.]

RCW 31.04.430 Dog or cat purchase contracts. A contract entered into on or after July 28, 2019, for the payment to repay a loan for the purchase of a live dog or cat, where a security interest is granted in the dog or cat, is void and unenforceable. [2019 c 340 s 3.]

Construction—Additional remedies—Dog or cat ownership contracts—2019 c 340: See notes following RCW 63.10.070.

RCW 31.04.435 Finance or loan for purchase of dog or cat—Prohibition. A licensee shall not finance or make a loan for the purchase of a dog or cat. A loan entered into on or after July 23, 2023, for the purchase of a dog or cat is void and unenforceable and the licensee shall have no right to collect, receive, or retain any principal, interest, or charges related to the loan. [2023 c 208 s 6.]

REVERSE MORTGAGE LENDING

RCW 31.04.500 Short title. RCW *31.04.501 through 31.04.540 may be known and cited as the Washington state reverse mortgage act. [2009 c 149 s 10.]

***Reviser's note:** RCW 31.04.501 was repealed by 2017 3rd sp.s. c 25 s 14.

RCW 31.04.505 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "FHA-approved reverse mortgage" means a "home equity conversion mortgage" or other reverse mortgage product guaranteed or insured by the federal department of housing and urban development.

(2) "Owner-occupied residence" is the borrower's residence and includes a life estate property the legal title for which is held in the name of the borrower in a reverse mortgage transaction or in the name of a trust, provided the occupant of the property is the beneficiary of that trust.

(3) "Proprietary reverse mortgage loan" is any reverse mortgage loan product that is not a home equity conversion mortgage loan or other federally guaranteed or insured loan.

(4) "Reverse mortgage broker or lender" means a licensee under the Washington state consumer loan act, chapter 31.04 RCW, or a person exempt from licensing pursuant to federal law.

(5) "Reverse mortgage loan" means a nonrecourse consumer credit obligation in which:

(a) A mortgage, deed of trust, or equivalent consensual security interest securing one or more advances is created in the borrower's dwelling;

(b) Any principal, interest, or shared appreciation or equity is due and payable, other than in the case of default, only after:

(i) The consumer dies;

(ii) The dwelling is transferred; or

(iii) The consumer ceases to occupy the dwelling as a dwelling;

and

(c) The broker or lender is licensed under Washington state law or exempt from licensing under federal law. [2009 c 149 s 1.]

RCW 31.04.510 Requirements of licensee—Minimum capital—

Exceptions. (1) For purposes of RCW *31.04.501 through 31.04.540, in addition to any other requirements, licensees must comply with the following requirements before offering proprietary reverse mortgage loans:

(a) Maintain an irrevocable standby letter of credit approved by the director from a financial institution approved by the director in favor of the licensee in an amount necessary to fund all reverse mortgage loan requirements anticipated over the next twelve months for loans then on the licensee's books and those expected to be made over the next twelve months or three million dollars, whichever is greater. The initial term of the letter of credit must be at least two years.

(b) The financial institution that provides the letter of credit as required in (a) of this subsection may not be affiliated with the licensee.

(c) A licensee with a rating of either 4A1 or 5A1 from Dun & Bradstreet credit services for three consecutive years is exempt from the requirements set forth in (a) of this subsection.

(2) The licensee shall maintain a minimum capital of ten million dollars.

(3) A licensee may rely on the capital of its parent to satisfy the requirement of subsection (2) of this section. However, for any year in which a licensee seeks to so rely, it shall provide to the director a certified financial statement of the parent showing a net worth of at least one hundred million dollars as of the close of its most recent fiscal year and a binding written commitment from the parent to the licensee to make a minimum of ten million dollars available to the licensee as a capital contribution in connection with its reverse mortgage lending program.

(4) Subsections (2) and (3) of this section do not apply to a licensee that:

(a) Only originates proprietary reverse mortgage loans the proceeds of which are fully disbursed at the loan closing; or

(b) Only originates proprietary reverse mortgage loans that are sold into the secondary market to an investor with either a 4A1 or 5A1 rating from Dun & Bradstreet credit services. A licensee that makes such a sale shall obtain a written commitment to purchase the loans from the investor prior to closing and shall arrange for the delivery of the loans to the investor within ten days of the loan closing.

[2009 c 149 s 2.]

***Reviser's note:** RCW 31.04.501 was repealed by 2017 3rd sp.s. c 25 s 14.

RCW 31.04.515 Loan requirements—Compliance—Rules. The department of financial institutions has specific authority to develop rules regarding the interpretation and implementation of this section. A proprietary reverse mortgage loan must comply with all of the following requirements:

(1) For the purposes of this section prepayment, in whole or in part, or the refinancing of a reverse mortgage loan, is permitted without penalty at any time during the term of the reverse mortgage loan. For the purposes of this section, penalty does not include any fees, payments, or other charges, not including interest, that would have otherwise been due upon the reverse mortgage being due and payable. However, when a reverse mortgage lender has paid or waived all of the usual fees or costs associated with a reverse mortgage loan, a prepayment penalty may be imposed, provided the penalty does not exceed the total amount of the usual fees or costs that were initially absorbed or waived by the reverse mortgage lender. A mortgagee may not impose a prepayment penalty under this subsection if the prepayment is caused by the occurrence of the death of the borrowers. A borrower must be provided prior written notice of any permissible prepayment penalty under this section;

(2) A reverse mortgage loan may provide for a fixed or adjustable interest rate or combination thereof, including compound interest, and may also provide for interest that is contingent on the value of the

property upon execution of the loan or at maturity, or on changes in value between closing and maturity;

(3) The lender shall pay a late charge to the borrower for any late advance. If the lender does not mail or electronically transfer a scheduled monthly advance to the borrower on the first business day of the month, or within five business days of the date the lender receives the request, or such other regularly scheduled contractual date, the late charge is ten percent of the entire amount that should have been paid to the borrower for that month or as a result of that request. For each additional day that the lender fails to make the advance, the lender shall pay interest on the late advance at the interest rate stated in the loan documents. If the loan documents provide for an adjustable interest rate, the rate in effect when the late charge first accrues is used. Any late charge is paid from the lender's funds and may not be added to the unpaid principal balance. Additionally, the lender forfeits the right to interest and a monthly servicing fee for any months in which the advance has not been timely made. This section does not affect the department of financial institution's ability to impose other sanctions to protect consumers of reverse mortgage loans;

(4) The reverse mortgage loan may become due and payable upon the occurrence of any one of the following events:

(a) The home securing the loan is sold or title to the home is otherwise transferred;

(b) All borrowers cease occupying the home as a principal residence, except as provided in subsection (5) of this section; or

(c) A defaulting event occurs which is specified in the loan documents;

(5) Repayment of the reverse mortgage loan is subject to the following additional conditions:

(a) Temporary absences from the home not exceeding one hundred eighty consecutive days do not cause the mortgage to become due and payable;

(b) Extended absences from the home exceeding one hundred eighty consecutive days, but less than one year, do not cause the mortgage to become due and payable if the borrower has taken prior action that secures and protects the home in a manner satisfactory to the lender, as specified in the loan documents;

(c) The lender's right to collect reverse mortgage loan proceeds is subject to the applicable statute of limitations for written loan contracts. Notwithstanding any other provision of law, the statute of limitations shall commence on the date that the reverse mortgage loan becomes due and payable as provided in the loan agreement; and

(d) Using conspicuous, bold sixteen-point or larger type, the lender shall disclose in the loan agreement any interest rate or other fees to be charged during the period that commences on the date that the reverse mortgage loan becomes due and payable, and that ends when repayment in full is made;

(6) The first page of any deed of trust securing a reverse mortgage loan must contain the following statement in sixteen-point boldface type: "This deed of trust secures a reverse mortgage loan;"

(7) A lender or any other party that participates in the origination of a reverse mortgage loan shall not require an applicant for a reverse mortgage to purchase an annuity, insurance, or another product as a condition of obtaining a reverse mortgage loan. A reverse mortgage lender or a broker arranging a reverse mortgage loan shall not:

(a) Offer an annuity to the borrower prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement;

(b) Refer the borrower to anyone for the purchase of an annuity prior to the closing of the reverse mortgage or before the expiration of the right of the borrower to rescind the reverse mortgage agreement; or

(c) Provide marketing information or annuity sales leads to anyone regarding the prospective borrower or borrower, or receive any compensation for such an annuity sale or referral;

(8) (a) A lender or any other party that participates in the origination of a reverse mortgage loan shall maintain safeguards, acceptable to the department of financial institutions, to ensure that individuals offering reverse mortgage loans do not provide reverse mortgage borrowers with any other financial or insurance products and that individuals participating in the origination of a reverse mortgage loan have no ability or incentive to provide the borrower with any other financial or insurance product;

(b) The borrower shall not be required, directly or indirectly, as a condition of obtaining a reverse mortgage under this section, to purchase any other financial or insurance products;

(9) Prior to accepting a final and complete application for a reverse mortgage loan or assessing any fees, a lender shall refer the prospective borrower to an independent housing counseling agency approved by the federal department of housing and urban development for counseling. The counseling must meet the standards and requirements established by the federal department of housing and urban development for reverse mortgage counseling. The lender shall provide the borrower with a list of at least five independent housing counseling agencies approved by the federal department of housing and urban development, including at least two agencies that can provide counseling by telephone. Telephone counseling is only available at the borrower's request;

(10) A lender shall not accept a final and complete application for a reverse mortgage loan from a prospective applicant or assess any fees upon a prospective applicant without first receiving a certification from the applicant or the applicant's authorized representative that the applicant has received counseling from an agency as described in subsection (9) of this section. The certification must be signed by the borrower and the agency counselor, and must include the date of the counseling and the names, addresses, and telephone numbers of both the counselor and the borrower. Electronic facsimile copy of the housing counseling certification satisfies the requirements of this subsection. The lender shall maintain the certification in an accurate, reproducible, and accessible format for the term of the reverse mortgage;

(11) A reverse mortgage loan may not be made for a Washington state resident unless that resident is a minimum of sixty years of age as of the date of execution of the loan; and

(12) Except for the initial disbursement of moneys to the closing agent, advances by the lender to the borrower must be issued directly to the borrower, or his or her legal representative, and not to an intermediary or third party. [2009 c 149 s 3.]

RCW 31.04.520 Right to rescind transaction. The borrower in a proprietary reverse mortgage transaction has the same right to rescind

the transaction as provided in the truth in lending act, Regulation Z, 12 C.F.R. Part 1026. [2015 c 229 s 36; 2009 c 149 s 4.]

RCW 31.04.525 Preapproval required from department of financial institutions—Application of section—Rules. (1) This section does not apply to a home equity conversion mortgage or other federally administered reverse mortgage product. A proprietary reverse mortgage loan product may not be offered without preapproval by the department of financial institutions.

(2) The director may make rules regarding the preapproval process, and may require any documentation, information, standards, or data deemed necessary by the director. The director may disapprove any proprietary reverse mortgage loan products that contain or incorporate by reference any inconsistent, ambiguous, or misleading provisions or terms, or exceptions and conditions which unreasonably or deceptively affect the reverse mortgage contract. Additional grounds for disapproval may include, without limitation, the existence in the proprietary product of any benefits provided to the borrower that are contrary to public policy. [2009 c 149 s 5.]

RCW 31.04.530 Required notice to prospective borrower about counseling—Form—Contents—Annual disclosure statements—Property appraisals. (1) A proprietary reverse mortgage loan application may not be taken by a lender unless the loan applicant has received from the lender the following plain language statement in conspicuous bold sixteen-point type or larger, advising the prospective borrower about counseling prior to obtaining the reverse mortgage loan within three business days of receipt of the completed loan application:

"Important notice to reverse mortgage loan applicant

A reverse mortgage is a complex financial transaction that provides a means of using the equity you have built up in your home, or the value of your home, as a way to access home equity.

If you decide to obtain a reverse mortgage loan, you will sign binding legal documents that will have important legal, tax, and financial implications for you and your estate.

It is very important for you to understand the terms of the reverse mortgage and its effect. Before entering into this transaction, you are required by law to consult with an independent loan counselor. A list of approved counselors will be provided to you by the lender or broker. You may also want to discuss your decision with family members or others on whom you rely for financial advice."

(2) As part of the disclosure required under this section, the lender or servicer shall provide an annual, or more frequent, disclosure statement to the borrower, providing details of the loan advances, balance, other terms, and the name and telephone number of the lender's employee or agent who has been specifically designated to respond to inquiries concerning reverse mortgage loans.

(3) In addition to any other loan documentation or disclosure, prior to execution of the loan and at the end of the loan term, the lender may either obtain an independent appraisal of the property value or use the current year's tax assessment valuation of the property. Copies of these appraisals must be timely provided to the

borrower within five days of the borrower's written request, provided the borrower has paid for the appraisal. [2009 c 149 s 6.]

RCW 31.04.535 Lender default—Treble damages—Civil remedies.

(1) In addition to any other remedies, if a lender defaults on any of the reverse mortgage loan terms and fails to cure an actual default after notice as specified in the loan documents, the borrower, or the borrower's estate, is entitled to treble damages.

(2) An arrangement, transfer, or lien subject to this chapter is not invalidated solely because of the failure of a lender to comply with any provision of this chapter. However, this section does not preclude the application of any other existing civil remedies provided by law.

(3) A violation of federal legal requirements for an FHA-approved reverse mortgage as defined in RCW 31.04.505(1) constitutes a violation of this chapter. [2009 c 149 s 7.]

RCW 31.04.540 Loan advances—Eligibility and benefits under means-tested programs—Subject to federal law. (1) To the extent that implementation of this section does not conflict with federal law resulting in the loss of federal funding, proprietary reverse mortgage loan advances made to a borrower must be treated as proceeds from a loan and not as income for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(2) Undisbursed reverse mortgage funds must be treated as equity in the borrower's home and not as proceeds from a loan, resources, or assets for the purpose of determining eligibility and benefits under means-tested programs of aid to individuals.

(3) This section applies to any law or program relating to payments, allowances, benefits, or services provided on a means-tested basis by this state including, but not limited to, optional state supplements to the federal supplemental security income program, low-income energy assistance, property tax relief, aged, blind, or disabled assistance benefits, pregnant women assistance benefits, essential needs and housing support, and medical assistance only to the extent this section does not conflict with Title 19 of the federal social security act. [2011 1st sp.s. c 36 s 15; 2010 1st sp.s. c 8 s 15; 2009 c 149 s 8.]

Findings—Intent—2011 1st sp.s. c 36: See RCW 74.62.005.

Effective date—2011 1st sp.s. c 36: See note following RCW 74.62.005.

Findings—Intent—Short title—Effective date—2010 1st sp.s. c 8: See notes following RCW 74.04.225.

RCW 31.04.901 Short title. This chapter shall be known as the consumer loan act. [1991 c 208 s 21.]

RCW 31.04.902 Effective dates, implementation—1991 c 208. (1) Sections 1 through 23 of this act shall take effect January 1, 1992,

but the director shall take such steps and adopt such rules as are necessary to implement this act by that date.

(2) Section 24 of this act shall take effect January 1, 1993. [1994 c 92 s 174; 1991 c 208 s 25.]

RCW 31.04.903 Effective date—2009 c 120. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, sections 10 through 14, 16 through 19, 21 through 25, and 27 through 29 of this act take effect July 1, 2010. [2009 c 120 s 31.]

RCW 31.04.904 Effective date—2010 c 35. This act takes effect July 1, 2010. [2010 c 35 s 22.]

RCW 31.04.905 Application—2018 c 62. The requirements of chapter 62, Laws of 2018 do not apply to any person doing business under, and as permitted by, any law of this state or of the United States relating to banks, savings banks, trust companies, savings and loan or building and loan associations, or credit unions. [2018 c 62 s 20.]

RCW 31.04.906 Short title—2018 c 62. This act may be known and cited as the Washington student education loan bill of rights. [2018 c 62 s 23.]