

**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 fines, 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.]