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**SUBSTITUTE SENATE BILL 5299**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2015 Regular Session

**State of Washington                      64th Legislature                      2015 Regular Session**

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

READ FIRST TIME 01/23/15.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       **Sec. 5.** RCW 19.146.010 and 2013 c 30 s 1 are each amended to  
2 read as follows:

3       Unless the context clearly requires otherwise, the definitions in  
4 this section apply throughout this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (16) Originate loans from any unlicensed location;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (2) A mortgage broker may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 liability. The bond (~~shall~~)is not be liable for any penalties  
2 imposed on the licensee, including, but not limited to, any increased  
3 damages or attorneys' fees, or both, awarded under RCW 19.86.090. The  
4 applicant may obtain the bond directly from the surety or through a  
5 group bonding arrangement involving a professional organization  
6 comprised of mortgage brokers if the arrangement provides at least as  
7 much coverage as is required under this subsection.

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

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

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

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

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

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

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

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

8 (e) Any violation of this chapter.

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

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

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

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

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

25 (a) Any violation of this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (a) Any violation of this chapter; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 Every licensee may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

--- END ---