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SENATE BILL 5210

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State of Washington

65th Legislature

2017 Regular Session

By Senators Lias and Fain; by request of Attorney General

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

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

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

10 (1) The council shall designate a student education loan ombuds  
11 within the office to provide timely assistance to any student  
12 education loan borrower with any student education loan.

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

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

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

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

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

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

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

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

30 (e) Disseminate information concerning the availability of the  
31 student education loan ombuds to assist student education loan  
32 borrowers and potential student education loan borrowers, as well as  
33 institutions of higher education, student education loan servicers,  
34 and any other participant in student education loan lending, with any  
35 student education loan concerns; and

36 (f) Take any other actions necessary to fulfill the duties of the  
37 student education loan ombuds as provided in chapter 31.04 RCW and  
38 this section.

39 (6) By October 1, 2019, the student education loan ombuds shall  
40 establish and maintain a student education loan borrower education

1 course that includes educational presentations and materials  
2 regarding issues surrounding student education loans. The course must  
3 include, but not be limited to, key loan terms, documentation  
4 requirements, monthly payment obligations, income-based repayment  
5 options, loan forgiveness, disclosure requirements, federal gainful  
6 employment regulations, and specific benefits and options for  
7 military service members and veterans.

8 (7) By December 31, 2019, the council shall submit a report to  
9 the appropriate committees of the legislature having jurisdiction  
10 over matters relating to financial institutions and higher education.  
11 The council shall report on: (a) The implementation of this section;  
12 (b) the overall effectiveness of the student education loan ombuds  
13 position; and (c) the types of complaints received regarding student  
14 education loan borrowing, student education loan repayments and  
15 servicing, and how these complaints are resolved.

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

18 (1) The director shall establish fees by rule sufficient to cover  
19 the costs of administering the department's program for student  
20 education loan servicers and the student achievement council's  
21 student education loan ombuds. These fees may include:

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

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

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

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

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

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

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

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

13 **Sec. 3.** RCW 43.320.110 and 2015 3rd sp.s. c 4 s 960 are each  
14 amended to read as follows:

15 (1) There is created a local fund known as the "financial  
16 services regulation fund" which shall consist of all moneys received  
17 by the divisions of the department of financial institutions, except  
18 for the division of securities which shall deposit thirteen percent  
19 of all moneys received, except as provided in RCW 43.320.115, and  
20 which shall be used for the purchase of supplies and necessary  
21 equipment; the payment of salaries, wages, and utilities; the  
22 establishment of reserves; and other incidental costs required for  
23 the proper regulation of individuals and entities subject to  
24 regulation by the department. The state treasurer shall be the  
25 custodian of the fund. Disbursements from the fund shall be on  
26 authorization of the director of financial institutions or the  
27 director's designee. In order to maintain an effective expenditure  
28 and revenue control, the fund shall be subject in all respects to  
29 chapter 43.88 RCW, but no appropriation is required to permit  
30 expenditures and payment of obligations from the fund.

31 During the 2015-2017 fiscal biennium, the legislature may  
32 transfer from the financial services regulation fund to the state  
33 general fund such amounts as reflect the excess fund balance of the  
34 fund. During the 2015-2017 fiscal biennium, moneys from the financial  
35 services regulation fund may be appropriated for the family  
36 prosperity account program at the department of commerce and for the  
37 operations of the department of revenue.

38 (2)(a) Beginning in the 2019-2020 fiscal year, the state  
39 treasurer shall annually transfer from the fund to the student loan

1 ombuds account created in section 4 of this act, the greater of one  
2 hundred seventy-five thousand dollars or twenty percent of the annual  
3 assessment derived from student education loan servicing.

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

7 NEW SECTION. Sec. 4. A new section is added to chapter 28B.77  
8 RCW to read as follows:

9 The student education loan ombuds account is created in the  
10 custody of the state treasurer. Expenditures from the account may be  
11 used only for the purpose of covering the costs of administering the  
12 student education loan ombuds account created in section 1 of this  
13 act. Only the executive director of the council or the director's  
14 designee may authorize expenditures from the account. The account is  
15 subject to allotment procedures under chapter 43.88 RCW, but an  
16 appropriation is not required for expenditure.

17 NEW SECTION. Sec. 5. A new section is added to chapter 31.04  
18 RCW to read as follows:

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

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

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

1 reason the payment was not credited or treated as credited to the  
2 account, as well as any actions the borrower must take to make the  
3 student education loan current;

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

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

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

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

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

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

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

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

35 (2) In addition, a borrower may request more detailed information  
36 from a servicer, and the servicer must provide the information within  
37 fifteen business days of receipt of a written request from the  
38 borrower. The request must include the name and account number, if  
39 any, of the borrower, a statement that the account is or may be in  
40 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 student education loan including suspense account activity, if  
11 any. The period of the account history must cover at a minimum the  
12 two-year period prior to the date of the receipt of the request for  
13 information. If the servicer has not serviced the student education  
14 loan for the entire two-year time period the servicer must provide  
15 the information going back to the date on which the servicer began  
16 servicing the loan, and identify the previous servicer, if known. If  
17 the servicer claims that any delinquent or outstanding sums are owed  
18 on the loan prior to the two-year period or the period during which  
19 the servicer has serviced the student education loan, the servicer  
20 must provide an account history beginning with the month that the  
21 servicer claims any outstanding sums are owed on the student  
22 education loan up to the date of the request for the information. The  
23 borrower may request annually one statement free of charge.

24 (3) When acquiring servicing rights from another servicer, a  
25 transferring servicer must:

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

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

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

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

38 (iv) Information about how to obtain a payment history from both  
39 the transferring or receiving servicer;

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

3 (vi) Information about how to submit a complaint to the United  
4 States department of education and the student education loan ombuds  
5 in the event of a servicing error; and

6 (b) Continue processing loan modification requests received by  
7 you or the transferring servicer during the transfer process.

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

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

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

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

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

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

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

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

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



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

3        A student education loan servicer licensee must maintain  
4    liquidity, operating reserves, and a tangible net worth in accordance  
5    with generally accepted accounting principles as determined by the  
6    director. The director may adopt rules to implement this section.

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

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

13        (a) Provide a written disclosure summary in a form to be  
14    prescribed by the department;

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

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

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

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

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

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

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

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

4 (e) Require or encourage a borrower to:

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

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

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

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

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

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

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

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

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

38 **Sec. 8.** RCW 31.04.015 and 2015 c 229 s 19 are each reenacted and  
39 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

38 ((+9)) (10) "Individual servicing a mortgage loan" means a  
39 person on behalf of a lender or servicer licensed by this state, who  
40 collects or receives payments including payments of principal,

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

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

13 ~~((11))~~ (12) "License" means a single license issued under the  
14 authority of this chapter.

15 ~~((12))~~ (13) "Licensee" means a person to whom one or more  
16 licenses have been issued. "Licensee" also means any person, whether  
17 located within or outside of this state, who fails to obtain a  
18 license required by this chapter.

19 ~~((13))~~ (14) "Loan" means a sum of money lent at interest or for  
20 a fee or other charge and includes both open-end and closed-end loan  
21 transactions.

22 ~~((14))~~ (15) "Loan processor or underwriter" means an individual  
23 who performs clerical or support duties as an employee at the  
24 direction of and subject to the supervision and instruction of a  
25 person licensed, or exempt from licensing, under this chapter.

26 ~~((15))~~ (16) "Making a loan" means advancing, offering to  
27 advance, or making a commitment to advance funds to a borrower for a  
28 loan.

29 ~~((16))~~ (17) "Mortgage broker" means the same as defined in RCW  
30 19.146.010, except that for purposes of this chapter, a licensee or  
31 person subject to this chapter cannot receive compensation as both a  
32 consumer loan licensee making the loan and as a consumer loan  
33 licensee acting as the mortgage broker in the same loan transaction.

34 ~~((17))~~ (18)(a) "Mortgage loan originator" means an individual  
35 who for compensation or gain (i) takes a residential mortgage loan  
36 application, or (ii) offers or negotiates terms of a residential  
37 mortgage loan. "Mortgage loan originator" also includes individuals  
38 who hold themselves out to the public as able to perform any of these  
39 activities. "Mortgage loan originator" does not include any  
40 individual who performs purely administrative or clerical tasks; and

1 does not include a person or entity solely involved in extensions of  
2 credit relating to timeshare plans, as that term is defined in  
3 section 101(53D) of Title 11, United States Code. For the purposes of  
4 this definition, administrative or clerical tasks means the receipt,  
5 collection, and distribution of information common for the processing  
6 of a loan in the mortgage industry and communication with a consumer  
7 to obtain information necessary for the processing of a residential  
8 mortgage loan.

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

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

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

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

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

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

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

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

1        ~~((18))~~ (19) "Nationwide mortgage licensing system" means a  
2 licensing system developed and maintained by the conference of state  
3 bank supervisors for licensing and registration.

4        ~~((19))~~ (20) "Officer" means an official appointed by the  
5 company for the purpose of making business decisions or corporate  
6 decisions.

7        ~~((20))~~ (21) "Person" includes individuals, partnerships,  
8 associations, limited liability companies, limited liability  
9 partnerships, trusts, corporations, and all other legal entities.

10       ~~((21))~~ (22) "Principal" means any person who controls, directly  
11 or indirectly through one or more intermediaries, alone or in concert  
12 with others, a ten percent or greater interest in a partnership;  
13 company; association or corporation; or a limited liability company,  
14 and the owner of a sole proprietorship.

15       ~~((22))~~ (23) "Registered mortgage loan originator" means any  
16 individual who meets the definition of mortgage loan originator and  
17 is an employee of a depository institution; a subsidiary that is  
18 owned and controlled by a depository institution and regulated by a  
19 federal banking agency; or an institution regulated by the farm  
20 credit administration and is registered with, and maintains a unique  
21 identifier through, the nationwide mortgage licensing system.

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

28       ~~((24))~~ (25) "Residential mortgage loan modification" means a  
29 change in one or more of a residential mortgage loan's terms or  
30 conditions. Changes to a residential mortgage loan's terms or  
31 conditions include but are not limited to forbearances; repayment  
32 plans; changes in interest rates, loan terms, or loan types;  
33 capitalizations of arrearages; or principal reductions.

34       ~~((25))~~ (26) "Residential mortgage loan modification services"  
35 includes negotiating, attempting to negotiate, arranging, attempting  
36 to arrange, or otherwise offering to perform a residential mortgage  
37 loan modification for compensation or gain. "Residential mortgage  
38 loan modification services" also includes the collection of data for  
39 submission to an entity performing mortgage loan modification  
40 services.

1        ~~((26))~~ (27) "S.A.F.E. act" means the secure and fair  
2 enforcement for mortgage licensing act of 2008, Title V of the  
3 housing and economic recovery act of 2008 ("HERA"), P.L. 110-289,  
4 effective July 30, 2008.

5        ~~((27))~~ (28) "Senior officer" means an officer of a licensee at  
6 the vice president level or above.

7        ~~((28))~~ (29) "Service or servicing a loan" means on behalf of  
8 the lender or investor of a residential mortgage loan: (a) Collecting  
9 or receiving payments on existing obligations due and owing to the  
10 lender or investor, including payments of principal, interest, escrow  
11 amounts, and other amounts due; (b) collecting fees due to the  
12 servicer; (c) working with the borrower and the licensed lender or  
13 servicer to collect data and make decisions necessary to modify  
14 certain terms of those obligations either temporarily or permanently;  
15 (d) otherwise finalizing collection through the foreclosure process;  
16 or (e) servicing a reverse mortgage loan.

17        ~~((29))~~ (30) "Service or servicing a reverse mortgage loan"  
18 means, pursuant to an agreement with the owner of a reverse mortgage  
19 loan: Calculating, collecting, or receiving payments of interest or  
20 other amounts due; administering advances to the borrower; and  
21 providing account statements to the borrower or lender.

22        ~~((30))~~ (31) "Simple interest method" means the method of  
23 computing interest payable on a loan by applying the annual  
24 percentage interest rate or its periodic equivalent to the unpaid  
25 balances of the principal of the loan outstanding for the time  
26 outstanding.

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

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

38        ~~((31))~~ (32) "Student education loan" means any loan solely for  
39 personal use to finance postsecondary education and costs of  
40 attendance at an educational institution. A student education loan

1 includes a loan made to refinance a student education loan. A student  
2 education loan does not include an extension of credit under an open-  
3 end consumer credit plan, a reverse mortgage transaction, a  
4 residential mortgage transaction, or any other loan that is secured  
5 by real property or a dwelling.

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

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

13 (35) "Student education loan servicing" or "service a student  
14 education loan" means: (a) Receiving any scheduled periodic payments  
15 from a student education loan borrower pursuant to the terms of a  
16 student education loan; (b) applying the payments of principal and  
17 interest and such other payments with respect to the amounts received  
18 from a student education loan borrower, as may be required pursuant  
19 to the terms of a student education loan; (c) working with the  
20 student education loan borrower to collect data, or collecting data,  
21 to make decisions to modify the loan; or (d) performing other  
22 administrative services with respect to a student education loan  
23 including collection activities.

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

28 ~~((+32))~~ (37) "Third-party service provider" means any person  
29 other than the licensee or a mortgage broker who provides goods or  
30 services to the licensee or borrower in connection with the  
31 preparation of the borrower's loan and includes, but is not limited  
32 to, credit reporting agencies, real estate brokers or salespersons,  
33 title insurance companies and agents, appraisers, structural and pest  
34 inspectors, or escrow companies.

35 ~~((+33))~~ (38) "Third-party student education loan modification  
36 services" means for compensation or other consideration working with  
37 the student education loan borrower or his or her representative to  
38 collect data or prepare or submit documents, or collecting data and  
39 preparing or submitting documents, to modify, refinance, or  
40 consolidate the loan, or change repayment plans.



1        (39) "Unique identifier" means a number or other identifier  
2 assigned by protocols established by the nationwide mortgage  
3 licensing system.

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

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

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

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

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

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

19        (2) The department may refer to the attorney general's consumer  
20 protection division complaints regarding entities subject to this  
21 section.

22        **Sec. 10.** RCW 31.04.027 and 2015 c 229 s 21 are each amended to  
23 read as follows:

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

27        ~~((1))~~ (a) Directly or indirectly employ any scheme, device, or  
28 artifice to defraud or mislead any borrower, to defraud or mislead  
29 any lender, or to defraud or mislead any person;

30        ~~((2))~~ (b) Directly or indirectly engage in any unfair or  
31 deceptive practice toward any person;

32        ~~((3))~~ (c) Directly or indirectly obtain property by fraud or  
33 misrepresentation;

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

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

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

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

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

16       ~~((+9))~~ (i) Make any payment, directly or indirectly, to any  
17 appraiser of a property, for the purposes of influencing the  
18 independent judgment of the appraiser with respect to the value of  
19 the property;

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

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

29       ~~((+12))~~ (l) Advertise any rate of interest without conspicuously  
30 disclosing the annual percentage rate implied by that rate of  
31 interest;

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

34       ~~((+14))~~ (n) Make or originate loans from any unlicensed  
35 location.

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

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

39       (b) Misrepresent or omit any material information in connection  
40 with the servicing of a student education loan including, but not

1 limited to, misrepresenting the amount, nature, or terms of any fee  
2 or payment due or claimed to be due on a student education loan, the  
3 terms and conditions of the loan agreement, or the borrower's  
4 obligations under the loan;

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

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

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

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

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

27 **Sec. 11.** RCW 31.04.035 and 2013 c 29 s 4 are each amended to  
28 read as follows:

29 (1) No person may make secured or unsecured loans of money or  
30 things in action, or extend credit, or service or modify the terms or  
31 conditions of residential mortgage loans, or service or modify  
32 student education loans, without first obtaining and maintaining a  
33 license in accordance with this chapter, except those exempt under  
34 RCW 31.04.025 or not subject to licensure under section 9 of this  
35 act.

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

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

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

6 **Sec. 12.** RCW 31.04.093 and 2015 c 229 s 24 are each amended to  
7 read as follows:

8 (1) The director must enforce all laws and rules relating to the  
9 licensing and regulation of licensees and persons subject to this  
10 chapter.

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

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

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

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

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

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

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

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

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

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

10 The director may condition, revoke, or suspend only the particular  
11 license with respect to which grounds for conditioning, revocation,  
12 or suspension may occur or exist or the director may condition,  
13 revoke, or suspend all of the licenses issued to the licensee.

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

17 (a) Any violation of this chapter; or

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

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

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

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

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

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

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

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

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

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

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

7 (e) A violation of RCW 31.04.027, 31.04.102, 31.04.155, or  
8 31.04.221; or

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

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

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

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

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

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

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

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

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

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

1 requirement. Each licensee must comply with all other applicable  
2 federal and state laws and regulations.

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

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

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

30 **Sec. 14.** RCW 31.04.145 and 2015 c 229 s 29 are each amended to  
31 read as follows:

32 (1) For the purpose of discovering violations of this chapter or  
33 securing information lawfully required under this chapter, the  
34 director may at any time, either personally or by designees,  
35 investigate or examine the loans and business and, wherever located,  
36 the books, accounts, records, papers, documents, files, and other  
37 information used in the business of every licensee and of every  
38 person (~~who is engaged in the business making or assisting in the~~  
39 ~~making of loans at interest rates authorized by~~) subject to this



1 chapter, whether the person acts or claims to act as principal or  
2 agent, or under or without the authority of this chapter. The  
3 director or designated representative:

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

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

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

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

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

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

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

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

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

1 (c) Use, hire, contract, or employ public or privately available  
2 analytical systems, methods, or software to examine or investigate  
3 the licensee, individual, or person subject to chapter 120, Laws of  
4 2009;

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

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

13 (f) Assess the licensee, individual, or person subject to chapter  
14 120, Laws of 2009 the cost of the services in (a) of this subsection.

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

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

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

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

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

1       **Sec. 16.** RCW 31.04.277 and 2015 c 229 s 34 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~~) must submit call reports  
5 through the nationwide mortgage licensing system (~~and registry~~) in  
6 a form and containing the information prescribed by the director or  
7 as deemed necessary by the nationwide mortgage licensing system (~~and~~  
8 ~~registry~~)).

9       **Sec. 17.** RCW 31.04.310 and 2015 c 229 s 26 are each amended to  
10 read as follows:

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

15       NEW SECTION.   **Sec. 18.** (1) The Washington state institute for  
16 public policy shall conduct a study on the impact and cost-  
17 effectiveness of establishing a student loan authority to refinance  
18 existing federal and private undergraduate and graduate student loans  
19 from the proceeds of tax-exempt bonds. In conducting the study, the  
20 institute shall:

21       (a) Review guidance on the subject issued by the United States  
22 treasury;

23       (b) Review the structure of state-operated loan refinance  
24 programs in other states;

25       (c) Evaluate the effectiveness of borrower requirements, such as  
26 a credit score or a loan cosigner; and

27       (d) Compare any potential savings and costs to undergraduate and  
28 graduate borrowers of a loan refinanced by the state as compared to a  
29 similar federal direct loan and a private loan, issued one, five, and  
30 ten years ago.

31       (2) The Washington state institute for public policy shall submit  
32 a report on its findings to the higher education committees of the  
33 legislature by December 31, 2017.

34       NEW SECTION.   **Sec. 19.** A new section is added to chapter 31.04  
35 RCW to read as follows:

36       The requirements of this act do not apply to any person doing  
37 business under, and as permitted by, any law of this state or of the

1 United States relating to banks, savings banks, trust companies,  
2 savings and loan or building and loan associations, or credit unions.

3 NEW SECTION. **Sec. 20.** The director of financial institutions or  
4 the director's designee, the attorney general or the attorney  
5 general's designee, and the student achievement council may take the  
6 actions necessary to ensure this act is implemented on January 1,  
7 2018.

8 NEW SECTION. **Sec. 21.** This act may be known and cited as the  
9 Washington student education loan bill of rights.

10 NEW SECTION. **Sec. 22.** This act takes effect January 1, 2018.

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