
Senate Bill 6381

State of Washington

60th Legislature

2008 Regular Session

By Senators Weinstein, Kauffman, Tom, Fairley, McAuliffe, Kohl-Welles, Kline, and Murray

Read first time 01/16/08. Referred to Committee on Consumer Protection & Housing.

1 AN ACT Relating to fiduciary duties of mortgage brokers; and adding
2 a new section to chapter 19.146 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.146 RCW
5 to read as follows:

6 (1) A mortgage broker has a fiduciary relationship with the
7 borrower, and each mortgage broker is subject to all requirements for
8 fiduciaries otherwise applicable under state law. A mortgage broker's
9 fiduciary duties include, but are not limited to, the following:

10 (a) A mortgage broker must act in the borrower's best interest and
11 in the utmost good faith toward the borrower, and shall not compromise
12 a borrower's right or interest in favor of another's right or interest,
13 including a right or interest of the mortgage broker. A mortgage
14 broker shall not accept, provide, or charge any undisclosed
15 compensation or realize any undisclosed remuneration that inures to the
16 benefit of the mortgage broker on an expenditure made for the borrower;

17 (b) A mortgage broker must carry out all lawful instructions
18 provided by the borrower;

1 (c) A mortgage broker must disclose to the borrower all material
2 facts of which the mortgage broker has knowledge that might reasonably
3 affect the borrower's rights, interests, or ability to receive the
4 borrower's intended benefit from the residential mortgage loan;

5 (d) A mortgage broker must use reasonable care in performing
6 duties; and

7 (e) A mortgage broker must provide an accounting to the borrower
8 for all money and property received from the borrower.

9 (2) A mortgage broker may contract for or collect a fee for
10 services rendered if the fee is disclosed to the borrower in advance of
11 the provision of those services.

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