§ 590-b. Responsibilities. 1. Each mortgage broker shall, in addition to the duties imposed by otherwise applicable provisions of state and federal law, with respect to any transaction, including any practice, or course of business in connection with the transaction, in which the mortgage broker solicits, processes, places or negotiates a home loan:

(a) act in the borrower's interest;

(b) act with reasonable skill, care and diligence;

(c) act in good faith and with fair dealing;

(d) not accept, give, or charge any undisclosed compensation, directly or indirectly, that inures to the benefit of the mortgage broker, whether or not characterized as an expenditure made for the borrower;

(e) clearly disclose to the borrower, not later than three days after receipt of the loan application, all material information as specified by the superintendent that might reasonably affect the rights, interests, or ability of the borrower to receive the borrower's intended benefit from the home loan, including total compensation that the broker would receive from any of the loan options that the lender or mortgage broker presents to the borrower; and

(f) diligently work to present the borrower with a range of loan products for which the borrower likely qualifies and which are appropriate to the borrower's existing circumstances, based on information known by, or obtained in good faith by, the broker.

2. No lender or mortgage broker shall improperly influence or attempt to improperly influence the development, reporting, result or review of a real estate appraisal relating to real property securing a home loan, provided that it shall not be a violation of this prohibition to:

(a) ask an appraiser to consider additional information about a borrower's principal dwelling or about comparable properties;

(b) request that an appraiser provide additional information about the basis for a valuation;

(c) request that an appraiser correct factual errors in a valuation;

(d) obtain multiple appraisals of a borrower's principal dwelling, so long as the lender or mortgage broker adheres to a policy of selecting the most reliable appraisal, rather than the appraisal that states the highest value;

(e) withhold compensation from an appraiser for breach of contract or

substandard performance of services;

(f) terminate a relationship with an appraiser for violations of applicable state or federal law or breaches of ethical or professional standards; and

(g) take action permitted or required by applicable state or federal statute, regulation, or agency guidance.

3. Any mortgage broker found by a preponderance of evidence to have violated subdivision one of this section, shall be liable to the borrower for actual damages.

3-a. In connection with the making or brokering of a home loan, no person may provide, and no mortgage broker or mortgage lender may receive, directly or indirectly, any compensation that is based on, or varies with, the terms of any home loan. This subdivision shall not prohibit compensation based on the principal balance of the loan.

4. Any lender or mortgage broker found by a preponderance of evidence to have violated subdivision two of this section, shall be liable to the borrower for actual damages.

5. A borrower may be granted injunctive, declaratory, and such other equitable relief as the court deems appropriate in an action to enforce compliance with this section.

6. A court may also award reasonable attorneys' fees to a prevailing borrower in a foreclosure action.

7. The attorney general or the superintendent may enforce the provisions of this section.

8. The remedies provided in this section are not intended to be the exclusive remedies available to a borrower.