



Rep. Peter Breen

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1 AMENDMENT TO HOUSE BILL 3859

2 AMENDMENT NO. _____. Amend House Bill 3859 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Banking Act is amended by changing
5 Sections 78 and 79 as follows:

6 (205 ILCS 5/78) (from Ch. 17, par. 390)

7 Sec. 78. Board of banks and trust companies; creation,
8 members, appointment. There is created a Board which shall be
9 known as the State Banking Board of Illinois which shall
10 consist of the Director of Banking, who shall be its chairman,
11 and 12 ~~11~~ additional members. The Board shall be comprised of
12 individuals interested in the banking industry. Two members
13 shall be from State banks having total assets of not more than
14 \$75,000,000 at the time of their appointment; 2 members shall
15 be from State banks having total assets of more than
16 \$75,000,000, but not more than \$150,000,000 at the time of

1 their appointment; 2 members shall be from State banks having
2 total assets of more than \$150,000,000, but not more than
3 \$500,000,000 at the time of their appointment; 2 members shall
4 be from State banks having total assets of more than
5 \$500,000,000, but not more than \$2,000,000,000 at the time of
6 their appointment; ~~7 and~~ one member shall be from a State bank
7 having total assets of more than \$2,000,000,000 at the time of
8 his or her appointment; and one member shall be from a savings
9 bank organized under the Savings Bank Act. There shall be one
10 alternate member from a savings bank organized under the
11 Savings Bank Act whose role shall be to attend a meeting of the
12 State Banking Board if and only if the sitting member from a
13 savings bank is unable to attend the meeting. There shall be 2
14 public members, neither of whom shall be an officer or director
15 of or owner, whether directly or indirectly, of more than 5% of
16 the outstanding capital stock of any bank or savings bank.
17 Members of the State Banking Board of Illinois cease to be
18 eligible to serve on the Board once they no longer meet the
19 requirements of their original appointment; however, a member
20 from a State bank shall not be disqualified solely due to a
21 change in the bank's asset size.

22 (Source: P.A. 99-39, eff. 1-1-16.)

23 (205 ILCS 5/79) (from Ch. 17, par. 391)

24 Sec. 79. Board, terms of office. The terms of office of the
25 State Banking Board of Illinois shall be 4 years, except that

1 the initial Board appointments shall be staggered with the
2 Governor initially appointing, with advice and consent of the
3 Senate, 3 members to serve 2-year terms, 4 members to serve
4 3-year terms, and 4 members to serve 4-year terms. The sitting
5 member from a savings bank organized under the Savings Bank Act
6 and the alternate member from a savings bank organized under
7 the Savings Bank Act shall be appointed for the same terms of
8 office. Members shall continue to serve on the Board until
9 their replacement is appointed and qualified. Vacancies shall
10 be filled by appointment by the Governor with advice and
11 consent of the Senate.

12 No State Banking Board member shall serve more than 2 full
13 4-year terms of office.

14 (Source: P.A. 96-1163, eff. 1-1-11; 97-813, eff. 7-13-12.)

15 (205 ILCS 205/12104 rep.)

16 (205 ILCS 205/Art. 12.2 rep.)

17 Section 10. The Savings Bank Act is amended by repealing
18 Section 12104 and Article 12.2.

19 Section 15. The Residential Mortgage License Act of 1987 is
20 amended by changing Sections 1-4, 4-1, and 4-8 as follows:

21 (205 ILCS 635/1-4)

22 Sec. 1-4. Definitions. The following words and phrases have
23 the meanings given to them in this Section:

1 (a) "Residential real property" or "residential real
2 estate" shall mean any real property located in Illinois,
3 upon which is constructed or intended to be constructed a
4 dwelling. Those terms include a manufactured home as
5 defined in subdivision (53) of Section 9-102 of the Uniform
6 Commercial Code which is real property as defined in
7 Section 5-35 of the Conveyance and Encumbrance of
8 Manufactured Homes as Real Property and Severance Act.

9 (b) "Making a residential mortgage loan" or "funding a
10 residential mortgage loan" shall mean for compensation or
11 gain, either directly or indirectly, advancing funds or
12 making a commitment to advance funds to a loan applicant
13 for a residential mortgage loan.

14 (c) "Soliciting, processing, placing, or negotiating a
15 residential mortgage loan" shall mean for compensation or
16 gain, either directly or indirectly, accepting or offering
17 to accept an application for a residential mortgage loan,
18 assisting or offering to assist in the processing of an
19 application for a residential mortgage loan on behalf of a
20 borrower, or negotiating or offering to negotiate the terms
21 or conditions of a residential mortgage loan with a lender
22 on behalf of a borrower including, but not limited to, the
23 submission of credit packages for the approval of lenders,
24 the preparation of residential mortgage loan closing
25 documents, including a closing in the name of a broker.

26 (d) "Exempt person or entity" shall mean the following:

1 (1) (i) Any banking organization or foreign
2 banking corporation licensed by the Illinois
3 Commissioner of Banks and Real Estate or the United
4 States Comptroller of the Currency to transact
5 business in this State; (ii) any national bank,
6 federally chartered savings and loan association,
7 federal savings bank, federal credit union; (iii)
8 (blank); (iv) any bank, savings and loan association,
9 savings bank, or credit union organized under the laws
10 of this or any other state; (v) any Illinois Consumer
11 Installment Loan Act licensee; (vi) any insurance
12 company authorized to transact business in this State;
13 (vii) any entity engaged solely in commercial mortgage
14 lending; (viii) any service corporation of a savings
15 and loan association or savings bank organized under
16 the laws of this State or the service corporation of a
17 federally chartered savings and loan association or
18 savings bank having its principal place of business in
19 this State, other than a service corporation licensed
20 or entitled to reciprocity under the Real Estate
21 License Act of 2000; or (ix) any first tier subsidiary
22 of a bank, the charter of which is issued under the
23 Illinois Banking Act by the Illinois Commissioner of
24 Banks and Real Estate, or the first tier subsidiary of
25 a bank chartered by the United States Comptroller of
26 the Currency and that has its principal place of

1 business in this State, provided that the first tier
2 subsidiary is regularly examined by the Illinois
3 Commissioner of Banks and Real Estate or the
4 Comptroller of the Currency, or a consumer compliance
5 examination is regularly conducted by the Federal
6 Reserve Board.

7 (1.5) Any employee of a person or entity mentioned
8 in item (1) of this subsection, when acting for such
9 person or entity, or any registered mortgage loan
10 originator when acting for an entity described in
11 subsection (tt) of this Section.

12 (1.8) Any person or entity that does not originate
13 mortgage loans in the ordinary course of business, but
14 makes or acquires residential mortgage loans with his
15 or her own funds for his or her or its own investment
16 without intent to make, acquire, or resell more than 3
17 residential mortgage loans in any one calendar year.

18 (2) (Blank).

19 (3) Any person employed by a licensee to assist in
20 the performance of the residential mortgage licensee's
21 activities regulated by this Act who is compensated in
22 any manner by only one licensee.

23 (4) (Blank).

24 (5) Any individual, corporation, partnership, or
25 other entity that originates, services, or brokers
26 residential mortgage loans, as these activities are

1 defined in this Act, and who or which receives no
2 compensation for those activities, subject to the
3 Commissioner's regulations and the federal Secure and
4 Fair Enforcement for Mortgage Licensing Act of 2008 and
5 the rules promulgated under that Act with regard to the
6 nature and amount of compensation.

7 (6) (Blank).

8 (e) "Licensee" or "residential mortgage licensee"
9 shall mean a person, partnership, association,
10 corporation, or any other entity who or which is licensed
11 pursuant to this Act to engage in the activities regulated
12 by this Act.

13 (f) "Mortgage loan" "residential mortgage loan" or
14 "home mortgage loan" shall mean any loan primarily for
15 personal, family, or household use that is secured by a
16 mortgage, deed of trust, or other equivalent consensual
17 security interest on a dwelling as defined in Section
18 103(v) of the federal Truth in Lending Act, or residential
19 real estate upon which is constructed or intended to be
20 constructed a dwelling.

21 (g) "Lender" shall mean any person, partnership,
22 association, corporation, or any other entity who either
23 lends or invests money in residential mortgage loans.

24 (h) "Ultimate equitable owner" shall mean a person who,
25 directly or indirectly, owns or controls an ownership
26 interest in a corporation, foreign corporation, alien

1 business organization, trust, or any other form of business
2 organization regardless of whether the person owns or
3 controls the ownership interest through one or more persons
4 or one or more proxies, powers of attorney, nominees,
5 corporations, associations, partnerships, trusts, joint
6 stock companies, or other entities or devices, or any
7 combination thereof.

8 (i) "Residential mortgage financing transaction" shall
9 mean the negotiation, acquisition, sale, or arrangement
10 for or the offer to negotiate, acquire, sell, or arrange
11 for, a residential mortgage loan or residential mortgage
12 loan commitment.

13 (j) "Personal residence address" shall mean a street
14 address and shall not include a post office box number.

15 (k) "Residential mortgage loan commitment" shall mean
16 a contract for residential mortgage loan financing.

17 (l) "Party to a residential mortgage financing
18 transaction" shall mean a borrower, lender, or loan broker
19 in a residential mortgage financing transaction.

20 (m) "Payments" shall mean payment of all or any of the
21 following: principal, interest and escrow reserves for
22 taxes, insurance and other related reserves, and
23 reimbursement for lender advances.

24 (n) "Commissioner" shall mean the Commissioner of
25 Banks and Real Estate, except that, beginning on April 6,
26 2009 (the effective date of Public Act 95-1047), all

1 references in this Act to the Commissioner of Banks and
2 Real Estate are deemed, in appropriate contexts, to be
3 references to the Secretary of Financial and Professional
4 Regulation, or his or her designee, including the Director
5 of the Division of Banking of the Department of Financial
6 and Professional Regulation.

7 (n-1) "Director" shall mean the Director of the
8 Division of Banking of the Department of Financial and
9 Professional Regulation, except that, beginning on July
10 31, 2009 (the effective date of Public Act 96-112), all
11 references in this Act to the Director are deemed, in
12 appropriate contexts, to be the Secretary of Financial and
13 Professional Regulation, or his or her designee, including
14 the Director of the Division of Banking of the Department
15 of Financial and Professional Regulation.

16 (o) "Loan brokering", "brokering", or "brokerage
17 service" shall mean the act of helping to obtain from
18 another entity, for a borrower, a loan secured by
19 residential real estate situated in Illinois or assisting a
20 borrower in obtaining a loan secured by residential real
21 estate situated in Illinois in return for consideration to
22 be paid by either the borrower or the lender including, but
23 not limited to, contracting for the delivery of residential
24 mortgage loans to a third party lender and soliciting,
25 processing, placing, or negotiating residential mortgage
26 loans.

1 (p) "Loan broker" or "broker" shall mean a person,
2 partnership, association, corporation, or limited
3 liability company, other than those persons, partnerships,
4 associations, corporations, or limited liability companies
5 exempted from licensing pursuant to Section 1-4,
6 subsection (d), of this Act, who performs the activities
7 described in subsections (c), (o), and (yy) of this
8 Section.

9 (q) "Servicing" shall mean the collection or
10 remittance for or the right or obligation to collect or
11 remit for any lender, noteowner, noteholder, or for a
12 licensee's own account, of payments, interests, principal,
13 and trust items such as hazard insurance and taxes on a
14 residential mortgage loan in accordance with the terms of
15 the residential mortgage loan; and includes loan payment
16 follow-up, delinquency loan follow-up, loan analysis and
17 any notifications to the borrower that are necessary to
18 enable the borrower to keep the loan current and in good
19 standing. "Servicing" includes management of third-party
20 entities acting on behalf of a residential mortgage
21 licensee for the collection of delinquent payments and the
22 use by such third-party entities of said licensee's
23 servicing records or information, including their use in
24 foreclosure.

25 (r) "Full service office" shall mean an office,
26 provided by the licensee and not subleased from the

1 licensee's employees, and staff in Illinois reasonably
2 adequate to handle efficiently communications, questions,
3 and other matters relating to any application for, or an
4 existing home mortgage secured by residential real estate
5 situated in Illinois with respect to which the licensee is
6 brokering, funding originating, purchasing, or servicing.
7 The management and operation of each full service office
8 must include observance of good business practices such as
9 proper signage; adequate, organized, and accurate books
10 and records; ample phone lines, hours of business, staff
11 training and supervision, and provision for a mechanism to
12 resolve consumer inquiries, complaints, and problems. The
13 Commissioner shall issue regulations with regard to these
14 requirements and shall include an evaluation of compliance
15 with this Section in his or her periodic examination of
16 each licensee.

17 (s) "Purchasing" shall mean the purchase of
18 conventional or government-insured mortgage loans secured
19 by residential real estate situated in Illinois from either
20 the lender or from the secondary market.

21 (t) "Borrower" shall mean the person or persons who
22 seek the services of a loan broker, originator, or lender.

23 (u) "Originating" shall mean the issuing of
24 commitments for and funding of residential mortgage loans.

25 (v) "Loan brokerage agreement" shall mean a written
26 agreement in which a broker or loan broker agrees to do

1 either of the following:

2 (1) obtain a residential mortgage loan for the
3 borrower or assist the borrower in obtaining a
4 residential mortgage loan; or

5 (2) consider making a residential mortgage loan to
6 the borrower.

7 (w) "Advertisement" shall mean the attempt by
8 publication, dissemination, or circulation to induce,
9 directly or indirectly, any person to enter into a
10 residential mortgage loan agreement or residential
11 mortgage loan brokerage agreement relative to a mortgage
12 secured by residential real estate situated in Illinois.

13 (x) (Blank). ~~"Residential Mortgage Board" shall mean~~
14 ~~the Residential Mortgage Board created in Section 1-5 of~~
15 ~~this Act.~~

16 (y) "Government-insured mortgage loan" shall mean any
17 mortgage loan made on the security of residential real
18 estate insured by the Department of Housing and Urban
19 Development or Farmers Home Loan Administration, or
20 guaranteed by the Veterans Administration.

21 (z) "Annual audit" shall mean a certified audit of the
22 licensee's books and records and systems of internal
23 control performed by a certified public accountant in
24 accordance with generally accepted accounting principles
25 and generally accepted auditing standards.

26 (aa) "Financial institution" shall mean a savings and

1 loan association, savings bank, credit union, or a bank
2 organized under the laws of Illinois or a savings and loan
3 association, savings bank, credit union or a bank organized
4 under the laws of the United States and headquartered in
5 Illinois.

6 (bb) "Escrow agent" shall mean a third party,
7 individual or entity charged with the fiduciary obligation
8 for holding escrow funds on a residential mortgage loan
9 pending final payout of those funds in accordance with the
10 terms of the residential mortgage loan.

11 (cc) "Net worth" shall have the meaning ascribed
12 thereto in Section 3-5 of this Act.

13 (dd) "Affiliate" shall mean:

14 (1) any entity that directly controls or is
15 controlled by the licensee and any other company that
16 is directly affecting activities regulated by this Act
17 that is controlled by the company that controls the
18 licensee;

19 (2) any entity:

20 (A) that is controlled, directly or
21 indirectly, by a trust or otherwise, by or for the
22 benefit of shareholders who beneficially or
23 otherwise control, directly or indirectly, by
24 trust or otherwise, the licensee or any company
25 that controls the licensee; or

26 (B) a majority of the directors or trustees of

1 which constitute a majority of the persons holding
2 any such office with the licensee or any company
3 that controls the licensee;

4 (3) any company, including a real estate
5 investment trust, that is sponsored and advised on a
6 contractual basis by the licensee or any subsidiary or
7 affiliate of the licensee.

8 (ee) "First tier subsidiary" shall be defined by
9 regulation incorporating the comparable definitions used
10 by the Office of the Comptroller of the Currency and the
11 Illinois Commissioner of Banks and Real Estate.

12 (ff) "Gross delinquency rate" means the quotient
13 determined by dividing (1) the sum of (i) the number of
14 government-insured residential mortgage loans funded or
15 purchased by a licensee in the preceding calendar year that
16 are delinquent and (ii) the number of conventional
17 residential mortgage loans funded or purchased by the
18 licensee in the preceding calendar year that are delinquent
19 by (2) the sum of (i) the number of government-insured
20 residential mortgage loans funded or purchased by the
21 licensee in the preceding calendar year and (ii) the number
22 of conventional residential mortgage loans funded or
23 purchased by the licensee in the preceding calendar year.

24 (gg) "Delinquency rate factor" means the factor set by
25 rule of the Commissioner that is multiplied by the average
26 gross delinquency rate of licensees, determined annually

1 for the immediately preceding calendar year, for the
2 purpose of determining which licensees shall be examined by
3 the Commissioner pursuant to subsection (b) of Section 4-8
4 of this Act.

5 (hh) "Loan originator" means any natural person who,
6 for compensation or in the expectation of compensation,
7 either directly or indirectly makes, offers to make,
8 solicits, places, or negotiates a residential mortgage
9 loan. This definition applies only to Section 7-1 of this
10 Act.

11 (ii) "Confidential supervisory information" means any
12 report of examination, visitation, or investigation
13 prepared by the Commissioner under this Act, any report of
14 examination visitation, or investigation prepared by the
15 state regulatory authority of another state that examines a
16 licensee, any document or record prepared or obtained in
17 connection with or relating to any examination,
18 visitation, or investigation, and any record prepared or
19 obtained by the Commissioner to the extent that the record
20 summarizes or contains information derived from any
21 report, document, or record described in this subsection.
22 "Confidential supervisory information" does not include
23 any information or record routinely prepared by a licensee
24 and maintained in the ordinary course of business or any
25 information or record that is required to be made publicly
26 available pursuant to State or federal law or rule.

1 (jj) "Mortgage loan originator" means an individual
2 who for compensation or gain or in the expectation of
3 compensation or gain:

4 (i) takes a residential mortgage loan application;

5 or

6 (ii) offers or negotiates terms of a residential
7 mortgage loan.

8 "Mortgage loan originator" includes an individual
9 engaged in loan modification activities as defined in
10 subsection (yy) of this Section. A mortgage loan originator
11 engaged in loan modification activities shall report those
12 activities to the Department of Financial and Professional
13 Regulation in the manner provided by the Department;
14 however, the Department shall not impose a fee for
15 reporting, nor require any additional qualifications to
16 engage in those activities beyond those provided pursuant
17 to this Act for mortgage loan originators.

18 "Mortgage loan originator" does not include an
19 individual engaged solely as a loan processor or
20 underwriter except as otherwise provided in subsection (d)
21 of Section 7-1A of this Act.

22 "Mortgage loan originator" does not include a person or
23 entity that only performs real estate brokerage activities
24 and is licensed in accordance with the Real Estate License
25 Act of 2000, unless the person or entity is compensated by
26 a lender, a mortgage broker, or other mortgage loan

1 originator, or by any agent of that lender, mortgage
2 broker, or other mortgage loan originator.

3 "Mortgage loan originator" does not include a person or
4 entity solely involved in extensions of credit relating to
5 timeshare plans, as that term is defined in Section
6 101(53D) of Title 11, United States Code.

7 (kk) "Depository institution" has the same meaning as
8 in Section 3 of the Federal Deposit Insurance Act, and
9 includes any credit union.

10 (ll) "Dwelling" means a residential structure or
11 mobile home which contains one to 4 family housing units,
12 or individual units of condominiums or cooperatives.

13 (mm) "Immediate family member" means a spouse, child,
14 sibling, parent, grandparent, or grandchild, and includes
15 step-parents, step-children, step-siblings, or adoptive
16 relationships.

17 (nn) "Individual" means a natural person.

18 (oo) "Loan processor or underwriter" means an
19 individual who performs clerical or support duties as an
20 employee at the direction of and subject to the supervision
21 and instruction of a person licensed, or exempt from
22 licensing, under this Act. "Clerical or support duties"
23 includes subsequent to the receipt of an application:

24 (i) the receipt, collection, distribution, and
25 analysis of information common for the processing or
26 underwriting of a residential mortgage loan; and

1 (ii) communicating with a consumer to obtain the
2 information necessary for the processing or
3 underwriting of a loan, to the extent that the
4 communication does not include offering or negotiating
5 loan rates or terms, or counseling consumers about
6 residential mortgage loan rates or terms. An
7 individual engaging solely in loan processor or
8 underwriter activities shall not represent to the
9 public, through advertising or other means of
10 communicating or providing information, including the
11 use of business cards, stationery, brochures, signs,
12 rate lists, or other promotional items, that the
13 individual can or will perform any of the activities of
14 a mortgage loan originator.

15 (pp) "Nationwide Mortgage Licensing System and
16 Registry" means a mortgage licensing system developed and
17 maintained by the Conference of State Bank Supervisors and
18 the American Association of Residential Mortgage
19 Regulators for the licensing and registration of licensed
20 mortgage loan originators.

21 (qq) "Nontraditional mortgage product" means any
22 mortgage product other than a 30-year fixed rate mortgage.

23 (rr) "Person" means a natural person, corporation,
24 company, limited liability company, partnership, or
25 association.

26 (ss) "Real estate brokerage activity" means any

1 activity that involves offering or providing real estate
2 brokerage services to the public, including:

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

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

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

14 (4) engaging in any activity for which a person
15 engaged in the activity is required to be registered or
16 licensed as a real estate agent or real estate broker
17 under any applicable law; or

18 (5) offering to engage in any activity, or act in
19 any capacity, described in this subsection (ss).

20 (tt) "Registered mortgage loan originator" means any
21 individual that:

22 (1) meets the definition of mortgage loan
23 originator and is an employee of:

24 (A) a depository institution;

25 (B) a subsidiary that is:

26 (i) owned and controlled by a depository

1 institution; and

2 (ii) regulated by a federal banking
3 agency; or

4 (C) an institution regulated by the Farm
5 Credit Administration; and

6 (2) is registered with, and maintains a unique
7 identifier through, the Nationwide Mortgage Licensing
8 System and Registry.

9 (uu) "Unique identifier" means a number or other
10 identifier assigned by protocols established by the
11 Nationwide Mortgage Licensing System and Registry.

12 (vv) "Residential mortgage license" means a license
13 issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

14 (ww) "Mortgage loan originator license" means a
15 license issued pursuant to Section 7-1A, 7-3, or 7-6 of
16 this Act.

17 (xx) "Secretary" means the Secretary of the Department
18 of Financial and Professional Regulation, or a person
19 authorized by the Secretary or by this Act to act in the
20 Secretary's stead.

21 (yy) "Loan modification" means, for compensation or
22 gain, either directly or indirectly offering or
23 negotiating on behalf of a borrower or homeowner to adjust
24 the terms of a residential mortgage loan in a manner not
25 provided for in the original or previously modified
26 mortgage loan.

1 (zz) "Short sale facilitation" means, for compensation
2 or gain, either directly or indirectly offering or
3 negotiating on behalf of a borrower or homeowner to
4 facilitate the sale of residential real estate subject to
5 one or more residential mortgage loans or debts
6 constituting liens on the property in which the proceeds
7 from selling the residential real estate will fall short of
8 the amount owed and the lien holders are contacted to agree
9 to release their lien on the residential real estate and
10 accept less than the full amount owed on the debt.

11 The Commissioner may define by rule and regulation any
12 terms used in this Act for the efficient and clear
13 administration of this Act.

14 (Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15;
15 99-78, eff. 7-20-15.)

16 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

17 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
18 powers, and duties. The functions, powers, and duties of the
19 Commissioner of Banks and Real Estate shall include the
20 following:

21 (a) to issue or refuse to issue any license as provided
22 by this Act;

23 (b) to revoke or suspend for cause any license issued
24 under this Act;

25 (c) to keep records of all licenses issued under this

1 Act;

2 (d) to receive, consider, investigate, and act upon
3 complaints made by any person in connection with any
4 residential mortgage licensee in this State;

5 (e) (blank); ~~to consider and act upon any~~
6 ~~recommendations from the Residential Mortgage Board;~~

7 (f) to prescribe the forms of and receive:

8 (1) applications for licenses; and

9 (2) all reports and all books and records required
10 to be made by any licensee under this Act, including
11 annual audited financial statements and annual reports
12 of mortgage activity;

13 (g) to adopt rules and regulations necessary and proper
14 for the administration of this Act;

15 (h) to subpoena documents and witnesses and compel
16 their attendance and production, to administer oaths, and
17 to require the production of any books, papers, or other
18 materials relevant to any inquiry authorized by this Act;

19 (h-1) to issue orders against any person, if the
20 Commissioner has reasonable cause to believe that an
21 unsafe, unsound, or unlawful practice has occurred, is
22 occurring, or is about to occur, if any person has
23 violated, is violating, or is about to violate any law,
24 rule, or written agreement with the Commissioner, or for
25 the purpose of administering the provisions of this Act and
26 any rule adopted in accordance with the Act;

1 (h-2) to address any inquiries to any licensee, or the
2 officers thereof, in relation to its activities and
3 conditions, or any other matter connected with its affairs,
4 and it shall be the duty of any licensee or person so
5 addressed, to promptly reply in writing to such inquiries.
6 The Commissioner may also require reports from any licensee
7 at any time the Commissioner may deem desirable;

8 (i) to require information with regard to any license
9 applicant as he or she may deem desirable, with due regard
10 to the paramount interests of the public as to the
11 experience, background, honesty, truthfulness, integrity,
12 and competency of the license applicant as to financial
13 transactions involving primary or subordinate mortgage
14 financing, and where the license applicant is an entity
15 other than an individual, as to the honesty, truthfulness,
16 integrity, and competency of any officer or director of the
17 corporation, association, or other entity, or the members
18 of a partnership;

19 (j) to examine the books and records of every licensee
20 under this Act at intervals as specified in Section 4-2;

21 (k) to enforce provisions of this Act;

22 (l) to levy fees, fines, and charges for services
23 performed in administering this Act; the aggregate of all
24 fees collected by the Commissioner on and after the
25 effective date of this Act shall be paid promptly after
26 receipt of the same, accompanied by a detailed statement

1 thereof, into the Residential Finance Regulatory Fund
2 under Section 4-1.5 of this Act; the amounts deposited into
3 that Fund shall be used for the ordinary and contingent
4 expenses of the Office of Banks and Real Estate. Nothing in
5 this Act shall prevent continuing the practice of paying
6 expenses involving salaries, retirement, social security,
7 and State-paid insurance of State officers by
8 appropriation from the General Revenue Fund.

9 (m) to appoint examiners, supervisors, experts, and
10 special assistants as needed to effectively and
11 efficiently administer this Act;

12 (n) to conduct hearings for the purpose of:

13 (1) appeals of orders of the Commissioner;

14 (2) suspensions or revocations of licenses, or
15 fining of licensees;

16 (3) investigating:

17 (i) complaints against licensees; or

18 (ii) annual gross delinquency rates; and

19 (4) carrying out the purposes of this Act;

20 (o) to exercise exclusive visitorial power over a
21 licensee unless otherwise authorized by this Act or as
22 vested in the courts, or upon prior consultation with the
23 Commissioner, a foreign residential mortgage regulator
24 with an appropriate supervisory interest in the parent or
25 affiliate of a licensee;

26 (p) to enter into cooperative agreements with state

1 regulatory authorities of other states to provide for
2 examination of corporate offices or branches of those
3 states and to accept reports of such examinations;

4 (q) to assign an examiner or examiners to monitor the
5 affairs of a licensee with whatever frequency the
6 Commissioner determines appropriate and to charge the
7 licensee for reasonable and necessary expenses of the
8 Commissioner, if in the opinion of the Commissioner an
9 emergency exists or appears likely to occur;

10 (r) to impose civil penalties of up to \$50 per day
11 against a licensee for failing to respond to a regulatory
12 request or reporting requirement; and

13 (s) to enter into agreements in connection with the
14 Nationwide Mortgage Licensing System and Registry.

15 (Source: P.A. 98-1081, eff. 1-1-15.)

16 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

17 Sec. 4-8. Delinquency; examination.

18 (a) The Commissioner shall obtain from the U.S. Department
19 of Housing and Urban Development that Department's loan
20 delinquency data.

21 (b) The Commissioner shall conduct as part of an
22 examination of each licensee a review of the licensee's loan
23 delinquency data.

24 This subsection shall not be construed as a limitation of
25 the Commissioner's examination authority under Section 4-2 of

1 this Act or as otherwise provided in this Act. The Commissioner
2 may require a licensee to provide loan delinquency data as the
3 Commissioner deems necessary for the proper enforcement of the
4 Act.

5 (c) The purpose of the examination under subsection (b)
6 shall be to determine whether the loan delinquency data of the
7 licensee has resulted from practices which deviate from sound
8 and accepted mortgage underwriting practices, including but
9 not limited to credit fraud, appraisal fraud and property
10 inspection fraud. For the purpose of conducting this
11 examination, the Commissioner may accept materials prepared
12 for the U.S. Department of Housing and Urban Development. ~~At~~
13 ~~the conclusion of the examination, the Commissioner shall make~~
14 ~~his or her findings available to the Residential Mortgage~~
15 ~~Board.~~

16 (d) The Commissioner, at his or her discretion, may hold
17 public hearings, ~~or at the direction of the Residential~~
18 ~~Mortgage Board, shall hold public hearings.~~ Such testimony
19 shall be by a homeowner or mortgagor or his agent, whose
20 residential interest is affected by the activities of the
21 residential mortgage licensee subject to such hearing. At such
22 public hearing, a witness may present testimony on his or her
23 behalf concerning only his or her home, or home mortgage or a
24 witness may authorize a third party to appear on his or her
25 behalf. The testimony shall be restricted to information and
26 comments related to a specific residence or specific

1 residential mortgage application or applications for a
2 residential mortgage or residential loan transaction. The
3 testimony must be preceded by either a letter of complaint or a
4 completed consumer complaint form prescribed by the
5 Commissioner.

6 (e) The Commissioner shall, at the conclusion of the public
7 hearings, release his or her findings and shall also make
8 public any action taken with respect to the licensee. The
9 Commissioner shall also give full consideration to the findings
10 of this examination whenever reapplication is made by the
11 licensee for a new license under this Act.

12 (f) A licensee that is examined pursuant to subsection (b)
13 shall submit to the Commissioner a plan which shall be designed
14 to reduce that licensee's loan delinquencies. The plan shall be
15 implemented by the licensee as approved by the Commissioner. A
16 licensee that is examined pursuant to subsection (b) shall
17 report monthly, for a one year period, one, 2, and 3 month loan
18 delinquencies.

19 (g) Whenever the Commissioner finds that a licensee's loan
20 delinquencies on insured mortgages is unusually high within a
21 particular geographic area, he or she shall require that
22 licensee to submit such information as is necessary to
23 determine whether that licensee's practices have constituted
24 credit fraud, appraisal fraud or property inspection fraud. The
25 Commissioner shall promulgate such rules as are necessary to
26 determine whether any licensee's loan delinquencies are

1 unusually high within a particular area.

2 (Source: P.A. 99-15, eff. 1-1-16.)

3 (205 ILCS 635/1-5 rep.)

4 Section 20. The Residential Mortgage License Act of 1987 is
5 amended by repealing Section 1-5.

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.".