

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Finance Act is amended by changing
5 Sections 5.214, 5.805, and 8.12 as follows:

6 (30 ILCS 105/5.214) (from Ch. 127, par. 141.214)

7 Sec. 5.214. The ~~Savings and~~ Residential Finance Regulatory
8 Fund.

9 (Source: P.A. 85-1209; 86-1213.)

10 (30 ILCS 105/5.805)

11 Sec. 5.805. The Savings Bank ~~Institutions~~ Regulatory Fund.

12 (Source: P.A. 97-492, eff. 1-1-12; 97-813, eff. 7-13-12.)

13 (30 ILCS 105/8.12) (from Ch. 127, par. 144.12)

14 Sec. 8.12. State Pensions Fund.

15 (a) The moneys in the State Pensions Fund shall be used
16 exclusively for the administration of the Uniform Disposition
17 of Unclaimed Property Act and for the expenses incurred by the
18 Auditor General for administering the provisions of Section
19 2-8.1 of the Illinois State Auditing Act and for the funding of
20 the unfunded liabilities of the designated retirement systems.
21 Beginning in State fiscal year 2015, payments to the designated

1 retirement systems under this Section shall be in addition to,
2 and not in lieu of, any State contributions required under the
3 Illinois Pension Code.

4 "Designated retirement systems" means:

5 (1) the State Employees' Retirement System of
6 Illinois;

7 (2) the Teachers' Retirement System of the State of
8 Illinois;

9 (3) the State Universities Retirement System;

10 (4) the Judges Retirement System of Illinois; and

11 (5) the General Assembly Retirement System.

12 (b) Each year the General Assembly may make appropriations
13 from the State Pensions Fund for the administration of the
14 Uniform Disposition of Unclaimed Property Act.

15 Each month, the Commissioner of the Office of Banks and
16 Real Estate shall certify to the State Treasurer the actual
17 expenditures that the Office of Banks and Real Estate incurred
18 conducting unclaimed property examinations under the Uniform
19 Disposition of Unclaimed Property Act during the immediately
20 preceding month. Within a reasonable time following the
21 acceptance of such certification by the State Treasurer, the
22 State Treasurer shall pay from its appropriation from the State
23 Pensions Fund to the Bank and Trust Company Fund, the Savings
24 Bank Regulatory Fund, and the ~~Savings and~~ Residential Finance
25 Regulatory Fund an amount equal to the expenditures incurred by
26 each Fund for that month.

1 Each month, the Director of Financial Institutions shall
2 certify to the State Treasurer the actual expenditures that the
3 Department of Financial Institutions incurred conducting
4 unclaimed property examinations under the Uniform Disposition
5 of Unclaimed Property Act during the immediately preceding
6 month. Within a reasonable time following the acceptance of
7 such certification by the State Treasurer, the State Treasurer
8 shall pay from its appropriation from the State Pensions Fund
9 to the Financial Institution Fund and the Credit Union Fund an
10 amount equal to the expenditures incurred by each Fund for that
11 month.

12 (c) As soon as possible after the effective date of this
13 amendatory Act of the 93rd General Assembly, the General
14 Assembly shall appropriate from the State Pensions Fund (1) to
15 the State Universities Retirement System the amount certified
16 under Section 15-165 during the prior year, (2) to the Judges
17 Retirement System of Illinois the amount certified under
18 Section 18-140 during the prior year, and (3) to the General
19 Assembly Retirement System the amount certified under Section
20 2-134 during the prior year as part of the required State
21 contributions to each of those designated retirement systems;
22 except that amounts appropriated under this subsection (c) in
23 State fiscal year 2005 shall not reduce the amount in the State
24 Pensions Fund below \$5,000,000. If the amount in the State
25 Pensions Fund does not exceed the sum of the amounts certified
26 in Sections 15-165, 18-140, and 2-134 by at least \$5,000,000,

1 the amount paid to each designated retirement system under this
2 subsection shall be reduced in proportion to the amount
3 certified by each of those designated retirement systems.

4 (c-5) For fiscal years 2006 through 2014, the General
5 Assembly shall appropriate from the State Pensions Fund to the
6 State Universities Retirement System the amount estimated to be
7 available during the fiscal year in the State Pensions Fund;
8 provided, however, that the amounts appropriated under this
9 subsection (c-5) shall not reduce the amount in the State
10 Pensions Fund below \$5,000,000.

11 (c-6) For fiscal year 2015 and each fiscal year thereafter,
12 as soon as may be practical after any money is deposited into
13 the State Pensions Fund from the Unclaimed Property Trust Fund,
14 the State Treasurer shall apportion the deposited amount among
15 the designated retirement systems as defined in subsection (a)
16 to reduce their actuarial reserve deficiencies. The State
17 Comptroller and State Treasurer shall pay the apportioned
18 amounts to the designated retirement systems to fund the
19 unfunded liabilities of the designated retirement systems. The
20 amount apportioned to each designated retirement system shall
21 constitute a portion of the amount estimated to be available
22 for appropriation from the State Pensions Fund that is the same
23 as that retirement system's portion of the total actual reserve
24 deficiency of the systems, as determined annually by the
25 Governor's Office of Management and Budget at the request of
26 the State Treasurer. The amounts apportioned under this

1 subsection shall not reduce the amount in the State Pensions
2 Fund below \$5,000,000.

3 (d) The Governor's Office of Management and Budget shall
4 determine the individual and total reserve deficiencies of the
5 designated retirement systems. For this purpose, the
6 Governor's Office of Management and Budget shall utilize the
7 latest available audit and actuarial reports of each of the
8 retirement systems and the relevant reports and statistics of
9 the Public Employee Pension Fund Division of the Department of
10 Insurance.

11 (d-1) As soon as practicable after the effective date of
12 this amendatory Act of the 93rd General Assembly, the
13 Comptroller shall direct and the Treasurer shall transfer from
14 the State Pensions Fund to the General Revenue Fund, as funds
15 become available, a sum equal to the amounts that would have
16 been paid from the State Pensions Fund to the Teachers'
17 Retirement System of the State of Illinois, the State
18 Universities Retirement System, the Judges Retirement System
19 of Illinois, the General Assembly Retirement System, and the
20 State Employees' Retirement System of Illinois after the
21 effective date of this amendatory Act during the remainder of
22 fiscal year 2004 to the designated retirement systems from the
23 appropriations provided for in this Section if the transfers
24 provided in Section 6z-61 had not occurred. The transfers
25 described in this subsection (d-1) are to partially repay the
26 General Revenue Fund for the costs associated with the bonds

1 used to fund the moneys transferred to the designated
2 retirement systems under Section 6z-61.

3 (e) The changes to this Section made by this amendatory Act
4 of 1994 shall first apply to distributions from the Fund for
5 State fiscal year 1996.

6 (Source: P.A. 97-72, eff. 7-1-11; 97-732, eff. 6-30-12; 98-24,
7 eff. 6-19-13; 98-463, eff. 8-16-13.)

8 Section 10. The Illinois Banking Act is amended by changing
9 Section 71 as follows:

10 (205 ILCS 5/71) (from Ch. 17, par. 383)

11 Sec. 71. Voluntary dissolution; fees and expenses
12 ~~Commissioner's fee.~~

13 (a) Any bank that elects to dissolve voluntarily under this
14 Act shall pay to the Secretary a fee, which shall be paid upon
15 the Secretary's receipt of the bank's statement of intent. The
16 Secretary shall prescribe by rule the amount of such fee.

17 (b) All expenses incurred by the Secretary in connection
18 with the voluntary dissolution of any bank shall be paid by the
19 dissolving State bank. The expenses incurred under this
20 subsection shall be deemed to be a liability of the dissolving
21 bank.

22 ~~The Commissioner shall be entitled to a fee, which shall be~~
23 ~~paid at the time of deposit, on all money deposited with him~~
24 ~~for the account of one dissolving bank of two per cent of the~~

1 ~~first five thousand dollars and one per cent of all sums in~~
2 ~~excess of five thousand dollars.~~

3 (Source: Laws 1965, p. 2020.)

4 (205 ILCS 105/Act rep.)

5 Section 15. The Illinois Savings and Loan Act of 1985 is
6 repealed.

7 Section 20. The Savings Bank Act is amended by changing
8 Sections 1007.130, 4008, 9002, and 9002.5 and by adding
9 Sections 1007.150 and 9002.1 and Articles 12.1 and 12.2 as
10 follows:

11 (205 ILCS 205/1007.130)

12 Sec. 1007.130. Out-of-state savings bank. "Out-of-state
13 savings bank" means a savings bank or an association chartered
14 under the laws of a state other than Illinois, a territory of
15 the United States, or the District of Columbia.

16 (Source: P.A. 93-965, eff. 8-20-04.)

17 (205 ILCS 205/1007.150 new)

18 Sec. 1007.150. Applicability of other Acts. Whenever the
19 term "savings and loan", "building and loan", "mutual building
20 loan and homestead", or "building loan and homestead" or other
21 similar name is used with reference to an association organized
22 for the purposes of associations incorporated under the

1 Illinois Savings and Loan Act of 1985 or a similar Act, such
2 reference shall be applicable to a savings bank operating under
3 this Act. Whenever in any Act the term "members",
4 "shareholders", or "investors" is used in connection with such
5 associations, however named, the same shall refer to members
6 and holders of capital of savings banks operating under this
7 Act.

8 (205 ILCS 205/4008) (from Ch. 17, par. 7304-8)

9 Sec. 4008. Directors. The business and affairs of the
10 savings bank shall be exercised by its elected board of
11 directors. The board of directors shall consist of the number
12 of directors fixed by the bylaws, but shall not be fewer than
13 5. No more than 40% of the directors shall be salaried
14 employees of the savings bank, except that a higher percentage
15 may be allowed with the prior written approval of the
16 Commissioner. ~~At least two thirds of the directors shall be~~
17 ~~residents of this State.~~

18 (Source: P.A. 90-301, eff. 8-1-97.)

19 (205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

20 Sec. 9002. Powers of Secretary. The Secretary shall have
21 the following powers and duties:

22 (1) To exercise the rights, powers, and duties set
23 forth in this Act or in any related Act.

24 (2) To establish regulations as may be reasonable or

1 necessary to accomplish the purposes of this Act.

2 (3) To make an annual report regarding the work of his
3 office under this Act as he may consider desirable to the
4 Governor, or as the Governor may request.

5 (4) To cause a suit to be filed in his name to enforce
6 any law of this State that applies to savings banks, their
7 service corporations, subsidiaries, affiliates, or holding
8 companies operating under this Act, including the
9 enforcement of any obligation of the officers, directors,
10 agents, or employees of any savings bank.

11 (5) To prescribe a uniform manner in which the books
12 and records of every savings bank are to be maintained.

13 (6) To establish a reasonable fee structure for savings
14 banks and holding companies operating under this Act and
15 for their service corporations and subsidiaries. The fees
16 shall include, but not be limited to, annual fees,
17 application fees, regular and special examination fees,
18 and other fees as the Secretary establishes and
19 demonstrates to be directly resultant from the Secretary's
20 responsibilities under this Act and as are directly
21 attributable to individual entities operating under this
22 Act. The aggregate of all moneys collected by the Secretary
23 on and after the effective date of this Act shall be paid
24 promptly after receipt of the same, accompanied by a
25 detailed statement thereof, into the Savings Bank
26 Regulatory Fund established under Section 9002.1 of this

1 ~~Act. Savings and Residential Finance Regulatory Fund~~
2 ~~subject to the provisions of Section 7-19.1 of the Illinois~~
3 ~~Savings and Loan Act of 1985 including without limitation~~
4 ~~the provision for credits against regulatory fees. The~~
5 ~~amounts deposited into the Fund shall be used for the~~
6 ~~ordinary and contingent expenses of the Office of Banks and~~
7 ~~Real Estate. Notwithstanding any other provision of this~~
8 ~~paragraph (6), the aggregate of all moneys collected by the~~
9 ~~Secretary under this Act shall be paid promptly after~~
10 ~~receipt of same, accompanied by a detailed statement~~
11 ~~thereof, into the Savings Institutions Regulatory Fund~~
12 ~~upon the creation of that fund under Section 7-19.2 of the~~
13 ~~Illinois Savings and Loan Act of 1985, subject to the~~
14 ~~provisions of Section 7-19.2 of the Illinois Savings and~~
15 ~~Loan Act of 1985, including without limitation the~~
16 ~~provision for credits against regulatory fees. The amounts~~
17 ~~deposited into the Savings Institutions Regulatory Fund~~
18 ~~under this paragraph (6) shall be used for the ordinary and~~
19 ~~contingent expenses of administering and enforcing this~~
20 ~~Act.~~ Nothing in this Act shall prevent continuing the
21 practice of paying expenses involving salaries,
22 retirement, social security, and State-paid insurance of
23 State officers by appropriation from the General Revenue
24 Fund. The Secretary may require payment of the fees under
25 this Act by an electronic transfer of funds or an automatic
26 debit of an account of each of the savings banks.

1 (Source: P.A. 96-1365, eff. 7-28-10; 97-492, eff. 1-1-12.)

2 (205 ILCS 205/9002.1 new)

3 Sec. 9002.1. Savings Bank Regulatory Fund.

4 (a) The aggregate of all moneys collected by the Secretary
5 under this Act shall be paid promptly after receipt of the
6 same, accompanied by a detailed statement thereof, into the
7 State treasury and shall be set apart in the Savings Bank
8 Regulatory Fund. All earnings received from investments of
9 funds in the Savings Bank Regulatory Fund shall be deposited
10 into the Savings Bank Regulatory Fund and may be used for the
11 same purposes as fees deposited into the Savings Bank
12 Regulatory Fund. The amount from time to time deposited into
13 the Fund shall be used (i) to offset the ordinary
14 administration expenses as defined in subsection (c) of this
15 Section or (ii) as a credit against fees under subsection (b)
16 of this Section. Nothing in this Section shall prevent
17 continuing the practice of paying expenses involving salaries,
18 retirement, Social Security, and State paid insurance premiums
19 of State officers by appropriation from the General Revenue
20 Fund. However, the General Revenue Fund shall be reimbursed for
21 those payments made by an annual transfer of funds from the
22 Savings Bank Regulatory Fund. Money in the Savings Bank
23 Regulatory Fund may be transferred to the Professions Indirect
24 Cost Fund as authorized under Section 2105-300 of the
25 Department of Professional Regulation Law of the Civil

1 Administrative Code of Illinois.

2 (b) Adequate funds shall be available in the Savings Bank
3 Regulatory Fund to permit the timely payment of administration
4 expenses. In each fiscal year, the total administration
5 expenses shall be deducted from the total fees collected by the
6 Secretary and the remainder transferred into the Cash Flow
7 Reserve Account, unless the balance of the Cash Flow Reserve
8 Account prior to the transfer equals or exceeds one-fourth of
9 the total initial appropriations from the Savings Bank
10 Regulatory Fund for the subsequent year, in which case the
11 remainder shall be credited to savings banks and applied
12 against their fees for the subsequent year. The amount credited
13 to each savings bank shall be in the same proportion as the
14 regulatory fees paid by each for the year bear to the total
15 regulatory fees collected for the year. If, after a transfer to
16 the Cash Flow Reserve Account is made or if no remainder is
17 available for transfer, the balance of the Cash Flow Reserve
18 Account is less than one-fourth of the total initial
19 appropriations for the subsequent year and the amount
20 transferred is less than 5% of the total regulatory fees for
21 the year, additional amounts needed to make the transfer equal
22 to 5% of the total regulatory fees for the year shall be
23 apportioned amongst, assessed upon, and paid by savings banks
24 in the same proportion that the regulatory fees of each,
25 respectively, for the year bear to the total regulatory fees
26 collected for the year. The additional amounts assessed shall

1 be transferred into the Cash Flow Reserve Account.

2 (c) For purposes of this Section, the following terms shall
3 have the following meanings:

4 "Administration expenses", for any fiscal year, means the
5 ordinary and contingent expenses for that year incident to
6 making the examinations provided for by, and for otherwise
7 administering, this Act, including all salaries and other
8 compensation paid for personal services rendered for the State
9 by officers or employees of the State, including the Secretary
10 and the Director of the Division, communication equipment and
11 services, office furnishings, surety bond premiums, and travel
12 expenses of those officers and employees, expenditures or
13 charges for the acquisition, enlargement or improvement of, or
14 for the use of, any office space, building, or structure, or
15 expenditures for the maintenance thereof or for furnishing
16 heat, light, or power with respect thereto, all to the extent
17 that those expenditures are directly incidental to such
18 examinations or administration. The Secretary shall not be
19 required by this subsection to maintain in any fiscal year's
20 budget appropriated reserves for accrued vacation and accrued
21 sick leave that is required to be paid to employees of the
22 Secretary upon termination of their service with the Secretary
23 in an amount that is more than is reasonably anticipated to be
24 necessary for any anticipated turnover in employees, whether
25 due to normal attrition or due to layoffs, terminations, or
26 resignations.

1 "Regulatory fees" includes both fees collected under
2 Section 9002.5 and fees collected for examinations conducted by
3 the Secretary or his examiners or designees under authority of
4 this Act.

5 "Fiscal year" means a period beginning July 1 of any year
6 and ending June 30 of the next year.

7 (205 ILCS 205/9002.5)

8 Sec. 9002.5. Regulatory fees.

9 (a) For the fiscal year beginning July 1, 2007 and every
10 year thereafter, each savings bank and each service corporation
11 operating under this Act shall pay a fixed fee of \$520, plus a
12 variable fee based on the total assets of the savings bank or
13 service corporation at the following rates:

14 24.97¢ per \$1,000 of the first \$2,000,000 of total
15 assets;

16 22.70¢ per \$1,000 of the next \$3,000,000 of total
17 assets;

18 20.43¢ per \$1,000 of the next \$5,000,000 of total
19 assets;

20 17.025¢ per \$1,000 of the next \$15,000,000 of total
21 assets;

22 14.755¢ per \$1,000 of the next \$25,000,000 of total
23 assets;

24 12.485¢ per \$1,000 of the next \$50,000,000 of total
25 assets;

1 10.215¢ per \$1,000 of the next \$400,000,000 of total
2 assets;

3 6.81¢ per \$1,000 of the next \$500,000,000 of total
4 assets; and

5 4.54¢ per \$1,000 of all total assets in excess of
6 \$1,000,000,000 of such savings bank or service
7 corporation.

8 (b) The Secretary shall receive and there shall be paid to
9 the Secretary an additional fee as an adjustment to the
10 supervisory fee, based upon the difference between the total
11 assets of each savings bank and each service corporation as
12 shown by its financial report filed with the Secretary for the
13 reporting period of the calendar year ended December 31 on
14 which the supervisory fee was based and the total assets of
15 each savings bank and each service corporation as shown by its
16 financial report filed with the Secretary for the reporting
17 period of the calendar year ended December 31 in which the
18 quarterly payments are made according to the following
19 schedule:

20 24.97¢ per \$1,000 of the first \$2,000,000 of total
21 assets;

22 22.70¢ per \$1,000 of the next \$3,000,000 of total
23 assets;

24 20.43¢ per \$1,000 of the next \$5,000,000 of total
25 assets;

26 17.025¢ per \$1,000 of the next \$15,000,000 of total

1 assets;

2 14.755¢ per \$1,000 of the next \$25,000,000 of total

3 assets;

4 12.485¢ per \$1,000 of the next \$50,000,000 of total

5 assets;

6 10.215¢ per \$1,000 of the next \$400,000,000 of total

7 assets;

8 6.81¢ per \$1,000 of the next \$500,000,000 of total

9 assets; and

10 4.54¢ per \$1,000 of all total assets in excess of

11 \$1,000,000,000 of such savings bank or service

12 corporation.

13 (c) The Secretary shall receive and there shall be paid to

14 the Secretary by each savings bank and each service corporation

15 a fee of \$520 for each approved branch office or facility

16 office established under the Illinois Administrative Code. The

17 determination of the fees shall be made annually as of the

18 close of business of the prior calendar year ended December 31.

19 (d) The Secretary shall receive for each fiscal year,

20 commencing with the fiscal year ending June 30, 2014, a

21 contingent fee equal to the lesser of the aggregate of the fees

22 paid by all savings banks under subsections (a), (b), and (c)

23 of this Section for that year, or the amount, if any, whereby

24 the aggregate of the administration expenses, as defined in

25 subsection (c) of Section 9002.1 of this Act, for that fiscal

26 year exceeds the sum of the aggregate of the fees payable by

1 all savings banks for that year under subsections (a), (b), and
2 (c) of this Section, plus any amounts transferred into the
3 Savings Bank Regulatory Fund from the State Pensions Fund for
4 that year, plus all other amounts collected by the Secretary
5 for that year under any other provision of this Act. The
6 aggregate amount of the contingent fee thus arrived at for any
7 fiscal year shall be apportioned amongst, assessed upon, and
8 paid by the savings banks, respectively, in the same proportion
9 that the fee of each under subsections (a), (b), and (c) of
10 this Section, respectively, for that year bears to the
11 aggregate for that year of the fees collected under subsections
12 (a), (b), and (c) of this Section. The aggregate amount of the
13 contingent fee, and the portion thereof to be assessed upon
14 each savings bank, respectively, shall be determined by the
15 Secretary and shall be paid by each, respectively, within 120
16 days of the close of the period for which the contingent fee is
17 computed and is payable, and the Secretary shall give 20 days
18 advance notice of the amount of the contingent fee payable by
19 the savings bank and of the date fixed by the Secretary for
20 payment of the fee.

21 (Source: P.A. 95-1047, eff. 4-6-09.)

22 (205 ILCS 205/Art. 12.1 heading new)

23 ARTICLE 12.1. Effect of Repeal of Illinois

24 Savings and Loan Act of 1985

1 (205 ILCS 205/12101 new)

2 Sec. 12101. Effect of repeal. This Article sets forth the
3 effect of and means of transition necessitated by the repeal of
4 the Illinois Savings and Loan Act of 1985.

5 (205 ILCS 205/12102 new)

6 Sec. 12102. Effect on special funds.

7 (a) The Savings and Residential Finance Regulatory Fund
8 established under Section 7-19.1 of the Illinois Savings and
9 Loan Act of 1985 is hereby redesignated the Residential Finance
10 Regulatory Fund. The fund shall continue in existence under the
11 Illinois Residential Mortgage License Act of 1987 without
12 interruption and shall retain all moneys therein, except moneys
13 required to be transferred or returned from Savings and
14 Residential Finance Regulatory Fund, now designated the
15 Residential Finance Regulatory Fund, to the Savings
16 Institutions Regulatory Fund, now designated the Savings Bank
17 Regulatory Fund, pursuant to subsection (e) of Section 7-19.2
18 of the Illinois Savings and Loan Act of 1985, shall continue to
19 be required to be transferred or returned to the Savings
20 Institutions Regulatory Fund, now designated the Savings Bank
21 Regulatory Fund, as if subsection (e) of Section 7-19.2 of the
22 Illinois Savings and Loan Act of 1985 had not been repealed.

23 (b) The Savings Institutions Regulatory Fund established
24 under Section 7-19.2 of the Illinois Savings and Loan Act of
25 1985 is hereby redesignated the Savings Bank Regulatory Fund.

1 The fund shall continue in existence under Section 9002.1 of
2 this Act without interruption and shall retain all moneys
3 therein.

4 (205 ILCS 205/12103 new)

5 Sec. 12103. Effect on foreign associations.

6 (a) Any existing foreign association shall be deemed to be
7 an out-of-state savings bank under this Act.

8 (b) Notwithstanding any other provision of this Act, an
9 existing foreign association may retain any branch or office in
10 the State that properly existed in the State at the time of the
11 repeal of the Illinois Savings and Loan Act of 1985, and
12 continue to engage in the same activities in the State
13 therefrom as were engaged in immediately prior to the repeal of
14 the Illinois Savings and Loan Act, without further application
15 or notice to or approval of the Secretary.

16 (c) An existing foreign association may retain a
17 representative office in the State that properly existed in the
18 State at the time of the repeal of the Illinois Savings and
19 Loan Act of 1985, provided that the foreign association obtains
20 a license under the Foreign Bank Representative Office Act.

21 (205 ILCS 205/12104 new)

22 Sec. 12104. Effect on the Board of Savings Institutions.

23 The Board of Savings Institutions is hereby redesignated as the
24 Board of Savings Banks. The Board shall continue to operate

1 without interruption and as if it had been originally
2 established under Article 12.2 of this Act. The current members
3 of the Board of Savings Institutions shall continue to serve
4 the balance of their terms. Thereafter, the Board of Savings
5 Institutions shall be composed of members as required by
6 Section 12202 of this Act.

7 (205 ILCS 205/12105 new)

8 Sec. 12105. Applicability of other Acts. Whenever in any
9 Act the term "savings and loan", "building and loan", "mutual
10 building loan and homestead", or "building loan and homestead"
11 or other similar name is used with reference to an association
12 organized for the purposes of associations incorporated under
13 the Illinois Savings and Loan Act of 1985 or a similar Act,
14 such reference shall be applicable to a savings bank operating
15 under this Act. Whenever in any Act the term "members",
16 "shareholders", or "investors" is used in connection with such
17 associations, however named, the same shall refer to members
18 and holders of capital of savings banks operating under this
19 Act.

20 (205 ILCS 205/Art. 12.2 heading new)

21 ARTICLE 12.2. Board of Savings Banks

22 (205 ILCS 205/12201 new)

23 Sec. 12201. Board of Savings Banks; appointment. The Board

1 of Savings Bank is established pursuant to Section 12104 of
2 this Act. The Board of Savings Banks shall be composed of the
3 Director of Banking, who shall be its chairperson and have the
4 power to vote, and 7 persons appointed by the Governor. Two of
5 the 7 persons appointed by the Governor shall represent the
6 public interest and the remainder shall have been engaged
7 actively in savings bank or savings and loan management in this
8 State for at least 5 years immediately prior to appointment.
9 Each member of the Board appointed by the Governor shall be
10 reimbursed for ordinary and necessary expenses incurred in
11 attending the meetings of the Board. Members, excluding the
12 chairperson, shall be appointed for 4-year terms to expire on
13 the third Monday in January. Except as otherwise provided in
14 this Section, members of the Board shall serve until their
15 respective successors are appointed and qualified. A member who
16 tenders a written resignation shall serve only until the
17 resignation is accepted by the chairperson. A member who fails
18 to attend 3 consecutive Board meetings without an excused
19 absence shall no longer serve as a member. The Governor shall
20 fill any vacancy by the appointment of a member for the
21 unexpired term in the same manner as in the making of original
22 appointments.

23 (205 ILCS 205/12202 new)

24 Sec. 12202. Board of Savings Banks; organization and
25 meetings. The Board shall elect a vice chairperson and

1 secretary of the Board; shall adopt by-laws for the holding and
2 conducting of meetings and appointing officers and committees;
3 and shall keep a record of all meetings and transactions and
4 make such other provisions for the daily conduct of its
5 business as it deems necessary. A majority of the members of
6 the Board, excluding those members who are no longer serving as
7 members as provided in Section 12201 of this Act, shall
8 constitute a quorum. The act of the majority of the members of
9 the Board present at a meeting at which a quorum is present
10 shall be the act of the Board. Regular meetings shall be held
11 as provided in the by-laws, and special meetings may be called
12 by the chairperson or upon the request of any 3 members of the
13 Board or the Secretary. The Board shall maintain at the office
14 of the Secretary permanent records of its meetings, hearings,
15 and decisions. The Secretary shall provide adequate quarters
16 and personnel for use by the Board.

17 (205 ILCS 205/12203 new)

18 Sec. 12203. Board of Savings Banks; powers. The Board shall
19 have the power to:

20 (a) advise the Governor and Secretary on all matters
21 relating to the regulation of savings banks; and

22 (b) advise the Governor on legislation proposed to amend
23 this Act or any related Act.

24 (205 ILCS 205/1007.70 rep.)

1 (205 ILCS 205/9017 rep.)

2 Section 25. The Savings Bank Act is amended by repealing
3 Sections 1007.70 and 9017.

4 Section 30. The Residential Mortgage License Act of 1987 is
5 amended by changing Sections 1-4, 2-2, 2-4, 3-2, and 4-1 and by
6 adding Section 4-1.5 as follows:

7 (205 ILCS 635/1-4)

8 Sec. 1-4. Definitions.

9 (a) "Residential real property" or "residential real
10 estate" shall mean any real property located in Illinois, upon
11 which is constructed or intended to be constructed a dwelling.

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

17 (c) "Soliciting, processing, placing, or negotiating a
18 residential mortgage loan" shall mean for compensation or gain,
19 either directly or indirectly, accepting or offering to accept
20 an application for a residential mortgage loan, assisting or
21 offering to assist in the processing of an application for a
22 residential mortgage loan on behalf of a borrower, or
23 negotiating or offering to negotiate the terms or conditions of
24 a residential mortgage loan with a lender on behalf of a

1 borrower including, but not limited to, the submission of
2 credit packages for the approval of lenders, the preparation of
3 residential mortgage loan closing documents, including a
4 closing in the name of a broker.

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

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

1 which is issued under the Illinois Banking Act by the
2 Illinois Commissioner of Banks and Real Estate, or the
3 first tier subsidiary of a bank chartered by the United
4 States Comptroller of the Currency and that has its
5 principal place of business in this State, provided that
6 the first tier subsidiary is regularly examined by the
7 Illinois Commissioner of Banks and Real Estate or the
8 Comptroller of the Currency, or a consumer compliance
9 examination is regularly conducted by the Federal Reserve
10 Board.

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

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

22 (2) (Blank).

23 (3) Any person employed by a licensee to assist in the
24 performance of the residential mortgage licensee's
25 activities regulated by this Act who is compensated in any
26 manner by only one licensee.

1 (4) (Blank).

2 (5) Any individual, corporation, partnership, or other
3 entity that originates, services, or brokers residential
4 mortgage loans, as these activities are defined in this
5 Act, and who or which receives no compensation for those
6 activities, subject to the Commissioner's regulations and
7 the federal Secure and Fair Enforcement for Mortgage
8 Licensing Act of 2008 and the rules promulgated under that
9 Act with regard to the nature and amount of compensation.

10 (6) (Blank).

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

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

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

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

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

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

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

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

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

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

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

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

25 (p) "Loan broker" or "broker" shall mean a person,
26 partnership, association, corporation, or limited liability

1 company, other than those persons, partnerships, associations,
2 corporations, or limited liability companies exempted from
3 licensing pursuant to Section 1-4, subsection (d), of this Act,
4 who performs the activities described in subsections (c), (o),
5 and (yy) of this Section.

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

20 (r) "Full service office" shall mean an office, provided by
21 the licensee and not subleased from the licensee's employees,
22 and staff in Illinois reasonably adequate to handle efficiently
23 communications, questions, and other matters relating to any
24 application for, or an existing home mortgage secured by
25 residential real estate situated in Illinois with respect to
26 which the licensee is brokering, funding originating,

1 purchasing, or servicing. The management and operation of each
2 full service office must include observance of good business
3 practices such as proper signage; adequate, organized, and
4 accurate books and records; ample phone lines, hours of
5 business, staff training and supervision, and provision for a
6 mechanism to resolve consumer inquiries, complaints, and
7 problems. The Commissioner shall issue regulations with regard
8 to these requirements and shall include an evaluation of
9 compliance with this Section in his or her periodic examination
10 of each licensee.

11 (s) "Purchasing" shall mean the purchase of conventional or
12 government-insured mortgage loans secured by residential real
13 estate situated in Illinois from either the lender or from the
14 secondary market.

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

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

19 (v) "Loan brokerage agreement" shall mean a written
20 agreement in which a broker or loan broker agrees to do either
21 of the following:

22 (1) obtain a residential mortgage loan for the borrower
23 or assist the borrower in obtaining a residential mortgage
24 loan; or

25 (2) consider making a residential mortgage loan to the
26 borrower.

1 (w) "Advertisement" shall mean the attempt by publication,
2 dissemination, or circulation to induce, directly or
3 indirectly, any person to enter into a residential mortgage
4 loan agreement or residential mortgage loan brokerage
5 agreement relative to a mortgage secured by residential real
6 estate situated in Illinois.

7 (x) "Residential Mortgage Board" shall mean the
8 Residential Mortgage Board created in Section 1-5 of this Act.

9 (y) "Government-insured mortgage loan" shall mean any
10 mortgage loan made on the security of residential real estate
11 insured by the Department of Housing and Urban Development or
12 Farmers Home Loan Administration, or guaranteed by the Veterans
13 Administration.

14 (z) "Annual audit" shall mean a certified audit of the
15 licensee's books and records and systems of internal control
16 performed by a certified public accountant in accordance with
17 generally accepted accounting principles and generally
18 accepted auditing standards.

19 (aa) "Financial institution" shall mean a savings and loan
20 association, savings bank, credit union, or a bank organized
21 under the laws of Illinois or a savings and loan association,
22 savings bank, credit union or a bank organized under the laws
23 of the United States and headquartered in Illinois.

24 (bb) "Escrow agent" shall mean a third party, individual or
25 entity charged with the fiduciary obligation for holding escrow
26 funds on a residential mortgage loan pending final payout of

1 those funds in accordance with the terms of the residential
2 mortgage loan.

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

5 (dd) "Affiliate" shall mean:

6 (1) any entity that directly controls or is controlled
7 by the licensee and any other company that is directly
8 affecting activities regulated by this Act that is
9 controlled by the company that controls the licensee;

10 (2) any entity:

11 (A) that is controlled, directly or indirectly, by
12 a trust or otherwise, by or for the benefit of
13 shareholders who beneficially or otherwise control,
14 directly or indirectly, by trust or otherwise, the
15 licensee or any company that controls the licensee; or

16 (B) a majority of the directors or trustees of
17 which constitute a majority of the persons holding any
18 such office with the licensee or any company that
19 controls the licensee;

20 (3) any company, including a real estate investment
21 trust, that is sponsored and advised on a contractual basis
22 by the licensee or any subsidiary or affiliate of the
23 licensee.

24 The Commissioner may define by rule and regulation any
25 terms used in this Act for the efficient and clear
26 administration of this Act.

1 (ee) "First tier subsidiary" shall be defined by regulation
2 incorporating the comparable definitions used by the Office of
3 the Comptroller of the Currency and the Illinois Commissioner
4 of Banks and Real Estate.

5 (ff) "Gross delinquency rate" means the quotient
6 determined by dividing (1) the sum of (i) the number of
7 government-insured residential mortgage loans funded or
8 purchased by a licensee in the preceding calendar year that are
9 delinquent and (ii) the number of conventional residential
10 mortgage loans funded or purchased by the licensee in the
11 preceding calendar year that are delinquent by (2) the sum of
12 (i) the number of government-insured residential mortgage
13 loans funded or purchased by the licensee in the preceding
14 calendar year and (ii) the number of conventional residential
15 mortgage loans funded or purchased by the licensee in the
16 preceding calendar year.

17 (gg) "Delinquency rate factor" means the factor set by rule
18 of the Commissioner that is multiplied by the average gross
19 delinquency rate of licensees, determined annually for the
20 immediately preceding calendar year, for the purpose of
21 determining which licensees shall be examined by the
22 Commissioner pursuant to subsection (b) of Section 4-8 of this
23 Act.

24 (hh) "Loan originator" means any natural person who, for
25 compensation or in the expectation of compensation, either
26 directly or indirectly makes, offers to make, solicits, places,

1 or negotiates a residential mortgage loan. This definition
2 applies only to Section 7-1 of this Act.

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

18 (jj) "Mortgage loan originator" means an individual who for
19 compensation or gain or in the expectation of compensation or
20 gain:

21 (i) takes a residential mortgage loan application; or

22 (ii) offers or negotiates terms of a residential
23 mortgage loan.

24 "Mortgage loan originator" includes an individual engaged
25 in loan modification activities as defined in subsection (yy)
26 of this Section. A mortgage loan originator engaged in loan

1 modification activities shall report those activities to the
2 Department of Financial and Professional Regulation in the
3 manner provided by the Department; however, the Department
4 shall not impose a fee for reporting, nor require any
5 additional qualifications to engage in those activities beyond
6 those provided pursuant to this Act for mortgage loan
7 originators.

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

12 "Mortgage loan originator" does not include a person or
13 entity that only performs real estate brokerage activities and
14 is licensed in accordance with the Real Estate License Act of
15 2000, unless the person or entity is compensated by a lender, a
16 mortgage broker, or other mortgage loan originator, or by any
17 agent of that lender, mortgage broker, or other mortgage loan
18 originator.

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

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

26 (ll) "Dwelling" means a residential structure or mobile

1 home which contains one to 4 family housing units, or
2 individual units of condominiums or cooperatives.

3 (mm) "Immediate family member" means a spouse, child,
4 sibling, parent, grandparent, or grandchild, and includes
5 step-parents, step-children, step-siblings, or adoptive
6 relationships.

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

8 (oo) "Loan processor or underwriter" means an individual
9 who performs clerical or support duties as an employee at the
10 direction of and subject to the supervision and instruction of
11 a person licensed, or exempt from licensing, under this Act.
12 "Clerical or support duties" includes subsequent to the receipt
13 of an application:

14 (i) the receipt, collection, distribution, and
15 analysis of information common for the processing or
16 underwriting of a residential mortgage loan; and

17 (ii) communicating with a consumer to obtain the
18 information necessary for the processing or underwriting
19 of a loan, to the extent that the communication does not
20 include offering or negotiating loan rates or terms, or
21 counseling consumers about residential mortgage loan rates
22 or terms. An individual engaging solely in loan processor
23 or underwriter activities shall not represent to the
24 public, through advertising or other means of
25 communicating or providing information, including the use
26 of business cards, stationery, brochures, signs, rate

1 lists, or other promotional items, that the individual can
2 or will perform any of the activities of a mortgage loan
3 originator.

4 (pp) "Nationwide Mortgage Licensing System and Registry"
5 means a mortgage licensing system developed and maintained by
6 the Conference of State Bank Supervisors and the American
7 Association of Residential Mortgage Regulators for the
8 licensing and registration of licensed mortgage loan
9 originators.

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

12 (rr) "Person" means a natural person, corporation,
13 company, limited liability company, partnership, or
14 association.

15 (ss) "Real estate brokerage activity" means any activity
16 that involves offering or providing real estate brokerage
17 services to the public, including:

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

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

22 (3) negotiating, on behalf of any party, any portion of
23 a contract relating to the sale, purchase, lease, rental,
24 or exchange of real property, other than in connection with
25 providing financing with respect to any such transaction;

26 (4) engaging in any activity for which a person engaged

1 in the activity is required to be registered or licensed as
2 a real estate agent or real estate broker under any
3 applicable law; or

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

6 (tt) "Registered mortgage loan originator" means any
7 individual that:

8 (1) meets the definition of mortgage loan originator
9 and is an employee of:

10 (A) a depository institution;

11 (B) a subsidiary that is:

12 (i) owned and controlled by a depository
13 institution; and

14 (ii) regulated by a federal banking agency; or

15 (C) an institution regulated by the Farm Credit
16 Administration; and

17 (2) is registered with, and maintains a unique
18 identifier through, the Nationwide Mortgage Licensing
19 System and Registry.

20 (uu) "Unique identifier" means a number or other identifier
21 assigned by protocols established by the Nationwide Mortgage
22 Licensing System and Registry.

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

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

1 (xx) "Secretary" means the Secretary of the Department of
2 Financial and Professional Regulation, or a person authorized
3 by the Secretary or by this Act to act in the Secretary's
4 stead.

5 (yy) "Loan modification" means, for compensation or gain,
6 either directly or indirectly offering or negotiating on behalf
7 of a borrower or homeowner to adjust the terms of a residential
8 mortgage loan in a manner not provided for in the original or
9 previously modified mortgage loan.

10 (zz) "Short sale facilitation" means, for compensation or
11 gain, either directly or indirectly offering or negotiating on
12 behalf of a borrower or homeowner to facilitate the sale of
13 residential real estate subject to one or more residential
14 mortgage loans or debts constituting liens on the property in
15 which the proceeds from selling the residential real estate
16 will fall short of the amount owed and the lien holders are
17 contacted to agree to release their lien on the residential
18 real estate and accept less than the full amount owed on the
19 debt.

20 (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10;
21 96-1216, eff. 1-1-11; 97-143, eff. 7-14-11; 97-891, eff.
22 8-3-12.)

23 (205 ILCS 635/2-2)

24 Sec. 2-2. Application process; investigation; fee.

25 (a) The Secretary shall issue a license upon completion of

1 all of the following:

2 (1) The filing of an application for license with the
3 Director or the Nationwide Mortgage Licensing System and
4 Registry as approved by the Director.

5 (2) The filing with the Secretary of a listing of
6 judgments entered against, and bankruptcy petitions by,
7 the license applicant for the preceding 10 years.

8 (3) The payment, in certified funds, of investigation
9 and application fees, the total of which shall be in an
10 amount equal to \$2,700 annually. To comply with the common
11 renewal date and requirements of the Nationwide Mortgage
12 Licensing System and Registry, the term of initial licenses
13 may be extended or shortened with applicable fees prorated
14 or combined accordingly.

15 (4) Except for a broker applying to renew a license,
16 the filing of an audited balance sheet including all
17 footnotes prepared by a certified public accountant in
18 accordance with generally accepted accounting principles
19 and generally accepted auditing standards ~~principles~~ which
20 evidences that the applicant meets the net worth
21 requirements of Section 3-5. Notwithstanding the
22 requirements of this subsection, an applicant that is a
23 subsidiary may submit audited consolidated financial
24 statements of its parent, intermediary parent, or ultimate
25 parent as long as the consolidated statements are supported
26 by consolidating statements which include the applicant's

1 financial statement. If the consolidating statements are
2 unaudited, the applicant's chief financial officer shall
3 attest to the applicant's financial statements disclosed
4 in the consolidating statements.

5 (5) The filing of proof satisfactory to the
6 Commissioner that the applicant, the members thereof if the
7 applicant is a partnership or association, the members or
8 managers thereof that retain any authority or
9 responsibility under the operating agreement if the
10 applicant is a limited liability company, or the officers
11 thereof if the applicant is a corporation have 3 years
12 experience preceding application in real estate finance.
13 Instead of this requirement, the applicant and the
14 applicant's officers or members, as applicable, may
15 satisfactorily complete a program of education in real
16 estate finance and fair lending, as approved by the
17 Commissioner, prior to receiving the initial license. The
18 Commissioner shall promulgate rules regarding proof of
19 experience requirements and educational requirements and
20 the satisfactory completion of those requirements. The
21 Commissioner may establish by rule a list of duly licensed
22 professionals and others who may be exempt from this
23 requirement.

24 (6) An investigation of the averments required by
25 Section 2-4, which investigation must allow the
26 Commissioner to issue positive findings stating that the

1 financial responsibility, experience, character, and
2 general fitness of the license applicant and of the members
3 thereof if the license applicant is a partnership or
4 association, of the officers and directors thereof if the
5 license applicant is a corporation, and of the managers and
6 members that retain any authority or responsibility under
7 the operating agreement if the license applicant is a
8 limited liability company are such as to command the
9 confidence of the community and to warrant belief that the
10 business will be operated honestly, fairly and efficiently
11 within the purpose of this Act. If the Commissioner shall
12 not so find, he or she shall not issue such license, and he
13 or she shall notify the license applicant of the denial.

14 The Commissioner may impose conditions on a license if the
15 Commissioner determines that the conditions are necessary or
16 appropriate. These conditions shall be imposed in writing and
17 shall continue in effect for the period prescribed by the
18 Commissioner.

19 (b) All licenses shall be issued to the license applicant.

20 Upon receipt of such license, a residential mortgage
21 licensee shall be authorized to engage in the business
22 regulated by this Act. Such license shall remain in full force
23 and effect until it expires without renewal, is surrendered by
24 the licensee or revoked or suspended as hereinafter provided.

25 (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10;
26 97-891, eff. 8-3-12.)

1 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

2 Sec. 2-4. Averments of Licensee. Each application for
3 license ~~or for the renewal of a license~~ shall be accompanied by
4 the following averments stating that the applicant:

5 (a) Will maintain at least one full service office
6 within the State of Illinois pursuant to Section 3-4 of
7 this Act;

8 (b) Will maintain staff reasonably adequate to meet the
9 requirements of Section 3-4 of this Act;

10 (c) Will keep and maintain for 36 months the same
11 written records as required by the federal Equal Credit
12 Opportunity Act, and any other information required by
13 regulations of the Commissioner regarding any home
14 mortgage in the course of the conduct of its residential
15 mortgage business;

16 (d) Will file with the Commissioner or Nationwide
17 Mortgage Licensing System and Registry as applicable, when
18 due, any report or reports which it is required to file
19 under any of the provisions of this Act;

20 (e) Will not engage, whether as principal or agent, in
21 the practice of rejecting residential mortgage
22 applications without reasonable cause, or varying terms or
23 application procedures without reasonable cause, for home
24 mortgages on real estate within any specific geographic
25 area from the terms or procedures generally provided by the

1 licensee within other geographic areas of the State;

2 (f) Will not engage in fraudulent home mortgage
3 underwriting practices;

4 (g) Will not make payment, whether directly or
5 indirectly, of any kind to any in house or fee appraiser of
6 any government or private money lending agency with which
7 an application for a home mortgage has been filed for the
8 purpose of influencing the independent judgment of the
9 appraiser with respect to the value of any real estate
10 which is to be covered by such home mortgage;

11 (h) Has filed tax returns (State and Federal) for the
12 past 3 years or filed with the Commissioner an accountant's
13 or attorney's statement as to why no return was filed;

14 (i) Will not engage in any discrimination or redlining
15 activities prohibited by Section 3-8 of this Act;

16 (j) Will not knowingly make any false promises likely
17 to influence or persuade, or pursue a course of
18 misrepresentation and false promises through agents,
19 solicitors, advertising or otherwise;

20 (k) Will not knowingly misrepresent, circumvent or
21 conceal, through whatever subterfuge or device, any of the
22 material particulars or the nature thereof, regarding a
23 transaction to which it is a party to the injury of another
24 party thereto;

25 (l) Will disburse funds in accordance with its
26 agreements;

1 (m) Has not committed a crime against the law of this
2 State, any other state or of the United States, involving
3 moral turpitude, fraudulent or dishonest dealing, and that
4 no final judgment has been entered against it in a civil
5 action upon grounds of fraud, misrepresentation or deceit
6 which has not been previously reported to the Commissioner;

7 (n) Will account or deliver to the owner upon request
8 any personal property such as money, fund, deposit, check,
9 draft, mortgage, other document or thing of value which it
10 is not in law or equity entitled to retain under the
11 circumstances;

12 (o) Has not engaged in any conduct which would be cause
13 for denial of a license;

14 (p) Has not become insolvent;

15 (q) Has not submitted an application for a license
16 under this Act which contains a material misstatement;

17 (r) Has not demonstrated by course of conduct,
18 negligence or incompetence in performing any act for which
19 it is required to hold a license under this Act;

20 (s) Will advise the Commissioner in writing, or the
21 Nationwide Mortgage Licensing System and Registry as
22 applicable, of any changes to the information submitted on
23 the most recent application for license or averments of
24 record within 30 days of said change. The written notice
25 must be signed in the same form as the application for
26 license being amended;

1 (t) Will comply with the provisions of this Act, or
2 with any lawful order, rule or regulation made or issued
3 under the provisions of this Act;

4 (u) Will submit to periodic examination by the
5 Commissioner as required by this Act;

6 (v) Will advise the Commissioner in writing of
7 judgments entered against, and bankruptcy petitions by,
8 the license applicant within 5 days of occurrence;

9 (w) Will advise the Commissioner in writing within 30
10 days of any request made to a licensee under this Act to
11 repurchase a loan in a manner that completely and clearly
12 identifies to whom the request was made, the loans
13 involved, and the reason therefor;

14 (x) Will advise the Commissioner in writing within 30
15 days of any request from any entity to repurchase a loan in
16 a manner that completely and clearly identifies to whom the
17 request was made, the loans involved, and the reason for
18 the request;

19 (y) Will at all times act in a manner consistent with
20 subsections (a) and (b) of Section 1-2 of this Act;

21 (z) Will not knowingly hire or employ a loan originator
22 who is not registered, or mortgage loan originator who is
23 not licensed, with the Commissioner as required under
24 Section 7-1 or Section 7-1A, as applicable, of this Act;

25 (aa) Will not charge or collect advance payments from
26 borrowers or homeowners for engaging in loan modification;

1 and

2 (bb) Will not structure activities or contracts to
3 evade provisions of this Act.

4 A licensee who fails to fulfill obligations of an averment,
5 to comply with averments made, or otherwise violates any of the
6 averments made under this Section shall be subject to the
7 penalties in Section 4-5 of this Act.

8 (Source: P.A. 96-112, eff. 7-31-09; 97-891, eff. 8-3-12.)

9 (205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

10 Sec. 3-2. Annual audit.

11 (a) At the licensee's fiscal year-end, but in no case more
12 than 12 months after the last audit conducted pursuant to this
13 Section, except as otherwise provided in this Section, it shall
14 be mandatory for each residential mortgage licensee to cause
15 its books and accounts to be audited by a certified public
16 accountant not connected with such licensee. The books and
17 records of all licensees under this Act shall be maintained on
18 an accrual basis. The audit must be sufficiently comprehensive
19 in scope to permit the expression of an opinion on the
20 financial statements, which must be prepared in accordance with
21 generally accepted accounting principles, and must be
22 performed in accordance with generally accepted auditing
23 standards. Notwithstanding the requirements of this
24 subsection, a licensee that is a ~~first-tier~~ subsidiary may
25 submit audited consolidated financial statements of its

1 parent, intermediary parent, or ultimate parent as long as the
2 consolidated statements are supported by consolidating
3 statements which include the licensee's financial statement.
4 If the consolidating statements are unaudited, the. ~~The~~
5 licensee's chief financial officer shall attest to the
6 licensee's financial statements disclosed in the consolidating
7 statements.

8 (b) As used herein, the term "expression of opinion"
9 includes either (1) an unqualified opinion, (2) a qualified
10 opinion, (3) a disclaimer of opinion, or (4) an adverse
11 opinion.

12 (c) If a qualified or adverse opinion is expressed or if an
13 opinion is disclaimed, the reasons therefore must be fully
14 explained. An opinion, qualified as to a scope limitation,
15 shall not be acceptable.

16 (d) The most recent audit report shall be filed with the
17 Commissioner within 90 days after the end of the licensee's
18 fiscal year, or with the Nationwide Mortgage Licensing System
19 and Registry, if applicable, pursuant to Mortgage Call Report
20 requirements. The report filed with the Commissioner shall be
21 certified by the certified public accountant conducting the
22 audit. The Commissioner may promulgate rules regarding late
23 audit reports.

24 (e) If any licensee required to make an audit shall fail to
25 cause an audit to be made, the Commissioner shall cause the
26 same to be made by a certified public accountant at the

1 licensee's expense. The Commissioner shall select such
2 certified public accountant by advertising for bids or by such
3 other fair and impartial means as he or she establishes by
4 regulation.

5 (f) In lieu of the audit or compilation financial statement
6 required by this Section, a licensee shall submit and the
7 Commissioner may accept any audit made in conformance with the
8 audit requirements of the U.S. Department of Housing and Urban
9 Development.

10 (g) With respect to licensees who solely broker residential
11 mortgage loans as defined in subsection (o) of Section 1-4,
12 instead of the audit required by this Section, the Commissioner
13 may accept compilation financial statements prepared at least
14 every 12 months, and the compilation financial statement must
15 be submitted within 90 days after the end of the licensee's
16 fiscal year, or with the Nationwide Mortgage Licensing System
17 and Registry, if applicable, pursuant to Mortgage Call Report
18 requirements. If a licensee under this Section fails to file a
19 compilation as required, the Commissioner shall cause an audit
20 of the licensee's books and accounts to be made by a certified
21 public accountant at the licensee's expense. The Commissioner
22 shall select the certified public accountant by advertising for
23 bids or by such other fair and impartial means as he or she
24 establishes by rule. A licensee who files false or misleading
25 compilation financial statements is guilty of a business
26 offense and shall be fined not less than \$5,000.

1 (h) The workpapers of the certified public accountants
2 employed by each licensee for purposes of this Section are to
3 be made available to the Commissioner or the Commissioner's
4 designee upon request and may be reproduced by the Commissioner
5 or the Commissioner's designee to enable to the Commissioner to
6 carry out the purposes of this Act.

7 (i) Notwithstanding any other provision of this Section, if
8 a licensee relying on subsection (g) of this Section causes its
9 books to be audited at any other time or causes its financial
10 statements to be reviewed, a complete copy of the audited or
11 reviewed financial statements shall be delivered to the
12 Commissioner at the time of the annual license renewal payment
13 following receipt by the licensee of the audited or reviewed
14 financial statements. All workpapers shall be made available to
15 the Commissioner upon request. The financial statements and
16 workpapers may be reproduced by the Commissioner or the
17 Commissioner's designee to carry out the purposes of this Act.

18 (Source: P.A. 97-813, eff. 7-13-12; 97-891, eff. 8-3-12;
19 98-463, eff. 8-16-13.)

20 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

21 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
22 powers, and duties. The functions, powers, and duties of the
23 Commissioner of Banks and Real Estate shall include the
24 following:

25 (a) to issue or refuse to issue any license as provided

1 by this Act;

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

4 (c) to keep records of all licenses issued under this
5 Act;

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

9 (e) to consider and act upon any recommendations from
10 the Residential Mortgage Board;

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

12 (1) applications for licenses; and

13 (2) all reports and all books and records required
14 to be made by any licensee under this Act, including
15 annual audited financial statements and annual reports
16 of mortgage activity;

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

19 (h) to subpoena documents and witnesses and compel
20 their attendance and production, to administer oaths, and
21 to require the production of any books, papers, or other
22 materials relevant to any inquiry authorized by this Act;

23 (h-1) to issue orders against any person, if the
24 Commissioner has reasonable cause to believe that an
25 unsafe, unsound, or unlawful practice has occurred, is
26 occurring, or is about to occur, if any person has

1 violated, is violating, or is about to violate any law,
2 rule, or written agreement with the Commissioner, or for
3 the purpose of administering the provisions of this Act and
4 any rule adopted in accordance with the Act;

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

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

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

25 (k) to enforce provisions of this Act;

26 (l) to levy fees, fines, and charges for services

1 performed in administering this Act; the aggregate of all
2 fees collected by the Commissioner on and after the
3 effective date of this Act shall be paid promptly after
4 receipt of the same, accompanied by a detailed statement
5 thereof, into the ~~Savings~~ and Residential Finance
6 Regulatory Fund under Section 4-1.5 of this Act; the
7 amounts deposited into that Fund shall be used for the
8 ordinary and contingent expenses of the Office of Banks and
9 Real Estate. Nothing in this Act shall prevent continuing
10 the practice of paying expenses involving salaries,
11 retirement, social security, and State-paid insurance of
12 State officers by appropriation from the General Revenue
13 Fund.

14 (m) to appoint examiners, supervisors, experts, and
15 special assistants as needed to effectively and
16 efficiently administer this Act;

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

18 (1) appeals of orders of the Commissioner;

19 (2) suspensions or revocations of licenses, or
20 fining of licensees;

21 (3) investigating:

22 (i) complaints against licensees; or

23 (ii) annual gross delinquency rates; and

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

25 (o) to exercise exclusive visitorial power over a
26 licensee unless otherwise authorized by this Act or as

1 vested in the courts, or upon prior consultation with the
2 Commissioner, a foreign residential mortgage regulator
3 with an appropriate supervisory interest in the parent or
4 affiliate of a licensee;

5 (p) to enter into cooperative agreements with state
6 regulatory authorities of other states to provide for
7 examination of corporate offices or branches of those
8 states and to accept reports of such examinations;

9 (q) to assign an examiner or examiners to monitor the
10 affairs of a licensee with whatever frequency the
11 Commissioner determines appropriate and to charge the
12 licensee for reasonable and necessary expenses of the
13 Commissioner, if in the opinion of the Commissioner an
14 emergency exists or appears likely to occur;

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

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

20 (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

21 (205 ILCS 635/4-1.5 new)

22 Sec. 4-1.5. Residential Finance Regulatory Fund.

23 (a) The aggregate of all moneys collected by the Secretary
24 under this Act shall be paid promptly after receipt of the
25 same, accompanied by a detailed statement thereof, into the

1 State treasury and shall be set apart in the Residential
2 Finance Regulatory Fund, formerly designated the Savings and
3 Residential Finance Regulatory Fund, a special fund created in
4 the State treasury. The amounts deposited into the Fund shall
5 be used for the ordinary and contingent expenses of the
6 Department of Financial and Professional Regulation and the
7 Division of Banking, or their successors, in administering and
8 enforcing the Residential Mortgage License Act of 1987 and
9 other laws, rules, and regulations as may apply to the
10 administration and enforcement of the foregoing laws, rules,
11 and regulations, as amended from time to time. Nothing in this
12 Act shall prevent continuing the practice of paying expenses
13 involving salaries, retirement, social security, and State
14 paid insurance of State officers by appropriation from the
15 General Revenue Fund.

16 (b) Moneys in the Residential Finance Regulatory Fund may
17 be transferred to the Professions Indirect Cost Fund, as
18 authorized under Section 2105-300 of the Department of
19 Professional Regulation Law of the Civil Administrative Code of
20 Illinois.

21 (c) All earnings received from investments of funds in the
22 Residential Finance Regulatory Fund shall be deposited into
23 that Fund and may be used for the same purposes as fees
24 deposited into that Fund.

25 Section 35. The Foreign Bank Representative Office Act is

1 amended by changing Section 2 as follows:

2 (205 ILCS 650/2) (from Ch. 17, par. 2852)

3 Sec. 2. Definitions. As used in this Act, unless the
4 context requires otherwise:

5 (a) "Commissioner" means the Secretary of Financial and
6 Professional Regulation or a person authorized by the
7 Secretary, the Division of Banking Act, or this Act to act in
8 the Secretary's stead.

9 (b) "Foreign bank" means (1) a bank, savings bank, savings
10 association, or trust company which is organized under the laws
11 of any state or territory of the United States, including the
12 District of Columbia, other than the State of Illinois; (2) a
13 national bank having its principal place of business in any
14 state or territory of the United States, including the District
15 of Columbia, other than the State of Illinois; or (3) a bank or
16 trust company organized and operating under the laws of a
17 country other than the United States of America.

18 (c) "Representative office" means an office in the State of
19 Illinois at which a foreign bank engages in representational
20 functions but does not conduct a commercial banking business.

21 (d) "Division" means the Division of Banking within the
22 Department of Financial and Professional Regulation.

23 (Source: P.A. 96-1365, eff. 7-28-10.)

24 Section 40. The Residential Real Property Disclosure Act is

1 amended by changing Sections 70, 72, 74, 76, 78, and 80 as
2 follows:

3 (765 ILCS 77/70)

4 Sec. 70. Predatory lending database program.

5 (a) As used in this Article:

6 "Adjustable rate mortgage" or "ARM" means a closed-end
7 mortgage transaction that allows adjustments of the loan
8 interest rate during the first 3 years of the loan term.

9 "Borrower" means a person seeking a mortgage loan.

10 "Broker" means a "broker" or "loan broker", as defined in
11 subsection (p) of Section 1-4 of the Residential Mortgage
12 License Act of 1987.

13 "Closing agent" means an individual assigned by a title
14 insurance company or a broker or originator to ensure that the
15 execution of documents related to the closing of a real estate
16 sale or the refinancing of a real estate loan and the
17 disbursement of closing funds are in conformity with the
18 instructions of the entity financing the transaction.

19 "Counseling" means in-person counseling provided by a
20 counselor employed by a HUD-approved ~~HUD-certified~~ counseling
21 agency to all borrowers, or documented telephone counseling
22 where a hardship would be imposed on one or more borrowers. A
23 hardship shall exist in instances in which the borrower is
24 confined to his or her home due to medical conditions, as
25 verified in writing by a physician, or the borrower resides 50

1 miles or more from the nearest participating HUD-approved
2 ~~HUD-certified~~ housing counseling agency. In instances of
3 telephone counseling, the borrower must supply all necessary
4 documents to the counselor at least 72 hours prior to the
5 scheduled telephone counseling session.

6 "Counselor" means a counselor employed by a HUD-approved
7 ~~HUD-certified~~ housing counseling agency.

8 "Credit score" means a credit risk score as defined by the
9 Fair Isaac Corporation, or its successor, and reported under
10 such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE"
11 by one or more of the following credit reporting agencies or
12 their successors: Equifax, Inc., Experian Information
13 Solutions, Inc., and TransUnion LLC. If the borrower's credit
14 report contains credit scores from 2 reporting agencies, then
15 the broker or loan originator shall report the lower score. If
16 the borrower's credit report contains credit scores from 3
17 reporting agencies, then the broker or loan originator shall
18 report the middle score.

19 "Department" means the Department of Financial and
20 Professional Regulation.

21 "Exempt person or entity" means that term as it is defined
22 in subsections (d) (1), (d) (1.5), and (d) (1.8) of Section 1-4 of
23 the Residential Mortgage License Act of 1987.

24 "First-time homebuyer" means a borrower who has not held an
25 ownership interest in residential property.

26 "HUD-approved ~~HUD-certified~~ counseling" or "counseling"

1 means counseling given to a borrower by a counselor employed by
2 a HUD-approved ~~HUD-certified~~ housing counseling agency.

3 "Interest only" means a closed-end loan that permits one or
4 more payments of interest without any reduction of the
5 principal balance of the loan, other than the first payment on
6 the loan.

7 "Lender" means that term as it is defined in subsection (g)
8 of Section 1-4 of the Residential Mortgage License Act of 1987.

9 "Licensee" means that term as it is defined in subsection
10 (e) of Section 1-4 of the Residential Mortgage License Act of
11 1987.

12 "Mortgage loan" means that term as it is defined in
13 subsection (f) of Section 1-4 of the Residential Mortgage
14 License Act of 1987.

15 "Negative amortization" means an amortization method under
16 which the outstanding balance may increase at any time over the
17 course of the loan because the regular periodic payment does
18 not cover the full amount of interest due.

19 "Originator" means a "loan originator" as defined in
20 subsection (hh) of Section 1-4 of the Residential Mortgage
21 License Act of 1987, except an exempt person, and means a
22 "mortgage loan originator" as defined in subsection (jj) of
23 Section 1-4 of the Residential Mortgage License Act of 1987,
24 except an exempt person.

25 "Points and fees" has the meaning ascribed to that term in
26 Section 10 of the High Risk Home Loan Act.

1 "Prepayment penalty" means a charge imposed by a lender
2 under a mortgage note or rider when the loan is paid before the
3 expiration of the term of the loan.

4 "Refinancing" means a loan secured by the borrower's or
5 borrowers' primary residence where the proceeds are not used as
6 purchase money for the residence.

7 "Title insurance company" means any domestic company
8 organized under the laws of this State for the purpose of
9 conducting the business of guaranteeing or insuring titles to
10 real estate and any title insurance company organized under the
11 laws of another State, the District of Columbia, or a foreign
12 government and authorized to transact the business of
13 guaranteeing or insuring titles to real estate in this State.

14 (a-5) A predatory lending database program shall be
15 established within Cook County. The program shall be
16 administered in accordance with this Article. The inception
17 date of the program shall be July 1, 2008. A predatory lending
18 database program shall be expanded to include Kane, Peoria, and
19 Will counties. The inception date of the expansion of the
20 program as it applies to Kane, Peoria, and Will counties shall
21 be July 1, 2010. Until the inception date, none of the duties,
22 obligations, contingencies, or consequences of or from the
23 program shall be imposed. The program shall apply to all
24 mortgage applications that are governed by this Article and
25 that are made or taken on or after the inception of the
26 program.

1 (b) The database created under this program shall be
2 maintained and administered by the Department. The database
3 shall be designed to allow brokers, originators, counselors,
4 title insurance companies, and closing agents to submit
5 information to the database online. The database shall not be
6 designed to allow those entities to retrieve information from
7 the database, except as otherwise provided in this Article.
8 Information submitted by the broker or originator to the
9 Department may be used to populate the online form submitted by
10 a counselor, title insurance company, or closing agent.

11 (c) Within 10 business days after taking a mortgage
12 application, the broker or originator for any mortgage on
13 residential property within the program area must submit to the
14 predatory lending database all of the information required
15 under Section 72 and any other information required by the
16 Department by rule. Within 7 business days after receipt of the
17 information, the Department shall compare that information to
18 the housing counseling standards in Section 73 and issue to the
19 borrower and the broker or originator a determination of
20 whether counseling is recommended for the borrower. The
21 borrower may not waive counseling. If at any time after
22 submitting the information required under Section 72 the broker
23 or originator (i) changes the terms of the loan or (ii) issues
24 a new commitment to the borrower, then, within 5 business days
25 thereafter, the broker or originator shall re-submit all of the
26 information required under Section 72 and, within 4 business

1 days after receipt of the information re-submitted by the
2 broker or originator, the Department shall compare that
3 information to the housing counseling standards in Section 73
4 and shall issue to the borrower and the broker or originator a
5 new determination of whether re-counseling is recommended for
6 the borrower based on the information re-submitted by the
7 broker or originator. The Department shall require
8 re-counseling if the loan terms have been modified to meet
9 another counseling standard in Section 73, or if the broker has
10 increased the interest rate by more than 200 basis points.

11 (d) If the Department recommends counseling for the
12 borrower under subsection (c), then the Department shall notify
13 the borrower of all participating HUD-approved ~~HUD-certified~~
14 counseling agencies located within the State and direct the
15 borrower to interview with a counselor associated with one of
16 those agencies. Within 10 business days after receipt of the
17 notice of HUD-approved ~~HUD-certified~~ counseling agencies, it
18 is the borrower's responsibility to ~~borrower shall~~ select one
19 of those agencies and shall engage in an interview with a
20 counselor associated with that agency. The selection must take
21 place and the appointment for the interview must be set within
22 10 business days, although the interview may take place beyond
23 the 10 business day period. Within 7 business days after
24 interviewing the borrower, the counselor must submit to the
25 predatory lending database all of the information required
26 under Section 74 and any other information required by the

1 Department by rule. Reasonable and customary costs not to
2 exceed \$300 associated with counseling provided under the
3 program shall be paid by the broker or originator and shall not
4 be charged back to, or recovered from, the borrower. The
5 Department shall annually calculate to the nearest dollar an
6 adjusted rate for inflation. A counselor shall not recommend or
7 suggest that a borrower contact any specific mortgage
8 origination company, financial institution, or entity that
9 deals in mortgage finance to obtain a loan, another quote, or
10 for any other reason related to the specific mortgage
11 transaction; however, a counselor may suggest that the borrower
12 seek an opinion or a quote from another mortgage origination
13 company, financial institution, or entity that deals in
14 mortgage finance. A counselor or housing counseling agency that
15 in good faith provides counseling shall not be liable to a
16 broker or originator or borrower for civil damages, except for
17 willful or wanton misconduct on the part of the counselor in
18 providing the counseling.

19 (e) The broker or originator and the borrower may not take
20 any legally binding action concerning the loan transaction
21 until the later of the following:

22 (1) the Department issues a determination not to
23 recommend HUD-approved ~~HUD-certified~~ counseling for the
24 borrower in accordance with subsection (c); or

25 (2) the Department issues a determination that
26 HUD-approved ~~HUD-certified~~ counseling is recommended for

1 the borrower and the counselor submits all required
2 information to the database in accordance with subsection
3 (d).

4 (f) Within 10 business days after closing, the title
5 insurance company or closing agent must submit to the predatory
6 lending database all of the information required under Section
7 76 and any other information required by the Department by
8 rule.

9 (g) The title insurance company or closing agent shall
10 attach to the mortgage a certificate of compliance with the
11 requirements of this Article, as generated by the database. If
12 the transaction is exempt, the title insurance company or
13 closing agent shall attach to the mortgage a certificate of
14 exemption, as generated by the database. If the title insurance
15 company or closing agent fails to attach the certificate of
16 compliance or exemption, whichever is required, then the
17 mortgage is not recordable. In addition, if any lis pendens for
18 a residential mortgage foreclosure is recorded on the property
19 within the program area, a certificate of service must be
20 simultaneously recorded that affirms that a copy of the lis
21 pendens was filed with the Department. The lis pendens may be
22 filed with the Department either electronically or by filing a
23 hard copy. If the certificate of service is not recorded, then
24 the lis pendens pertaining to the residential mortgage
25 foreclosure in question is not recordable and is of no force
26 and effect.

1 (h) All information provided to the predatory lending
2 database under the program is confidential and is not subject
3 to disclosure under the Freedom of Information Act, except as
4 otherwise provided in this Article. Information or documents
5 obtained by employees of the Department in the course of
6 maintaining and administering the predatory lending database
7 are deemed confidential. Employees are prohibited from making
8 disclosure of such confidential information or documents. Any
9 request for production of information from the predatory
10 lending database, whether by subpoena, notice, or any other
11 source, shall be referred to the Department of Financial and
12 Professional Regulation. Any borrower may authorize in writing
13 the release of database information. The Department may use the
14 information in the database without the consent of the
15 borrower: (i) for the purposes of administering and enforcing
16 the program; (ii) to provide relevant information to a
17 counselor providing counseling to a borrower under the program;
18 or (iii) to the appropriate law enforcement agency or the
19 applicable administrative agency if the database information
20 demonstrates criminal, fraudulent, or otherwise illegal
21 activity.

22 (i) Nothing in this Article is intended to prevent a
23 borrower from making his or her own decision as to whether to
24 proceed with a transaction.

25 (j) Any person who violates any provision of this Article
26 commits an unlawful practice within the meaning of the Consumer

1 Fraud and Deceptive Business Practices Act.

2 (j-1) A violation of any provision of this Article by a
3 mortgage banking licensee or licensed mortgage loan originator
4 shall constitute a violation of the Residential Mortgage
5 License Act of 1987.

6 (j-2) A violation of any provision of this Article by a
7 title insurance company, title agent, or escrow agent shall
8 constitute a violation of the Title Insurance Act.

9 (j-3) A violation of any provision of this Article by a
10 housing counselor shall be referred to the Department of
11 Housing and Urban Development.

12 (k) During the existence of the program, the Department
13 shall submit semi-annual reports to the Governor and to the
14 General Assembly by May 1 and November 1 of each year detailing
15 its findings regarding the program. The report shall include,
16 by county, at least the following information for each
17 reporting period:

18 (1) the number of loans registered with the program;

19 (2) the number of borrowers receiving counseling;

20 (3) the number of loans closed;

21 (4) the number of loans requiring counseling for each
22 of the standards set forth in Section 73;

23 (5) the number of loans requiring counseling where the
24 mortgage originator changed the loan terms subsequent to
25 counseling;

26 (6) the number of licensed mortgage brokers and loan

1 originators entering information into the database;

2 (7) the number of investigations based on information
3 obtained from the database, including the number of
4 licensees fined, the number of licenses suspended, and the
5 number of licenses revoked;

6 (8) a summary of the types of non-traditional mortgage
7 products being offered; and

8 (9) a summary of how the Department is actively
9 utilizing the program to combat mortgage fraud.

10 (Source: P.A. 96-328, eff. 8-11-09; 96-856, eff. 12-31-09;
11 97-891, eff. 1-1-13.)

12 (765 ILCS 77/72)

13 Sec. 72. Originator; required information. As part of the
14 predatory lending database program, the broker or originator
15 must submit all of the following information for inclusion in
16 the predatory lending database for each loan for which the
17 originator takes an application:

18 (1) The borrower's name, address, social security
19 number or taxpayer identification number, date of birth,
20 and income and expense information, including total
21 monthly consumer debt, contained in the mortgage
22 application.

23 (2) The address, permanent index number, and a
24 description of the collateral and information about the
25 loan or loans being applied for and the loan terms,

1 including the amount of the loan, the rate and whether the
2 rate is fixed or adjustable, amortization or loan period
3 terms, and any other material terms.

4 (3) The borrower's credit score at the time of
5 application.

6 (4) Information about the originator and the company
7 the originator works for, including the originator's
8 license number and address, fees being charged, whether the
9 fees are being charged as points up front, the yield spread
10 premium payable outside closing, and other charges made or
11 remuneration required by the broker or originator or its
12 affiliates or the broker's or originator's employer or its
13 affiliates for the mortgage loans.

14 (5) Information about affiliated or third party
15 service providers, including the names and addresses of
16 appraisers, title insurance companies, closing agents,
17 attorneys, and realtors who are involved with the
18 transaction and the broker or originator and any moneys
19 received from the broker or originator in connection with
20 the transaction.

21 (6) All information indicated on the Good Faith
22 Estimate and Truth in Lending statement disclosures given
23 to the borrower by the broker or originator.

24 (7) Annual real estate taxes for the property, together
25 with any assessments payable in connection with the
26 property to be secured by the collateral and the proposed

1 monthly principal and interest charge of all loans to be
2 taken by the borrower and secured by the property of the
3 borrower.

4 (8) Information concerning how the broker or
5 originator obtained the client and the name of its referral
6 source, if any.

7 (9) Information concerning the notices provided by the
8 broker or originator to the borrower as required by law and
9 the date those notices were given.

10 (10) Information concerning whether a sale and
11 leaseback is contemplated and the names of the lessor and
12 lessee, seller, and purchaser.

13 (11) Any and all financing by the borrower for the
14 subject property within 12 months prior to the date of
15 application.

16 (12) Loan information, including interest rate, term,
17 purchase price, down payment, and closing costs.

18 (13) Whether the buyer is a first-time homebuyer or
19 refinancing a primary residence.

20 (14) Whether the loan permits interest only payments.

21 (15) Whether the loan may result in negative
22 amortization.

23 (16) Whether the total points and fees payable by the
24 borrowers at or before closing will exceed 5%.

25 (17) Whether the loan includes a prepayment penalty,
26 and, if so, the terms of the penalty.

1 (18) Whether the loan is an ARM.

2 All information entered into the predatory lending
3 database must be true and correct to the best of the
4 originator's knowledge. The originator shall, prior to
5 closing, correct, update, or amend the data as necessary. If
6 any corrections become necessary after the file has been
7 accessed by the closing agent or housing counselor, a new file
8 must be entered.

9 (Source: P.A. 97-891, eff. 1-1-13.)

10 (765 ILCS 77/74)

11 Sec. 74. Counselor; required information. As part of the
12 predatory lending database program, a counselor must submit all
13 of the following information for inclusion in the predatory
14 lending database:

15 (1) The information called for in items (1), (6), (9),
16 (11), (12), (13), (14), (15), (16), (17), and (18) of
17 Section 72.

18 (2) Any information from the borrower that confirms or
19 contradicts the information called for under item (1) of
20 this Section.

21 (3) The name of the counselor and address of the
22 HUD-approved ~~HUD-certified~~ housing counseling agency that
23 employs the counselor.

24 (4) Information pertaining to the borrower's monthly
25 expenses that assists the counselor in determining whether

1 the borrower can afford the loans or loans for which the
2 borrower is applying.

3 (5) A list of the disclosures furnished to the
4 borrower, as seen and reviewed by the counselor, and a
5 comparison of that list to all disclosures required by law.

6 (6) Whether the borrower provided tax returns to the
7 broker or originator or to the counselor, and, if so, who
8 prepared the tax returns.

9 (7) A statement of the recommendations of the counselor
10 that indicates the counselor's response to each of the
11 following statements:

12 (A) The loan should not be approved due to indicia
13 of fraud.

14 (B) The loan should be approved; no material
15 problems noted.

16 (C) The borrower cannot afford the loan.

17 (D) The borrower does not understand the
18 transaction.

19 (E) The borrower does not understand the costs
20 associated with the transaction.

21 (F) The borrower's monthly income and expenses
22 have been reviewed and disclosed.

23 (G) The rate of the loan is above market rate.

24 (H) The borrower should seek a competitive bid from
25 another broker or originator.

26 (I) There are discrepancies between the borrower's

1 verbal understanding and the originator's completed
2 form.

3 (J) The borrower is precipitously close to not
4 being able to afford the loan.

5 (K) The borrower understands the true cost of debt
6 consolidation and the need for credit card discipline.

7 (L) The information that the borrower provided the
8 originator has been amended by the originator.

9 (Source: P.A. 97-813, eff. 7-13-12.)

10 (765 ILCS 77/76)

11 Sec. 76. Title insurance company or closing agent; required
12 information. As part of the predatory lending database ~~pilot~~
13 program, a title insurance company or closing agent must submit
14 all of the following information for inclusion in the predatory
15 lending database:

16 (1) The borrower's name, address, social security
17 number or taxpayer identification number, date of birth,
18 and income and expense information contained in the
19 mortgage application.

20 (2) The address, permanent index number, and a
21 description of the collateral and information about the
22 loan or loans being applied for and the loan terms,
23 including the amount of the loan, the rate and whether the
24 rate is fixed or adjustable, amortization or loan period
25 terms, and any other material terms.

1 (3) Annual real estate taxes for the property, together
2 with any assessments payable in connection with the
3 property to be secured by the collateral and the proposed
4 monthly principal and interest charge of all loans to be
5 taken by the borrower and secured by the property of the
6 borrower as well as any required escrows and the amounts
7 paid monthly for those escrows.

8 (4) All itemizations and descriptions set forth in the
9 RESPA settlement statement including items to be
10 disbursed, payable outside closing "POC" items noted on the
11 statement, and a list of payees and the amounts of their
12 checks.

13 (5) The name and license number of the title insurance
14 company or closing agent together with the name of the
15 agent actually conducting the closing.

16 (6) The names and addresses of all originators,
17 brokers, appraisers, sales persons, attorneys, and
18 surveyors that are present at the closing.

19 (7) The date of closing, a detailed list of all notices
20 provided to the borrower at closing and the date of those
21 notices, and all information indicated on the Truth in
22 Lending statement and Good Faith Estimate disclosures.

23 (Source: P.A. 94-280, eff. 1-1-06.)

24 (765 ILCS 77/78)

25 Sec. 78. Exemption. Borrowers applying for reverse

1 mortgage financing of residential real estate including under
2 programs regulated by the Federal Housing Administration (FHA)
3 that require HUD-approved ~~HUD-certified~~ counseling are exempt
4 from the program and may submit a HUD counseling certificate to
5 comply with the program. A certificate of exemption is required
6 for recording.

7 Mortgages secured by non-owner occupied property,
8 commercial property, residential property consisting of more
9 than 4 units, and government property are exempt but require a
10 certificate of exemption for recording.

11 Mortgages originated by an exempt person or entity are
12 exempt but require a certificate of exemption for recording.

13 (Source: P.A. 98-463, eff. 8-16-13.)

14 (765 ILCS 77/80)

15 Sec. 80. Predatory Lending Database Program Fund. The
16 Predatory Lending Database Program Fund is created as a special
17 fund in the State treasury. Subject to appropriation, moneys in
18 the Fund shall be appropriated to the Illinois Housing
19 Development Authority for the purpose of making grants for
20 HUD-approved ~~HUD-certified~~ counseling agencies participating
21 in the Predatory Lending Database Program to assist with
22 implementation and development of the Predatory Lending
23 Database Program.

24 (Source: P.A. 95-707, eff. 1-11-08.)