

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 Student Loan Servicing Rights Act is amended
5 by changing Sections 15-15, 15-20, 15-25, 15-30, 15-40, 20-5,
6 and 20-30 as follows:

7 (110 ILCS 992/15-15)

8 (This Section may contain text from a Public Act with a
9 delayed effective date)

10 Sec. 15-15. Application process; investigation; fees.

11 (a) The Secretary shall issue a license upon completion of
12 all of the following:

13 (1) the filing of an application for license with the
14 Secretary or the Nationwide Multistate ~~Mortgage~~ Licensing
15 System and Registry as approved by the Secretary;

16 (2) the filing with the Secretary of a listing of
17 judgments entered against, and bankruptcy petitions by,
18 the license applicant for the preceding 10 years;

19 (3) the payment, in certified funds, of investigation
20 and application fees, the total of which shall be in an
21 amount equal to \$1,000 for an initial application and \$800
22 for a background investigation;

23 (4) the filing of an audited balance sheet, including

1 all footnotes prepared by a certified public accountant in
2 accordance with generally accepted accounting principles
3 and generally accepted auditing standards; notwithstanding
4 the requirements of this subsection, an applicant that is a
5 subsidiary may submit audited consolidated financial
6 statements of its parent, intermediary parent, or ultimate
7 parent as long as the consolidated statements are supported
8 by consolidating statements that include the applicant's
9 financial statement; if the consolidating statements are
10 unaudited, the applicant's chief financial officer shall
11 attest to the applicant's financial statements disclosed
12 in the consolidating statements; and

13 (5) an investigation of the averments required by
14 Section 15-30, which investigation must allow the
15 Secretary to issue positive findings stating that the
16 financial responsibility, experience, character, and
17 general fitness of the license applicant and of the members
18 thereof if the license applicant is a partnership or
19 association, of the officers and directors thereof if the
20 license applicant is a corporation, and of the managers and
21 members that retain any authority or responsibility under
22 the operating agreement if the license applicant is a
23 limited liability company, are such as to command the
24 confidence of the community and to warrant belief that the
25 business will be operated honestly, fairly, and
26 efficiently within the purpose of this Act; if the

1 Secretary does not so find, he or she shall not issue the
2 license, and he or she shall notify the license applicant
3 of the denial.

4 The Secretary may impose conditions on a license if the
5 Secretary determines that those conditions are necessary or
6 appropriate. These conditions shall be imposed in writing and
7 shall continue in effect for the period prescribed by the
8 Secretary.

9 (b) All licenses shall be issued to the license applicant.
10 Upon receipt of the license, a student loan servicing licensee
11 shall be authorized to engage in the business regulated by this
12 Act. The license shall remain in full force and effect until it
13 expires without renewal, is surrendered by the licensee, or
14 revoked or suspended as hereinafter provided.

15 (Source: P.A. 100-540, eff. 12-31-18.)

16 (110 ILCS 992/15-20)

17 (This Section may contain text from a Public Act with a
18 delayed effective date)

19 Sec. 15-20. Application form.

20 (a) Application for a student loan servicer license must be
21 made in accordance with Section 15-40 and, if applicable, in
22 accordance with requirements of the Nationwide Multistate
23 ~~Mortgage~~ Licensing System and Registry. The application shall
24 be in writing, under oath, and on a form obtained from and
25 prescribed by the Secretary, or may be submitted

1 electronically, with attestation, to the Nationwide Multistate
2 ~~Mortgage~~ Licensing System and Registry.

3 (b) The application shall contain the name and complete
4 business and residential address or addresses of the license
5 applicant. If the license applicant is a partnership,
6 association, corporation, or other form of business
7 organization, the application shall contain the names and
8 complete business and residential addresses of each member,
9 director, and principal officer thereof. The application shall
10 also include a description of the activities of the license
11 applicant in such detail and for such periods as the Secretary
12 may require, including all of the following:

13 (1) an affirmation of financial solvency noting such
14 capitalization requirements as may be required by the
15 Secretary and access to such credit as may be required by
16 the Secretary;

17 (2) an affirmation that the license applicant or its
18 members, directors, or principals, as may be appropriate,
19 are at least 18 years of age;

20 (3) information as to the character, fitness,
21 financial and business responsibility, background,
22 experience, and criminal record of any (i) person, entity,
23 or ultimate equitable owner that owns or controls, directly
24 or indirectly, 10% or more of any class of stock of the
25 license applicant; (ii) person, entity, or ultimate
26 equitable owner that is not a depository institution, as

1 defined in Section 1007.50 of the Savings Bank Act, that
2 lends, provides, or infuses, directly or indirectly, in any
3 way, funds to or into a license applicant in an amount
4 equal to or more than 10% of the license applicant's net
5 worth; (iii) person, entity, or ultimate equitable owner
6 that controls, directly or indirectly, the election of 25%
7 or more of the members of the board of directors of a
8 license applicant; or (iv) person, entity, or ultimate
9 equitable owner that the Secretary finds influences
10 management of the license applicant; the provisions of this
11 subsection shall not apply to a public official serving on
12 the board of directors of a State guaranty agency;

13 (4) upon written request by the licensee and
14 notwithstanding the provisions of paragraphs (1), (2), and
15 (3) of this subsection, the Secretary may permit the
16 licensee to omit all or part of the information required by
17 those paragraphs if, in lieu of the omitted information,
18 the licensee submits an affidavit stating that the
19 information submitted on the licensee's previous renewal
20 application is still true and accurate; the Secretary may
21 adopt rules prescribing the form and content of the
22 affidavit that are necessary to accomplish the purposes of
23 this Section; and

24 (5) such other information as required by rules of the
25 Secretary.

26 (Source: P.A. 100-540, eff. 12-31-18.)

1 (110 ILCS 992/15-25)

2 (This Section may contain text from a Public Act with a
3 delayed effective date)

4 Sec. 15-25. Student loan servicer license application and
5 issuance.

6 (a) Applicants for a license shall apply in a form
7 prescribed by the Secretary. Each form shall contain content as
8 set forth by rule, regulation, instruction, or procedure of the
9 Secretary and may be changed or updated as necessary by the
10 Secretary in order to carry out the purposes of this Act.

11 (b) In order to fulfill the purposes of this Act, the
12 Secretary is authorized to establish relationships or
13 contracts with the Nationwide Multistate Mortgage Licensing
14 System and Registry or other entities designated by the
15 Nationwide Multistate Mortgage Licensing System and Registry
16 to collect and maintain records and process transaction fees or
17 other fees related to licensees or other persons subject to
18 this Act.

19 (c) In connection with an application for licensing, the
20 applicant may be required, at a minimum, to furnish to the
21 Nationwide Multistate Mortgage Licensing System and Registry
22 information concerning the applicant's identity, including:

23 (1) fingerprints for submission to the Federal Bureau
24 of Investigation or any governmental agency or entity
25 authorized to receive such information for a State,

1 national, and international criminal history background
2 check; and

3 (2) personal history and experience in a form
4 prescribed by the Nationwide Multistate Mortgage Licensing
5 System and Registry, including the submission of
6 authorization for the Nationwide Multistate Mortgage
7 Licensing System and Registry and the Secretary to obtain:

8 (A) an independent credit report obtained from a
9 consumer reporting agency described in Section 603(p)
10 of the Fair Credit Reporting Act (15 U.S.C. 1681a(p));
11 and

12 (B) information related to any administrative,
13 civil, or criminal findings by any governmental
14 jurisdiction.

15 (d) For the purposes of this Section, and in order to
16 reduce the points of contact that the Federal Bureau of
17 Investigation may have to maintain for purposes of subsection
18 (c) of this Section, the Secretary may use the Nationwide
19 Multistate Mortgage Licensing System and Registry as a
20 channeling agent for requesting information from and
21 distributing information to the federal Department of Justice
22 or any governmental agency.

23 (e) For the purposes of this Section, and in order to
24 reduce the points of contact that the Secretary may have to
25 maintain for purposes of paragraph (2) of subsection (c) of
26 this Section, the Secretary may use the Nationwide Multistate

1 ~~Mortgage~~ Licensing System and Registry as a channeling agent
2 for requesting and distributing information to and from any
3 source as directed by the Secretary.

4 (f) The provisions of this Section shall not apply to a
5 public official serving on the board of directors of a State
6 guaranty agency.

7 (Source: P.A. 100-540, eff. 12-31-18.)

8 (110 ILCS 992/15-30)

9 (This Section may contain text from a Public Act with a
10 delayed effective date)

11 Sec. 15-30. Averments of licensee. Each application for
12 license shall be accompanied by the following averments stating
13 that the applicant:

14 (1) will file with the Secretary or Nationwide
15 Multistate ~~Mortgage~~ Licensing System and Registry, as
16 applicable, when due, any report or reports that it is
17 required to file under any of the provisions of this Act;

18 (2) has not committed a crime against the law of this
19 State, any other state, or of the United States involving
20 moral turpitude or fraudulent or dishonest dealing, and
21 that no final judgment has been entered against it in a
22 civil action upon grounds of fraud, misrepresentation, or
23 deceit that has not been previously reported to the
24 Secretary;

25 (3) has not engaged in any conduct that would be cause

1 for denial of a license;

2 (4) has not become insolvent;

3 (5) has not submitted an application for a license
4 under this Act that contains a material misstatement;

5 (6) has not demonstrated by course of conduct,
6 negligence or incompetence in performing any act for which
7 it is required to hold a license under this Act;

8 (7) will advise the Secretary in writing or the
9 Nationwide Multistate ~~Mortgage~~ Licensing System and
10 Registry, as applicable, of any changes to the information
11 submitted on the most recent application for license or
12 averments of record within 30 days of the change; the
13 written notice must be signed in the same form as the
14 application for the license being amended;

15 (8) will comply with the provisions of this Act and
16 with any lawful order, rule, or regulation made or issued
17 under the provisions of this Act;

18 (9) will submit to periodic examination by the
19 Secretary as required by this Act; and

20 (10) will advise the Secretary in writing of judgments
21 entered against and bankruptcy petitions by the license
22 applicant within 5 days after the occurrence.

23 A licensee who fails to fulfill the obligations of an
24 averment, fails to comply with averments made, or otherwise
25 violates any of the averments made under this Section shall be
26 subject to the penalties of this Act.

1 (Source: P.A. 100-540, eff. 12-31-18.)

2 (110 ILCS 992/15-40)

3 (This Section may contain text from a Public Act with a
4 delayed effective date)

5 Sec. 15-40. License issuance and renewal; fees.

6 (a) Licenses shall be renewed every year using the common
7 renewal date of the Nationwide Multistate ~~Mortgage~~ Licensing
8 System and Registry, as adopted by the Secretary. Properly
9 completed renewal application forms and filing fees may be
10 received by the Secretary 60 days prior to the license
11 expiration date, but, to be deemed timely, the completed
12 renewal application forms and filing fees must be received by
13 the Secretary no later than 30 days prior to the license
14 expiration date.

15 (b) It shall be the responsibility of each licensee to
16 accomplish renewal of its license. Failure by a licensee to
17 submit a properly completed renewal application form and fees
18 in a timely fashion, absent a written extension from the
19 Secretary, shall result in the license becoming inactive.

20 (c) No activity regulated by this Act shall be conducted by
21 the licensee when a license becomes inactive. An inactive
22 license may be reactivated by the Secretary upon payment of the
23 renewal fee and payment of a reactivation fee equal to the
24 renewal fee.

25 (d) A licensee ceasing an activity or activities regulated

1 by this Act and desiring to no longer be licensed shall so
2 inform the Secretary in writing and, at the same time, convey
3 any license issued and all other symbols or indicia of
4 licensure. The licensee shall include a plan for the withdrawal
5 from regulated business, including a timetable for the
6 disposition of the business, and comply with the surrender
7 guidelines or requirements of the Secretary. Upon receipt of
8 such written notice, the Secretary shall post the cancellation
9 or issue a certified statement canceling the license.

10 (e) The expenses of administering this Act, including
11 investigations and examinations provided for in this Act, shall
12 be borne by and assessed against entities regulated by this
13 Act. Subject to the limitations set forth in Section 15-15 of
14 this Act, the Secretary shall establish fees by rule in at
15 least the following categories:

16 (1) investigation of licensees and license applicant
17 fees;

18 (2) examination fees;

19 (3) contingent fees; and

20 (4) such other categories as may be required to
21 administer this Act.

22 (Source: P.A. 100-540, eff. 12-31-18.)

23 (110 ILCS 992/20-5)

24 (This Section may contain text from a Public Act with a
25 delayed effective date)

1 Sec. 20-5. Functions; powers; duties. The functions,
2 powers, and duties of the Secretary shall include the
3 following:

4 (1) to issue or refuse to issue any license as provided
5 by this Act;

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

8 (3) to keep records of all licenses issued under this
9 Act;

10 (4) to receive, consider, investigate, and act upon
11 complaints made by any person in connection with any
12 student loan servicing licensee in this State;

13 (5) to prescribe the forms of and receive:

14 (A) applications for licenses; and

15 (B) all reports and all books and records required
16 to be made by any licensee under this Act, including
17 annual audited financial statements and annual reports
18 of student loan activity;

19 (6) to adopt rules necessary and proper for the
20 administration of this Act;

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

25 (8) to issue orders against any person if the Secretary
26 has reasonable cause to believe that an unsafe, unsound, or

1 unlawful practice has occurred, is occurring, or is about
2 to occur; if any person has violated, is violating, or is
3 about to violate any law, rule, or written agreement with
4 the Secretary; or for the purpose of administering the
5 provisions of this Act and any rule adopted in accordance
6 with this Act;

7 (9) to address any inquiries to any licensee, or the
8 officers thereof, in relation to its activities and
9 conditions, or any other matter connected with its affairs,
10 and it shall be the duty of any licensee or person so
11 addressed to promptly reply in writing to those inquiries;
12 the Secretary may also require reports from any licensee at
13 any time the Secretary may deem desirable;

14 (10) to examine the books and records of every licensee
15 under this Act;

16 (11) to enforce provisions of this Act;

17 (12) to levy fees, fines, and charges for services
18 performed in administering this Act; the aggregate of all
19 fees collected by the Secretary on and after the effective
20 date of this Act shall be paid promptly after receipt,
21 accompanied by a detailed statement thereof, into the Bank
22 and Trust Company Fund under Section 20-10; the amounts
23 deposited into that Fund shall be used for the ordinary and
24 contingent expenses of the Department; nothing in this Act
25 shall prevent the continuation of the practice of paying
26 expenses involving salaries, retirement, social security,

1 and State-paid insurance of State officers by
2 appropriation from the General Revenue Fund;

3 (13) to appoint examiners, supervisors, experts, and
4 special assistants as needed to effectively and
5 efficiently administer this Act;

6 (14) to conduct hearings for the purpose of:

7 (A) appeals of orders of the Secretary;

8 (B) suspensions or revocations of licenses, or
9 fining of licensees;

10 (C) investigating:

11 (i) complaints against licensees; or

12 (ii) annual gross delinquency rates; and

13 (D) carrying out the purposes of this Act;

14 (15) to exercise exclusive visitorial power over a
15 licensee unless otherwise authorized by this Act or as
16 vested in the courts, or upon prior consultation with the
17 Secretary, a foreign student loan servicing regulator with
18 an appropriate supervisory interest in the parent or
19 affiliate of a licensee;

20 (16) to enter into cooperative agreements with state
21 regulatory authorities of other states to provide for
22 examination of corporate offices or branches of those
23 states and to accept reports of such examinations;

24 (17) to assign an examiner or examiners to monitor the
25 affairs of a licensee with whatever frequency the Secretary
26 determines appropriate and to charge the licensee for

1 reasonable and necessary expenses of the Secretary if in
2 the opinion of the Secretary an emergency exists or appears
3 likely to occur;

4 (18) to impose civil penalties of up to \$50 per day
5 against a licensee for failing to respond to a regulatory
6 request or reporting requirement; and

7 (19) to enter into agreements in connection with the
8 Nationwide Multistate ~~Mortgage~~ Licensing System and
9 Registry.

10 (Source: P.A. 100-540, eff. 12-31-18.)

11 (110 ILCS 992/20-30)

12 (This Section may contain text from a Public Act with a
13 delayed effective date)

14 Sec. 20-30. Suspension; revocation of licenses; fines.

15 (a) Upon written notice to a licensee, the Secretary may
16 suspend or revoke any license issued pursuant to this Act if,
17 in the notice, he or she makes a finding of one or more of the
18 following:

19 (1) that through separate acts or an act or a course of
20 conduct, the licensee has violated any provisions of this
21 Act, any rule adopted by the Secretary, or any other law,
22 rule, or regulation of this State or the United States;

23 (2) that any fact or condition exists that, if it had
24 existed at the time of the original application for the
25 license, would have warranted the Secretary in refusing

1 originally to issue the license; or

2 (3) that if a licensee is other than an individual, any
3 ultimate equitable owner, officer, director, or member of
4 the licensed partnership, association, corporation, or
5 other entity has acted or failed to act in a way that would
6 be cause for suspending or revoking a license to that party
7 as an individual.

8 (b) No license shall be suspended or revoked, except as
9 provided in this Section, nor shall any licensee be fined
10 without notice of his or her right to a hearing as provided in
11 Section 20-65 of this Act.

12 (c) The Secretary, on good cause shown that an emergency
13 exists, may suspend any license for a period not exceeding 180
14 days, pending investigation.

15 (d) The provisions of subsection (d) of Section 15-40 of
16 this Act shall not affect a licensee's civil or criminal
17 liability for acts committed prior to surrender of a license.

18 (e) No revocation, suspension, or surrender of any license
19 shall impair or affect the obligation of any pre-existing
20 lawful contract between the licensee and any person.

21 (f) Every license issued under this Act shall remain in
22 force and effect until the license expires without renewal, is
23 surrendered, is revoked, or is suspended in accordance with the
24 provisions of this Act, but the Secretary shall have authority
25 to reinstate a suspended license or to issue a new license to a
26 licensee whose license has been revoked if no fact or condition

1 then exists which would have warranted the Secretary in
2 refusing originally to issue that license under this Act.

3 (g) Whenever the Secretary revokes or suspends a license
4 issued pursuant to this Act or fines a licensee under this Act,
5 he or she shall execute a written order to that effect. The
6 Secretary shall post notice of the order on an agency Internet
7 site maintained by the Secretary or on the Nationwide
8 Multistate Mortgage Licensing System and Registry and shall
9 serve a copy of the order upon the licensee. Any such order may
10 be reviewed in the manner provided by Section 20-65 of this
11 Act.

12 (h) If the Secretary finds any person in violation of the
13 grounds set forth in subsection (i), he or she may enter an
14 order imposing one or more of the following penalties:

15 (1) revocation of license;

16 (2) suspension of a license subject to reinstatement
17 upon satisfying all reasonable conditions the Secretary
18 may specify;

19 (3) placement of the licensee or applicant on probation
20 for a period of time and subject to all reasonable
21 conditions as the Secretary may specify;

22 (4) issuance of a reprimand;

23 (5) imposition of a fine not to exceed \$25,000 for each
24 count of separate offense; except that a fine may be
25 imposed not to exceed \$75,000 for each separate count of
26 offense of paragraph (2) of subsection (i) of this Section;

1 or

2 (6) denial of a license.

3 (i) The following acts shall constitute grounds for which
4 the disciplinary actions specified in subsection (h) may be
5 taken:

6 (1) being convicted or found guilty, regardless of
7 pendency of an appeal, of a crime in any jurisdiction that
8 involves fraud, dishonest dealing, or any other act of
9 moral turpitude;

10 (2) fraud, misrepresentation, deceit, or negligence in
11 any student loan transaction;

12 (3) a material or intentional misstatement of fact on
13 an initial or renewal application;

14 (4) insolvency or filing under any provision of the
15 federal Bankruptcy Code as a debtor;

16 (5) failure to account or deliver to any person any
17 property, such as any money, fund, deposit, check, draft,
18 or other document or thing of value, that has come into his
19 or her hands and that is not his or her property or that he
20 or she is not in law or equity entitled to retain, under
21 the circumstances and at the time which has been agreed
22 upon or is required by law or, in the absence of a fixed
23 time, upon demand of the person entitled to such accounting
24 and delivery;

25 (6) failure to disburse funds in accordance with
26 agreements;

1 (7) having a license, or the equivalent, to practice
2 any profession or occupation revoked, suspended, or
3 otherwise acted against, including the denial of licensure
4 by a licensing authority of this State or another state,
5 territory, or country for fraud, dishonest dealing, or any
6 other act of moral turpitude;

7 (8) failure to comply with an order of the Secretary or
8 rule made or issued under the provisions of this Act;

9 (9) engaging in activities regulated by this Act
10 without a current, active license unless specifically
11 exempted by this Act;

12 (10) failure to pay in a timely manner any fee, charge,
13 or fine under this Act;

14 (11) failure to maintain, preserve, and keep available
15 for examination all books, accounts, or other documents
16 required by the provisions of this Act and the rules of the
17 Secretary;

18 (12) refusing, obstructing, evading, or unreasonably
19 delaying an investigation, information request, or
20 examination authorized under this Act, or refusing,
21 obstructing, evading, or unreasonably delaying compliance
22 with the Secretary's subpoena or subpoena duces tecum; and

23 (13) failure to comply with or a violation of any
24 provision of this Act.

25 (j) A licensee shall be subject to the disciplinary actions
26 specified in this Act for violations of subsection (i) by any

1 officer, director, shareholder, joint venture, partner,
2 ultimate equitable owner, or employee of the licensee.

3 (k) A licensee shall be subject to suspension or revocation
4 for unauthorized employee actions only if there is a pattern of
5 repeated violations by employees or the licensee has knowledge
6 of the violations or there is substantial harm to a consumer.

7 (l) Procedures for surrender of a license include the
8 following:

9 (1) The Secretary may, after 10 days' notice by
10 certified mail to the licensee at the address set forth on
11 the license, stating the contemplated action and in general
12 the grounds for the contemplated action and the date, time,
13 and place of a hearing thereon, and after providing the
14 licensee with a reasonable opportunity to be heard prior to
15 such action, fine such licensee an amount not exceeding
16 \$25,000 per violation, or revoke or suspend any license
17 issued under this Act if he or she finds that:

18 (i) the licensee has failed to comply with any
19 provision of this Act or any order, decision, finding,
20 rule, regulation, or direction of the Secretary
21 lawfully made pursuant to the authority of this Act; or

22 (ii) any fact or condition exists that, if it had
23 existed at the time of the original application for the
24 license, clearly would have warranted the Secretary in
25 refusing to issue the license.

26 (2) Any licensee may submit an application to surrender

1 a license, but, upon the Secretary approving the surrender,
2 it shall not affect the licensee's civil or criminal
3 liability for acts committed prior to surrender or entitle
4 the licensee to a return of any part of the license fee.

5 (Source: P.A. 100-540, eff. 12-31-18.)

6 Section 10. The Residential Mortgage License Act of 1987 is
7 amended by changing Sections 1-3, 1-4, 2-2, 2-3, 2-3A, 2-4,
8 2-6, 3-2, 4-1, 4-5, 4-8, 4-8.1A, 4-8.3, 4-9.1, 5-9, 7-1A, 7-2,
9 7-4, 7-5, 7-6, 7-7, 7-8, 7-9, 7-10, and 7-13 as follows:

10 (205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

11 Sec. 1-3. Necessity for license; scope of Act.

12 (a) No person, partnership, association, corporation or
13 other entity shall engage in the business of brokering,
14 funding, originating, servicing or purchasing of residential
15 mortgage loans without first obtaining a license from the
16 Secretary in accordance with the licensing procedure provided
17 in this Article I and such regulations as may be promulgated by
18 the Secretary. The licensing provisions of this Section shall
19 not apply to any entity engaged solely in commercial mortgage
20 lending or to any person, partnership association, corporation
21 or other entity exempted pursuant to Section 1-4, subsection
22 (d), of this Act or in accordance with regulations promulgated
23 by the Secretary hereunder. No provision of this Act shall
24 apply to an exempt person or entity as defined in items (1) and

1 (1.5) of subsection (d) of Section 1-4 of this Act.
2 Notwithstanding anything to the contrary in the preceding
3 sentence, an individual acting as a mortgage loan originator
4 who is not employed by and acting for an entity described in
5 item (1) of subsection (tt) of Section 1-4 of this Act shall be
6 subject to the mortgage loan originator licensing requirements
7 of Article VII of this Act.

8 Effective January 1, 2011, no provision of this Act shall
9 apply to an exempt person or entity as defined in item (1.8) of
10 subsection (d) of Section 1-4 of this Act. Notwithstanding
11 anything to the contrary in the preceding sentence, an
12 individual acting as a mortgage loan originator who is not
13 employed by and acting for an entity described in item (1) of
14 subsection (tt) of Section 1-4 of this Act shall be subject to
15 the mortgage loan originator licensing requirements of Article
16 VII of this Act, and provided that an individual acting as a
17 mortgage loan originator under item (1.8) of subsection (d) of
18 Section 1-4 of this Act shall be further subject to a
19 determination by the U.S. Department of Housing and Urban
20 Development through final rulemaking or other authorized
21 agency determination under the federal Secure and Fair
22 Enforcement for Mortgage Licensing Act of 2008.

23 (a-1) A person who is exempt from licensure pursuant to
24 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of
25 this Act as a federally chartered savings bank that is
26 registered with the Nationwide Multistate ~~Mortgage~~ Licensing

1 System and Registry may apply to the Secretary for an exempt
2 company registration for the purpose of sponsoring one or more
3 individuals subject to the mortgage loan originator licensing
4 requirements of Article VII of this Act. Registration with the
5 Division of Banking of the Department shall not affect the
6 exempt status of the applicant.

7 (1) A mortgage loan originator eligible for licensure
8 under this subsection shall (A) be covered under an
9 exclusive written contract with, and originate residential
10 mortgage loans solely on behalf of, that exempt person; and
11 (B) hold a current, valid insurance producer license under
12 Article XXXI of the Illinois Insurance Code.

13 (2) An exempt person shall: (A) fulfill any reporting
14 requirements required by the Nationwide Multistate
15 ~~Mortgage~~ Licensing System and Registry or the Secretary;
16 (B) provide a blanket surety bond pursuant to Section 7-12
17 of this Act covering the activities of all its sponsored
18 mortgage loan originators; (C) reasonably supervise the
19 activities of all its sponsored mortgage loan originators;
20 (D) comply with all rules and orders (including the
21 averments contained in Section 2-4 of this Act as
22 applicable to a non-licensed exempt entity provided for in
23 this Section) that the Secretary deems necessary to ensure
24 compliance with the federal SAFE Act; and (E) pay an annual
25 registration fee established by the Director.

26 (3) The Secretary may deny an exempt company

1 registration to an exempt person or fine, suspend, or
2 revoke an exempt company registration if the Secretary
3 finds one of the following:

4 (A) that the exempt person is not a person of
5 honesty, truthfulness, or good character;

6 (B) that the exempt person violated any applicable
7 law, rule, or order;

8 (C) that the exempt person refused or failed to
9 furnish, within a reasonable time, any information or
10 make any report that may be required by the Secretary;

11 (D) that the exempt person had a final judgment
12 entered against him or her in a civil action on grounds
13 of fraud, deceit, or misrepresentation, and the
14 conduct on which the judgment is based indicates that
15 it would be contrary to the interest of the public to
16 permit the exempt person to manage a loan originator;

17 (E) that the exempt person had an order entered
18 against him or her involving fraud, deceit, or
19 misrepresentation by an administrative agency of this
20 State, the federal government, or any other state or
21 territory of the United States, and the facts relating
22 to the order indicate that it would be contrary to the
23 interest of the public to permit the exempt person to
24 manage a loan originator;

25 (F) that the exempt person made a material
26 misstatement or suppressed or withheld information on

1 the application for an exempt company registration or
2 any document required to be filed with the Secretary;
3 or

4 (G) that the exempt person violated Section 4-5 of
5 this Act.

6 (b) No person, partnership, association, corporation, or
7 other entity except a licensee under this Act or an entity
8 exempt from licensing pursuant to Section 1-4, subsection (d),
9 of this Act shall do any business under any name or title, or
10 circulate or use any advertising or make any representation or
11 give any information to any person, which indicates or
12 reasonably implies activity within the scope of this Act.

13 (c) The Secretary may, through the Attorney General,
14 request the circuit court of either Cook or Sangamon County to
15 issue an injunction to restrain any person from violating or
16 continuing to violate any of the foregoing provisions of this
17 Section.

18 (d) When the Secretary has reasonable cause to believe that
19 any entity which has not submitted an application for licensure
20 is conducting any of the activities described in subsection (a)
21 hereof, the Secretary shall have the power to examine all books
22 and records of the entity and any additional documentation
23 necessary in order to determine whether such entity should
24 become licensed under this Act.

25 (d-1) The Secretary may issue orders against any person if
26 the Secretary has reasonable cause to believe that an unsafe,

1 unsound, or unlawful practice has occurred, is occurring, or is
2 about to occur, if any person has violated, is violating, or is
3 about to violate any law, rule, or written agreement with the
4 Secretary, or for the purposes of administering the provisions
5 of this Act and any rule adopted in accordance with this Act.

6 (e) Any person, partnership, association, corporation or
7 other entity who violates any provision of this Section commits
8 a business offense and shall be fined an amount not to exceed
9 \$25,000. A mortgage loan brokered, funded, originated,
10 serviced, or purchased by a party who is not licensed under
11 this Section shall not be held to be invalid solely on the
12 basis of a violation under this Section. The changes made to
13 this Section by this amendatory Act of the 99th General
14 Assembly are declarative of existing law.

15 (f) Each person, partnership, association, corporation or
16 other entity conducting activities regulated by this Act shall
17 be issued one license. Each office, place of business or
18 location at which a residential mortgage licensee conducts any
19 part of his or her business must be recorded with the Secretary
20 pursuant to Section 2-8 of this Act.

21 (g) Licensees under this Act shall solicit, broker, fund,
22 originate, service and purchase residential mortgage loans
23 only in conformity with the provisions of this Act and such
24 rules and regulations as may be promulgated by the Secretary.

25 (h) This Act applies to all entities doing business in
26 Illinois as residential mortgage bankers, as defined by "An Act

1 to provide for the regulation of mortgage bankers", approved
2 September 15, 1977, as amended, regardless of whether licensed
3 under that or any prior Act. Any existing residential mortgage
4 lender or residential mortgage broker in Illinois whether or
5 not previously licensed, must operate in accordance with this
6 Act.

7 (i) This Act is a successor Act to and a continuance of the
8 regulation of residential mortgage bankers provided in, "An Act
9 to provide for the regulation of mortgage bankers", approved
10 September 15, 1977, as amended.

11 Entities and persons subject to the predecessor Act shall
12 be subject to this Act from and after its effective date.

13 (Source: P.A. 98-492, eff. 8-16-13; 99-113, eff. 7-23-15.)

14 (205 ILCS 635/1-4)

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

17 (a) "Residential real property" or "residential real
18 estate" shall mean any real property located in Illinois,
19 upon which is constructed or intended to be constructed a
20 dwelling. Those terms include a manufactured home as
21 defined in subdivision (53) of Section 9-102 of the Uniform
22 Commercial Code which is real property as defined in
23 Section 5-35 of the Conveyance and Encumbrance of
24 Manufactured Homes as Real Property and Severance Act.

25 (b) "Making a residential mortgage loan" or "funding a

1 residential mortgage loan" shall mean for compensation or
2 gain, either directly or indirectly, advancing funds or
3 making a commitment to advance funds to a loan applicant
4 for a residential mortgage loan.

5 (c) "Soliciting, processing, placing, or negotiating a
6 residential mortgage loan" shall mean for compensation or
7 gain, either directly or indirectly, accepting or offering
8 to accept an application for a residential mortgage loan,
9 assisting or offering to assist in the processing of an
10 application for a residential mortgage loan on behalf of a
11 borrower, or negotiating or offering to negotiate the terms
12 or conditions of a residential mortgage loan with a lender
13 on behalf of a borrower including, but not limited to, the
14 submission of credit packages for the approval of lenders,
15 the preparation of residential mortgage loan closing
16 documents, including a closing in the name of a broker.

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

18 (1) (i) Any banking organization or foreign
19 banking corporation licensed by the Illinois
20 Commissioner of Banks and Real Estate or the United
21 States Comptroller of the Currency to transact
22 business in this State; (ii) any national bank,
23 federally chartered savings and loan association,
24 federal savings bank, federal credit union; (iii)
25 (blank); (iv) any bank, savings and loan association,
26 savings bank, or credit union organized under the laws

1 of this or any other state; (v) any Illinois Consumer
2 Installment Loan Act licensee; (vi) any insurance
3 company authorized to transact business in this State;
4 (vii) any entity engaged solely in commercial mortgage
5 lending; (viii) any service corporation of a savings
6 and loan association or savings bank organized under
7 the laws of this State or the service corporation of a
8 federally chartered savings and loan association or
9 savings bank having its principal place of business in
10 this State, other than a service corporation licensed
11 or entitled to reciprocity under the Real Estate
12 License Act of 2000; or (ix) any first tier subsidiary
13 of a bank, the charter of which is issued under the
14 Illinois Banking Act by the Illinois Commissioner of
15 Banks and Real Estate, or the first tier subsidiary of
16 a bank chartered by the United States Comptroller of
17 the Currency and that has its principal place of
18 business in this State, provided that the first tier
19 subsidiary is regularly examined by the Illinois
20 Commissioner of Banks and Real Estate or the
21 Comptroller of the Currency, or a consumer compliance
22 examination is regularly conducted by the Federal
23 Reserve Board.

24 (1.5) Any employee of a person or entity mentioned
25 in item (1) of this subsection, when acting for such
26 person or entity, or any registered mortgage loan

1 originator when acting for an entity described in
2 subsection (tt) of this Section.

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

9 (2) (Blank).

10 (2.1) A bona fide nonprofit organization.

11 (2.2) An employee of a bona fide nonprofit
12 organization when acting on behalf of that
13 organization.

14 (3) Any person employed by a licensee to assist in
15 the performance of the residential mortgage licensee's
16 activities regulated by this Act who is compensated in
17 any manner by only one licensee.

18 (4) (Blank).

19 (5) Any individual, corporation, partnership, or
20 other entity that originates, services, or brokers
21 residential mortgage loans, as these activities are
22 defined in this Act, and who or which receives no
23 compensation for those activities, subject to the
24 Commissioner's regulations and the federal Secure and
25 Fair Enforcement for Mortgage Licensing Act of 2008 and
26 the rules promulgated under that Act with regard to the

1 nature and amount of compensation.

2 (6) (Blank).

3 (e) "Licensee" or "residential mortgage licensee"
4 shall mean a person, partnership, association,
5 corporation, or any other entity who or which is licensed
6 pursuant to this Act to engage in the activities regulated
7 by this Act.

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

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

19 (h) "Ultimate equitable owner" shall mean a person who,
20 directly or indirectly, owns or controls an ownership
21 interest in a corporation, foreign corporation, alien
22 business organization, trust, or any other form of business
23 organization regardless of whether the person owns or
24 controls the ownership interest through one or more persons
25 or one or more proxies, powers of attorney, nominees,
26 corporations, associations, partnerships, trusts, joint

1 stock companies, or other entities or devices, or any
2 combination thereof.

3 (i) "Residential mortgage financing transaction" shall
4 mean the negotiation, acquisition, sale, or arrangement
5 for or the offer to negotiate, acquire, sell, or arrange
6 for, a residential mortgage loan or residential mortgage
7 loan commitment.

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

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

12 (l) "Party to a residential mortgage financing
13 transaction" shall mean a borrower, lender, or loan broker
14 in a residential mortgage financing transaction.

15 (m) "Payments" shall mean payment of all or any of the
16 following: principal, interest and escrow reserves for
17 taxes, insurance and other related reserves, and
18 reimbursement for lender advances.

19 (n) "Commissioner" shall mean the Commissioner of
20 Banks and Real Estate, except that, beginning on April 6,
21 2009 (the effective date of Public Act 95-1047), all
22 references in this Act to the Commissioner of Banks and
23 Real Estate are deemed, in appropriate contexts, to be
24 references to the Secretary of Financial and Professional
25 Regulation, or his or her designee, including the Director
26 of the Division of Banking of the Department of Financial

1 and Professional Regulation.

2 (n-1) "Director" shall mean the Director of the
3 Division of Banking of the Department of Financial and
4 Professional Regulation, except that, beginning on July
5 31, 2009 (the effective date of Public Act 96-112), all
6 references in this Act to the Director are deemed, in
7 appropriate contexts, to be the Secretary of Financial and
8 Professional Regulation, or his or her designee, including
9 the Director of the Division of Banking of the Department
10 of Financial and Professional Regulation.

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

22 (p) "Loan broker" or "broker" shall mean a person,
23 partnership, association, corporation, or limited
24 liability company, other than those persons, partnerships,
25 associations, corporations, or limited liability companies
26 exempted from licensing pursuant to Section 1-4,

1 subsection (d), of this Act, who performs the activities
2 described in subsections (c), (o), and (yy) of this
3 Section.

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

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

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

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

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

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

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

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

26 (2) consider making a residential mortgage loan to

1 the borrower.

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

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

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

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

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

1 (bb) "Escrow agent" shall mean a third party,
2 individual or entity charged with the fiduciary obligation
3 for holding escrow funds on a residential mortgage loan
4 pending final payout of those funds in accordance with the
5 terms of the residential mortgage loan.

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

8 (dd) "Affiliate" shall mean:

9 (1) any entity that directly controls or is
10 controlled by the licensee and any other company that
11 is directly affecting activities regulated by this Act
12 that is controlled by the company that controls the
13 licensee;

14 (2) any entity:

15 (A) that is controlled, directly or
16 indirectly, by a trust or otherwise, by or for the
17 benefit of shareholders who beneficially or
18 otherwise control, directly or indirectly, by
19 trust or otherwise, the licensee or any company
20 that controls the licensee; or

21 (B) a majority of the directors or trustees of
22 which constitute a majority of the persons holding
23 any such office with the licensee or any company
24 that controls the licensee;

25 (3) any company, including a real estate
26 investment trust, that is sponsored and advised on a

1 contractual basis by the licensee or any subsidiary or
2 affiliate of the licensee.

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

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

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

26 (hh) (Blank). ~~"Loan originator" means any natural~~

1 ~~person who, for compensation or in the expectation of~~
2 ~~compensation, either directly or indirectly makes, offers~~
3 ~~to make, solicits, places, or negotiates a residential~~
4 ~~mortgage loan. This definition applies only to Section 7-1~~
5 ~~of this Act.~~

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

22 (jj) "Mortgage loan originator" means an individual
23 who for compensation or gain or in the expectation of
24 compensation or gain:

25 (i) takes a residential mortgage loan application;

26 or

1 (ii) offers or negotiates terms of a residential
2 mortgage loan.

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

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

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

24 "Mortgage loan originator" does not include a person or
25 entity solely involved in extensions of credit relating to
26 timeshare plans, as that term is defined in Section

1 101(53D) of Title 11, United States Code.

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

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

8 (mm) "Immediate family member" means a spouse, child,
9 sibling, parent, grandparent, or grandchild, and includes
10 step-parents, step-children, step-siblings, or adoptive
11 relationships.

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

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

19 (i) the receipt, collection, distribution, and
20 analysis of information common for the processing or
21 underwriting of a residential mortgage loan; and

22 (ii) communicating with a consumer to obtain the
23 information necessary for the processing or
24 underwriting of a loan, to the extent that the
25 communication does not include offering or negotiating
26 loan rates or terms, or counseling consumers about

1 residential mortgage loan rates or terms. An
2 individual engaging solely in loan processor or
3 underwriter activities shall not represent to the
4 public, through advertising or other means of
5 communicating or providing information, including the
6 use of business cards, stationery, brochures, signs,
7 rate lists, or other promotional items, that the
8 individual can or will perform any of the activities of
9 a mortgage loan originator.

10 (pp) "Nationwide Multistate Mortgage Licensing System
11 and Registry" means a mortgage licensing system developed
12 and maintained by the Conference of State Bank Supervisors
13 and the American Association of Residential Mortgage
14 Regulators for the licensing and registration of licensed
15 mortgage loan originators.

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

18 (rr) "Person" means a natural person, corporation,
19 company, limited liability company, partnership, or
20 association.

21 (ss) "Real estate brokerage activity" means any
22 activity that involves offering or providing real estate
23 brokerage services to the public, including:

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

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

4 (3) negotiating, on behalf of any party, any
5 portion of a contract relating to the sale, purchase,
6 lease, rental, or exchange of real property, other than
7 in connection with providing financing with respect to
8 any such transaction;

9 (4) engaging in any activity for which a person
10 engaged in the activity is required to be registered or
11 licensed as a real estate agent or real estate broker
12 under any applicable law; or

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

15 (tt) "Registered mortgage loan originator" means any
16 individual that:

17 (1) meets the definition of mortgage loan
18 originator and is an employee of:

19 (A) a depository institution;

20 (B) a subsidiary that is:

21 (i) owned and controlled by a depository
22 institution; and

23 (ii) regulated by a federal banking
24 agency; or

25 (C) an institution regulated by the Farm
26 Credit Administration; and

1 (2) is registered with, and maintains a unique
2 identifier through, the Nationwide Multistate Mortgage
3 Licensing System and Registry.

4 (uu) "Unique identifier" means a number or other
5 identifier assigned by protocols established by the
6 Nationwide Multistate Mortgage Licensing System and
7 Registry.

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

10 (wv) "Mortgage loan originator license" means a
11 license issued pursuant to Section 7-1A, 7-3, or 7-6 of
12 this Act.

13 (xx) "Secretary" means the Secretary of the Department
14 of Financial and Professional Regulation, or a person
15 authorized by the Secretary or by this Act to act in the
16 Secretary's stead.

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

23 (zz) "Short sale facilitation" means, for compensation
24 or gain, either directly or indirectly offering or
25 negotiating on behalf of a borrower or homeowner to
26 facilitate the sale of residential real estate subject to

1 one or more residential mortgage loans or debts
2 constituting liens on the property in which the proceeds
3 from selling the residential real estate will fall short of
4 the amount owed and the lien holders are contacted to agree
5 to release their lien on the residential real estate and
6 accept less than the full amount owed on the debt.

7 (aaa) "Bona fide nonprofit organization" means an
8 organization that is described in Section 501(c)(3) of the
9 Internal Revenue Code, is exempt from federal income tax
10 under Section 501(a) of the Internal Revenue Code, does not
11 operate in a commercial context, and does all of the
12 following:

13 (1) Promotes affordable housing or provides home
14 ownership education or similar services.

15 (2) Conducts its activities in a manner that serves
16 public or charitable purposes.

17 (3) Receives funding and revenue and charges fees
18 in a manner that does not create an incentive for
19 itself or its employees to act other than in the best
20 interests of its clients.

21 (4) Compensates its employees in a manner that does
22 not create an incentive for its employees to act other
23 than in the best interests of its clients.

24 (5) Provides to, or identifies for, the borrower
25 residential mortgage loans with terms favorable to the
26 borrower and comparable to residential mortgage loans

1 and housing assistance provided under government
2 housing assistance programs.

3 The Commissioner may define by rule and regulation any
4 terms used in this Act for the efficient and clear
5 administration of this Act.

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

8 (205 ILCS 635/2-2)

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

10 (a) The Secretary shall issue a license upon completion of
11 all of the following:

12 (1) The filing of an application for license with the
13 Director or the Nationwide Multistate Mortgage Licensing
14 System and Registry as approved by the Director.

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

18 (3) The payment, in certified funds, of investigation
19 and application fees, the total of which shall be in an
20 amount equal to \$2,700 annually.

21 (4) Except for a broker applying to renew a license,
22 the filing of an audited balance sheet including all
23 footnotes prepared by a certified public accountant in
24 accordance with generally accepted accounting principles
25 and generally accepted auditing standards which evidences

1 that the applicant meets the net worth requirements of
2 Section 3-5. Notwithstanding the requirements of this
3 subsection, an applicant that is a subsidiary may submit
4 audited consolidated financial statements of its parent,
5 intermediary parent, or ultimate parent as long as the
6 consolidated statements are supported by consolidating
7 statements which include the applicant's financial
8 statement. If the consolidating statements are unaudited,
9 the applicant's chief financial officer shall attest to the
10 applicant's financial statements disclosed in the
11 consolidating statements.

12 (5) The filing of proof satisfactory to the Secretary
13 ~~Commissioner~~ that the applicant, the members thereof if the
14 applicant is a partnership or association, the members or
15 managers thereof that retain any authority or
16 responsibility under the operating agreement if the
17 applicant is a limited liability company, or the officers
18 thereof if the applicant is a corporation have 3 years
19 experience preceding application in real estate finance.
20 Instead of this requirement, the applicant and the
21 applicant's officers or members, as applicable, may
22 satisfactorily complete a program of education in real
23 estate finance and fair lending, as approved by the
24 Secretary ~~Commissioner~~, prior to receiving the initial
25 license. The Secretary ~~Commissioner~~ shall adopt ~~promulgate~~
26 rules regarding proof of experience requirements and

1 educational requirements and the satisfactory completion
2 of those requirements. The Secretary ~~Commissioner~~ may
3 establish by rule a list of duly licensed professionals and
4 others who may be exempt from this requirement.

5 (6) An investigation of the application ~~averments~~
6 ~~required by Section 2-4~~, which investigation must allow the
7 Secretary ~~Commissioner~~ to issue positive findings stating
8 that the financial responsibility, experience, character,
9 and general fitness of the license applicant and of the
10 members thereof if the license applicant is a partnership
11 or association, of the officers and directors thereof if
12 the license applicant is a corporation, and of the managers
13 and members that retain any authority or responsibility
14 under the operating agreement if the license applicant is a
15 limited liability company are such as to command the
16 confidence of the community and to warrant belief that the
17 business will be operated honestly, fairly and efficiently
18 within the purpose of this Act. If the Secretary
19 ~~Commissioner~~ shall not so find, he or she shall not issue
20 such license, and he or she shall notify the license
21 applicant of the denial.

22 The Secretary ~~Commissioner~~ may impose conditions on a
23 license if the Secretary ~~Commissioner~~ determines that the
24 conditions are necessary or appropriate. These conditions
25 shall be imposed in writing and shall continue in effect for
26 the period prescribed by the Secretary ~~Commissioner~~.

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

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

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

8 (205 ILCS 635/2-3) (from Ch. 17, par. 2322-3)

9 Sec. 2-3. Application form.

10 (a) Application for a residential mortgage license must be
11 made in accordance with Section 2-6 and, if applicable, in
12 accordance with requirements of the Nationwide Multistate
13 ~~Mortgage~~ Licensing System and Registry. The application shall
14 be in writing, under oath, and on a form obtained from and
15 prescribed by the Commissioner, or may be submitted
16 electronically, with attestation, to the Nationwide Multistate
17 ~~Mortgage~~ Licensing System and Registry.

18 (b) The application shall contain the name and complete
19 business and residential address or addresses of the license
20 applicant. If the license applicant is a partnership,
21 association, corporation or other form of business
22 organization, the application shall contain the names and
23 complete business and residential addresses of each member,
24 director and principal officer thereof. Such application shall
25 also include a description of the activities of the license

1 applicant, in such detail and for such periods, as the
2 Commissioner may require, including all of the following:

3 (1) An affirmation of financial solvency noting such
4 capitalization requirements as may be required by the
5 Commissioner, and access to such credit as may be required
6 by the Commissioner.

7 (2) An affirmation that the license applicant or its
8 members, directors or principals as may be appropriate, are
9 at least 18 years of age.

10 (3) Information as to the character, fitness,
11 financial and business responsibility, background,
12 experience, and criminal record of any (i) person, entity,
13 or ultimate equitable owner that owns or controls, directly
14 or indirectly, 10% or more of any class of stock of the
15 license applicant; (ii) person, entity, or ultimate
16 equitable owner that is not a depository institution, as
17 defined in Section 1007.50 of the Savings Bank Act, that
18 lends, provides, or infuses, directly or indirectly, in any
19 way, funds to or into a license applicant, in an amount
20 equal to or more than 10% of the license applicant's net
21 worth; (iii) person, entity, or ultimate equitable owner
22 that controls, directly or indirectly, the election of 25%
23 or more of the members of the board of directors of a
24 license applicant; or (iv) person, entity, or ultimate
25 equitable owner that the Commissioner finds influences
26 management of the license applicant.

1 (4) Upon written request by the licensee and
2 notwithstanding the provisions of paragraphs (1), (2), and
3 (3) of this subsection, the Commissioner may permit the
4 licensee to omit all or part of the information required by
5 those paragraphs if, in lieu of the omitted information,
6 the licensee submits an affidavit stating that the
7 information submitted on the licensee's previous renewal
8 application is still true and accurate. The Commissioner
9 may promulgate rules prescribing the form and content of
10 the affidavit that are necessary to accomplish the purposes
11 of this Section.

12 (5) Such other information as required by regulations
13 of the Commissioner.

14 (Source: P.A. 96-112, eff. 7-31-09.)

15 (205 ILCS 635/2-3A)

16 Sec. 2-3A. Residential mortgage license application and
17 issuance.

18 (a) Applicants for a license shall apply in a form
19 prescribed by the Director. Each form shall contain content as
20 set forth by rule, regulation, instruction, or procedure of the
21 Director and may be changed or updated as necessary by the
22 Director in order to carry out the purposes of this Act.

23 (b) In order to fulfill the purposes of this Act, the
24 Director is authorized to establish relationships or contracts
25 with the Nationwide Multistate ~~Mortgage~~ Licensing System and

1 Registry or other entities designated by the Nationwide
2 Multistate Mortgage Licensing System and Registry to collect
3 and maintain records and process transaction fees or other fees
4 related to licensees or other persons subject to this Act.

5 (c) In connection with an application for licensing, the
6 applicant may be required, at a minimum, to furnish to the
7 Nationwide Multistate Mortgage Licensing System and Registry
8 information concerning the applicant's identity, including:

9 (1) fingerprints for submission to the Federal Bureau
10 of Investigation or any governmental agency or entity
11 authorized to receive such information for a State,
12 national, and international criminal history background
13 check; and

14 (2) personal history and experience in a form
15 prescribed by the Nationwide Multistate Mortgage Licensing
16 System and Registry, including the submission of
17 authorization for the Nationwide Multistate Mortgage
18 Licensing System and Registry and the Director to obtain:

19 (A) an independent credit report obtained from a
20 consumer reporting agency described in Section 603(p)
21 of the Fair Credit Reporting Act (15 U.S.C. 1681a(p));
22 and

23 (B) information related to any administrative,
24 civil, or criminal findings by any governmental
25 jurisdiction.

26 (d) For the purposes of this Section, and in order to

1 reduce the points of contact that the Federal Bureau of
2 Investigation may have to maintain for purposes of subsection
3 (c) of this Section, the Director may use the Nationwide
4 Multistate Mortgage Licensing System and Registry as a
5 channeling agent for requesting information from and
6 distributing information to the Department of Justice or any
7 governmental agency.

8 (e) For the purposes of this Section, and in order to
9 reduce the points of contact that the Director may have to
10 maintain for purposes of item (2) of subsection (c) of this
11 Section, the Director may use the Nationwide Multistate
12 Mortgage Licensing System and Registry as a channeling agent
13 for requesting and distributing information to and from any
14 source so directed by the Director.

15 (Source: P.A. 97-891, eff. 8-3-12.)

16 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

17 Sec. 2-4. Prohibited acts and practices for licensees.
18 ~~Averments of Licensee. It is a violation of this Act for a~~
19 ~~licensee subject to this Act to~~ Each application for license
20 ~~shall be accompanied by the following averments stating that~~
21 ~~the applicant:~~

22 (a) fail to ~~Will~~ maintain at least one full service
23 office within the State of Illinois if required to do so
24 pursuant to Section 3-4 of this Act;

25 (b) fail to ~~Will~~ maintain staff reasonably adequate to

1 meet the requirements of Section 3-4 of this Act;

2 (c) fail to ~~Will~~ keep and maintain for 36 months the
3 same written records as required by the federal Equal
4 Credit Opportunity Act, and any other information required
5 by regulations of the Secretary ~~Commissioner~~ regarding any
6 home mortgage in the course of the conduct of its
7 residential mortgage business;

8 (d) fail to ~~Will~~ file with the Secretary ~~Commissioner~~
9 or Nationwide Multistate Mortgage Licensing System and
10 Registry as applicable, when due, any report or reports
11 which it is required to file under any of the provisions of
12 this Act;

13 (e) engage ~~Will not engage~~, whether as principal or
14 agent, in the practice of rejecting residential mortgage
15 applications without reasonable cause, or varying terms or
16 application procedures without reasonable cause, for home
17 mortgages on real estate within any specific geographic
18 area from the terms or procedures generally provided by the
19 licensee within other geographic areas of the State;

20 (f) engage ~~Will not engage~~ in fraudulent home mortgage
21 underwriting practices;

22 (g) make ~~Will not make~~ payment, whether directly or
23 indirectly, of any kind to any in house or fee appraiser of
24 any government or private money lending agency with which
25 an application for a home mortgage has been filed for the
26 purpose of influencing the independent judgment of the

1 appraiser with respect to the value of any real estate
2 which is to be covered by such home mortgage;

3 (h) fail to file ~~Has filed~~ tax returns (State and
4 Federal) for the past 3 years or filed with the Secretary
5 ~~Commissioner~~ an accountant's or attorney's statement as to
6 why no return was filed;

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

9 (j) knowingly ~~Will not knowingly~~ make any false
10 promises likely to influence or persuade, or pursue a
11 course of misrepresentation and false promises through
12 agents, solicitors, advertising or otherwise;

13 (k) knowingly ~~Will not knowingly~~ misrepresent,
14 circumvent or conceal, through whatever subterfuge or
15 device, any of the material particulars or the nature
16 thereof, regarding a transaction to which it is a party to
17 the injury of another party thereto;

18 (l) fail to ~~Will~~ disburse funds in accordance with its
19 agreements;

20 (m) commit ~~Has not committed~~ a crime against the law of
21 this State, any other state or of the United States,
22 involving moral turpitude, fraudulent or dishonest
23 dealing, and that no final judgment has been entered
24 against it in a civil action upon grounds of fraud,
25 misrepresentation or deceit which has not been previously
26 reported to the Secretary ~~Commissioner~~;

1 (n) fail to ~~Will~~ account or deliver to the owner upon
2 request any personal property such as money, fund, deposit,
3 check, draft, mortgage, other document or thing of value
4 which it is not in law or equity entitled to retain under
5 the circumstances;

6 (o) engage ~~Has not engaged~~ in any conduct which would
7 be cause for denial of a license;

8 (p) become ~~Has not become~~ insolvent;

9 (q) submit ~~Has not submitted~~ an application for a
10 license under this Act which contains a material
11 misstatement;

12 (r) demonstrate ~~Has not demonstrated~~ by course of
13 conduct, negligence or incompetence in performing any act
14 for which it is required to hold a license under this Act;

15 (s) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in
16 writing, or the Nationwide Multistate Mortgage ~~Mortgage~~ Licensing
17 System and Registry, as applicable, of any changes to the
18 information submitted on the most recent application for
19 license or averments of record within 30 days of said
20 change. The written notice must be signed in the same form
21 as the application for license being amended;

22 (t) fail to ~~Will~~ comply with the provisions of this
23 Act, or with any lawful order, rule or regulation made or
24 issued under the provisions of this Act;

25 (u) fail to ~~Will~~ submit to periodic examination by the
26 Secretary ~~Commissioner~~ as required by this Act;

1 (v) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in
2 writing of judgments entered against, and bankruptcy
3 petitions by, the license applicant within 5 days of
4 occurrence;

5 (w) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in
6 writing within 30 days of any request made to a licensee
7 under this Act to repurchase a loan in a manner that
8 completely and clearly identifies to whom the request was
9 made, the loans involved, and the reason therefor;

10 (x) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in
11 writing within 30 days of any request from any entity to
12 repurchase a loan in a manner that completely and clearly
13 identifies to whom the request was made, the loans
14 involved, and the reason for the request;

15 (y) fail to ~~Will~~ at all times act in a manner
16 consistent with subsections (a) and (b) of Section 1-2 of
17 this Act;

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

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

26 (bb) structure ~~Will not structure~~ activities or

1 contracts to evade provisions of this Act.

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

7 (Source: P.A. 97-891, eff. 8-3-12; 98-1081, eff. 1-1-15.)

8 (205 ILCS 635/2-6)

9 Sec. 2-6. License issuance and renewal; fee.

10 (a) Licenses shall be renewed every year using the common
11 renewal date of the Nationwide Multistate Mortgage Licensing
12 System and Registry as adopted by the Director. Properly
13 completed renewal application forms and filing fees may be
14 received by the Secretary 60 days prior to the license
15 expiration date, but, to be deemed timely, the completed
16 renewal application forms and filing fees must be received by
17 the Secretary no later than 30 days prior to the license
18 expiration date.

19 (b) It shall be the responsibility of each licensee to
20 accomplish renewal of its license. Failure by a licensee to
21 submit a properly completed renewal application form and fees
22 in a timely fashion, absent a written extension from the
23 Secretary, will result in the license becoming inactive.

24 (c) No activity regulated by this Act shall be conducted by
25 the licensee when a license becomes inactive. The Commissioner

1 may require the licensee to provide a plan for the disposition
2 of any residential mortgage loans not closed or funded when the
3 license becomes inactive. The Commissioner may allow a licensee
4 with an inactive license to conduct activities regulated by
5 this Act for the sole purpose of assisting borrowers in the
6 closing or funding of loans for which the loan application was
7 taken from a borrower while the license was active. An inactive
8 license may be reactivated by the Commissioner upon payment of
9 the renewal fee, and payment of a reactivation fee equal to the
10 renewal fee.

11 (d) (Blank).

12 (e) A licensee ceasing an activity or activities regulated
13 by this Act and desiring to no longer be licensed shall so
14 inform the Commissioner in writing and, at the same time,
15 convey any license issued and all other symbols or indicia of
16 licensure. The licensee shall include a plan for the withdrawal
17 from regulated business, including a timetable for the
18 disposition of the business, and comply with the surrender
19 guidelines or requirements of the Director. Upon receipt of
20 such written notice, the Commissioner shall post the
21 cancellation or issue a certified statement canceling the
22 license.

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

24 (205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

25 Sec. 3-2. Annual audit.

1 (a) At the licensee's fiscal year-end, but in no case more
2 than 12 months after the last audit conducted pursuant to this
3 Section, except as otherwise provided in this Section, it shall
4 be mandatory for each residential mortgage licensee to cause
5 its books and accounts to be audited by a certified public
6 accountant not connected with such licensee. The books and
7 records of all licensees under this Act shall be maintained on
8 an accrual basis. The audit must be sufficiently comprehensive
9 in scope to permit the expression of an opinion on the
10 financial statements, which must be prepared in accordance with
11 generally accepted accounting principles, and must be
12 performed in accordance with generally accepted auditing
13 standards. Notwithstanding the requirements of this
14 subsection, a licensee that is a subsidiary may submit audited
15 consolidated financial statements of its parent, intermediary
16 parent, or ultimate parent as long as the consolidated
17 statements are supported by consolidating statements which
18 include the licensee's financial statement. If the
19 consolidating statements are unaudited, the licensee's chief
20 financial officer shall attest to the licensee's financial
21 statements disclosed in the consolidating statements.

22 (b) As used herein, the term "expression of opinion"
23 includes either (1) an unqualified opinion, (2) a qualified
24 opinion, (3) a disclaimer of opinion, or (4) an adverse
25 opinion.

26 (c) If a qualified or adverse opinion is expressed or if an

1 opinion is disclaimed, the reasons therefore must be fully
2 explained. An opinion, qualified as to a scope limitation,
3 shall not be acceptable.

4 (d) The most recent audit report shall be filed with the
5 Commissioner within 90 days after the end of the licensee's
6 fiscal year, or with the Nationwide Multistate Mortgage
7 Licensing System and Registry, if applicable, pursuant to
8 Mortgage Call Report requirements. The report filed with the
9 Commissioner shall be certified by the certified public
10 accountant conducting the audit. The Commissioner may
11 promulgate rules regarding late audit reports.

12 (e) (Blank).

13 (f) In lieu of the audit or compilation financial statement
14 required by this Section, a licensee shall submit and the
15 Commissioner may accept any audit made in conformance with the
16 audit requirements of the U.S. Department of Housing and Urban
17 Development.

18 (g) With respect to licensees who solely broker residential
19 mortgage loans as defined in subsection (o) of Section 1-4,
20 instead of the audit required by this Section, the Commissioner
21 may accept compilation financial statements prepared at least
22 every 12 months, and the compilation financial statement must
23 be submitted within 90 days after the end of the licensee's
24 fiscal year, or with the Nationwide Multistate Mortgage
25 Licensing System and Registry, if applicable, pursuant to
26 Mortgage Call Report requirements. A licensee who files false

1 or misleading compilation financial statements is guilty of a
2 business offense and shall be fined not less than \$5,000.

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

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

20 (Source: P.A. 98-463, eff. 8-16-13; 98-1081, eff. 1-1-15;
21 99-933, eff. 1-27-17.)

22 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

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

1 following:

2 (a) to issue or refuse to issue any license as provided
3 by this Act;

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

6 (c) to keep records of all licenses issued under this
7 Act;

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

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

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

14 (1) applications for licenses; and

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

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

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

25 (h-1) to issue orders against any person, if the
26 Commissioner has reasonable cause to believe that an

1 unsafe, unsound, or unlawful practice has occurred, is
2 occurring, or is about to occur, if any person has
3 violated, is violating, or is about to violate any law,
4 rule, or written agreement with the Commissioner, or for
5 the purpose of administering the provisions of this Act and
6 any rule adopted in accordance with the Act;

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

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

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

1 (k) to enforce provisions of this Act;

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

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

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

19 (1) appeals of orders of the Commissioner;

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

22 (3) investigating:

23 (i) complaints against licensees; or

24 (ii) annual gross delinquency rates; and

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

26 (o) to exercise exclusive visitorial power over a

1 licensee unless otherwise authorized by this Act or as
2 vested in the courts, or upon prior consultation with the
3 Commissioner, a foreign residential mortgage regulator
4 with an appropriate supervisory interest in the parent or
5 affiliate of a licensee;

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

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

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

19 (s) to enter into agreements in connection with the
20 Nationwide Multistate ~~Mortgage~~ Licensing System and
21 Registry.

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

23 (205 ILCS 635/4-5) (from Ch. 17, par. 2324-5)

24 Sec. 4-5. Suspension, revocation of licenses; fines.

25 (a) Upon written notice to a licensee, the Commissioner may

1 suspend or revoke any license issued pursuant to this Act if he
2 or she shall make a finding of one or more of the following in
3 the notice that:

4 (1) Through separate acts or an act or a course of
5 conduct, the licensee has violated any provisions of this
6 Act, any rule or regulation promulgated by the Commissioner
7 or of any other law, rule or regulation of this State or
8 the United States.

9 (2) Any fact or condition exists which, if it had
10 existed at the time of the original application for such
11 license would have warranted the Commissioner in refusing
12 originally to issue such license.

13 (3) If a licensee is other than an individual, any
14 ultimate equitable owner, officer, director, or member of
15 the licensed partnership, association, corporation, or
16 other entity has so acted or failed to act as would be
17 cause for suspending or revoking a license to that party as
18 an individual.

19 (b) No license shall be suspended or revoked, except as
20 provided in this Section, nor shall any licensee be fined
21 without notice of his or her right to a hearing as provided in
22 Section 4-12 of this Act.

23 (c) The Commissioner, on good cause shown that an emergency
24 exists, may suspend any license for a period not exceeding 180
25 days, pending investigation. Upon a showing that a licensee has
26 failed to meet the experience or educational requirements of

1 Section 2-2 or the requirements of subsection (g) of Section
2 3-2, the Commissioner shall suspend, prior to hearing as
3 provided in Section 4-12, the license until those requirements
4 have been met.

5 (d) The provisions of subsection (e) of Section 2-6 of this
6 Act shall not affect a licensee's civil or criminal liability
7 for acts committed prior to surrender of a license.

8 (e) No revocation, suspension or surrender of any license
9 shall impair or affect the obligation of any pre-existing
10 lawful contract between the licensee and any person.

11 (f) Every license issued under this Act shall remain in
12 force and effect until the same shall have expired without
13 renewal, have been surrendered, revoked or suspended in
14 accordance with the provisions of this Act, but the
15 Commissioner shall have authority to reinstate a suspended
16 license or to issue a new license to a licensee whose license
17 shall have been revoked if no fact or condition then exists
18 which would have warranted the Commissioner in refusing
19 originally to issue such license under this Act.

20 (g) Whenever the Commissioner shall revoke or suspend a
21 license issued pursuant to this Act or fine a licensee under
22 this Act, he or she shall forthwith execute a written order to
23 that effect. The Commissioner shall post notice of the order on
24 an agency Internet site maintained by the Commissioner or on
25 the Nationwide Multistate Mortgage Licensing System and
26 Registry and shall forthwith serve a copy of such order upon

1 the licensee. Any such order may be reviewed in the manner
2 provided by Section 4-12 of this Act.

3 (h) When the Commissioner finds any person in violation of
4 the grounds set forth in subsection (i), he or she may enter an
5 order imposing one or more of the following penalties:

6 (1) Revocation of license;

7 (2) Suspension of a license subject to reinstatement
8 upon satisfying all reasonable conditions the Commissioner
9 may specify;

10 (3) Placement of the licensee or applicant on probation
11 for a period of time and subject to all reasonable
12 conditions as the Commissioner may specify;

13 (4) Issuance of a reprimand;

14 (5) Imposition of a fine not to exceed \$25,000 for each
15 count of separate offense, provided that a fine may be
16 imposed not to exceed \$75,000 for each separate count of
17 offense of paragraph (2) of subsection (i) of this Section;
18 and

19 (6) Denial of a license.

20 (i) The following acts shall constitute grounds for which
21 the disciplinary actions specified in subsection (h) above may
22 be taken:

23 (1) Being convicted or found guilty, regardless of
24 pendency of an appeal, of a crime in any jurisdiction which
25 involves fraud, dishonest dealing, or any other act of
26 moral turpitude;

1 (2) Fraud, misrepresentation, deceit or negligence in
2 any mortgage financing transaction;

3 (3) A material or intentional misstatement of fact on
4 an initial or renewal application;

5 (4) Failure to follow the Commissioner's regulations
6 with respect to placement of funds in escrow accounts;

7 (5) Insolvency or filing under any provision of the
8 Bankruptcy Code as a debtor;

9 (6) Failure to account or deliver to any person any
10 property such as any money, fund, deposit, check, draft,
11 mortgage, or other document or thing of value, which has
12 come into his or her hands and which is not his or her
13 property or which he or she is not in law or equity
14 entitled to retain, under the circumstances and at the time
15 which has been agreed upon or is required by law or, in the
16 absence of a fixed time, upon demand of the person entitled
17 to such accounting and delivery;

18 (7) Failure to disburse funds in accordance with
19 agreements;

20 (8) Any misuse, misapplication, or misappropriation of
21 trust funds or escrow funds;

22 (9) Having a license, or the equivalent, to practice
23 any profession or occupation revoked, suspended, or
24 otherwise acted against, including the denial of licensure
25 by a licensing authority of this State or another state,
26 territory or country for fraud, dishonest dealing or any

1 other act of moral turpitude;

2 (10) Failure to issue a satisfaction of mortgage when
3 the residential mortgage has been executed and proceeds
4 were not disbursed to the benefit of the mortgagor and when
5 the mortgagor has fully paid licensee's costs and
6 commission;

7 (11) Failure to comply with any order of the
8 Commissioner or rule made or issued under the provisions of
9 this Act;

10 (12) Engaging in activities regulated by this Act
11 without a current, active license unless specifically
12 exempted by this Act;

13 (13) Failure to pay in a timely manner any fee, charge
14 or fine under this Act;

15 (14) Failure to maintain, preserve, and keep available
16 for examination, all books, accounts or other documents
17 required by the provisions of this Act and the rules of the
18 Commissioner;

19 (15) Refusing, obstructing, evading, or unreasonably
20 delaying an investigation, information request, or
21 examination authorized under this Act, or refusing,
22 obstructing, evading, or unreasonably delaying compliance
23 with the Director's subpoena or subpoena duces tecum;

24 (16) A pattern of substantially underestimating the
25 maximum closing costs;

26 (17) Failure to comply with or violation of any

1 provision of this Act;

2 (18) Failure to comply with or violation of any
3 provision of Article 3 of the Residential Real Property
4 Disclosure Act.

5 (j) A licensee shall be subject to the disciplinary actions
6 specified in this Act for violations of subsection (i) by any
7 officer, director, shareholder, joint venture, partner,
8 ultimate equitable owner, or employee of the licensee.

9 (k) Such licensee shall be subject to suspension or
10 revocation for unauthorized employee actions only if there is a
11 pattern of repeated violations by employees or the licensee has
12 knowledge of the violations, or there is substantial harm to a
13 consumer.

14 (l) Procedure for surrender of license:

15 (1) The Commissioner may, after 10 days notice by
16 certified mail to the licensee at the address set forth on
17 the license, stating the contemplated action and in general
18 the grounds therefor and the date, time and place of a
19 hearing thereon, and after providing the licensee with a
20 reasonable opportunity to be heard prior to such action,
21 fine such licensee an amount not exceeding \$25,000 per
22 violation, or revoke or suspend any license issued
23 hereunder if he or she finds that:

24 (i) The licensee has failed to comply with any
25 provision of this Act or any order, decision, finding,
26 rule, regulation or direction of the Commissioner

1 lawfully made pursuant to the authority of this Act; or
2 (ii) Any fact or condition exists which, if it had
3 existed at the time of the original application for the
4 license, clearly would have warranted the Commissioner
5 in refusing to issue the license.

6 (2) Any licensee may submit application to surrender a
7 license, but upon the Director approving the surrender, it
8 shall not affect the licensee's civil or criminal liability
9 for acts committed prior to surrender or entitle the
10 licensee to a return of any part of the license fee.

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

12 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

13 Sec. 4-8. Delinquency; examination.

14 (a) (Blank). ~~The Commissioner shall obtain from the U.S.~~
15 ~~Department of Housing and Urban Development that Department's~~
16 ~~loan delinquency data.~~

17 (b) The Secretary ~~Commissioner~~ shall conduct as part of an
18 examination of each licensee a review of the licensee's loan
19 delinquency data.

20 This subsection shall not be construed as a limitation of
21 the Secretary's ~~Commissioner's~~ examination authority under
22 Section 4-2 of this Act or as otherwise provided in this Act.
23 The Secretary ~~Commissioner~~ may require a licensee to provide
24 loan delinquency data as the Secretary ~~Commissioner~~ deems
25 necessary for the proper enforcement of the Act.

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

12 (d) The Secretary ~~Commissioner~~, at his or her discretion,
13 may hold public hearings, or at the direction of the
14 Residential Mortgage Board, shall hold public hearings. Such
15 testimony shall be by a homeowner or mortgagor or his agent,
16 whose residential interest is affected by the activities of the
17 residential mortgage licensee subject to such hearing. At such
18 public hearing, a witness may present testimony on his or her
19 behalf concerning only his or her home, or home mortgage or a
20 witness may authorize a third party to appear on his or her
21 behalf. The testimony shall be restricted to information and
22 comments related to a specific residence or specific
23 residential mortgage application or applications for a
24 residential mortgage or residential loan transaction. The
25 testimony must be preceded by either a letter of complaint or a
26 completed consumer complaint form prescribed by the Secretary

1 ~~Commissioner.~~

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

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

15 (g) Whenever the Secretary ~~Commissioner~~ finds that a
16 licensee's loan delinquencies on insured mortgages is
17 unusually high within a particular geographic area, he or she
18 shall require that licensee to submit such information as is
19 necessary to determine whether that licensee's practices have
20 constituted credit fraud, appraisal fraud or property
21 inspection fraud. The Secretary ~~Commissioner~~ shall promulgate
22 such rules as are necessary to determine whether any licensee's
23 loan delinquencies are unusually high within a particular area.
24 (Source: P.A. 99-15, eff. 1-1-16.)

25 (205 ILCS 635/4-8.1A)

1 Sec. 4-8.1A. Confidentiality.

2 (a) In order to promote more effective regulation and
3 reduce regulatory burden through supervisory information
4 sharing, except as otherwise provided in federal Public Law
5 110-289, Section 1512, the requirements under any federal law
6 or state law regarding the privacy or confidentiality of any
7 information or material provided to the Nationwide Multistate
8 ~~Mortgage~~ Licensing System and Registry, and any privilege
9 arising under federal or state law, including the rules of any
10 federal or state court, with respect to such information or
11 material, shall continue to apply to information or material
12 after the information or material has been disclosed to the
13 Nationwide Multistate ~~Mortgage~~ Licensing System and Registry.
14 The information and material may be shared with all state and
15 federal regulatory officials with mortgage industry oversight
16 authority without the loss of privilege or the loss of
17 confidentiality protections provided by federal law or state
18 law.

19 (b) In order to promote more effective regulation and
20 reduce regulatory burden through supervisory information
21 sharing, the Director is authorized to enter agreements or
22 sharing arrangements with other governmental agencies, the
23 Conference of State Bank Supervisors, the American Association
24 of Residential Mortgage Regulators or other associations
25 representing governmental agencies as established by rule,
26 regulation or order of the Director. The sharing of

1 confidential supervisory information or any information or
2 material described in subsection (a) of this Section pursuant
3 to an agreement or sharing arrangement shall not result in the
4 loss of privilege or the loss of confidentiality protections
5 provided by federal law or state law.

6 (c) In order to promote more effective regulation and
7 reduce regulatory burden through supervisory information
8 sharing, information or material that is subject to a privilege
9 or confidentiality under subsection (a) of this Section shall
10 not be subject to the following:

11 (1) disclosure under any State law governing the
12 disclosure to the public of information held by an officer
13 or an agency of the State; or

14 (2) subpoena or discovery, or admission into evidence,
15 in any private civil action or administrative process,
16 unless with respect to any privilege held by the Nationwide
17 Multistate Mortgage Licensing System and Registry with
18 respect to the information or material, the person to whom
19 such information or material pertains waives, in whole or
20 in part, in the discretion of that person, that privilege.

21 (d) In order to promote more effective regulation and
22 reduce regulatory burden through supervisory information
23 sharing, other law relating to the disclosure of confidential
24 supervisory information or any information or material
25 described in subsection (a) of this Section that is
26 inconsistent with subsection (a) of this Section shall be

1 superseded by the requirements of this Section to the extent
2 the other law provides less confidentiality or a weaker
3 privilege.

4 (e) In order to promote more effective regulation and
5 reduce regulatory burden through supervisory information
6 sharing, this Section shall not apply to the employment history
7 of a mortgage loan originator, and the record of publicly
8 adjudicated disciplinary and enforcement actions against a
9 mortgage loan originator.

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

11 (205 ILCS 635/4-8.3)

12 Sec. 4-8.3. Annual report ~~of mortgage brokerage and~~
13 ~~servicing activity~~. On or before March 1 of each year or the
14 date selected for Mortgage Call Reports under Section 4-9.1 of
15 this Act, each licensee shall file a report with the Secretary
16 ~~Commissioner~~ that discloses ~~shall disclose~~ such information as
17 the Secretary ~~Commissioner~~ requires. A licensee filing a
18 Mortgage Call Report is not required to file an annual report.
19 Exempt entities as defined in subsection (d) of Section 1-4
20 shall not file the annual report of mortgage and servicing
21 activity required by this Section.

22 (Source: P.A. 96-112, eff. 7-31-09.)

23 (205 ILCS 635/4-9.1)

24 Sec. 4-9.1. Mortgage call reports. Each residential

1 mortgage licensee shall submit to the Nationwide Multistate
2 ~~Mortgage~~ Licensing System and Registry reports of condition,
3 which shall be in the form and shall contain the information
4 that the Nationwide Multistate ~~Mortgage~~ Licensing System and
5 Registry may require.

6 (Source: P.A. 96-112, eff. 7-31-09.)

7 (205 ILCS 635/5-9)

8 Sec. 5-9. Notice of change in loan terms.

9 (a) No licensee may fail to do either of the following:

10 (1) Provide timely notice to the borrower of any
11 material change in the terms of the residential mortgage
12 loan prior to the closing of the loan. For purposes of this
13 Section, a "material change means" any of the following:

14 (A) A change in the type of loan being offered,
15 such as a fixed or variable rate loan or a loan with a
16 balloon payment.

17 (B) A change in the term of the loan, as reflected
18 in the number of monthly payments due before a final
19 payment is scheduled to be made.

20 (C) An increase in the interest rate of more than
21 0.15%, or an equivalent increase in the amount of
22 discount points charged.

23 (D) An increase in the regular monthly payment of
24 principal and interest of more than 5%.

25 (E) A change regarding the requirement or amount of

1 escrow of taxes or insurance.

2 (F) A change regarding the requirement or payment,
3 or both, of private mortgage insurance.

4 (2) Timely inform the borrower if any fees payable by
5 the borrower to the licensee increase by more than 10% or
6 \$100, whichever is greater.

7 (b) The disclosures required by this Section shall be
8 deemed timely if the licensee provides the borrower with the
9 revised information not later than 3 days after learning of the
10 change or 24 hours before the residential mortgage loan is
11 closed, whichever is earlier. If the licensee discloses a
12 material change more than the 3 days after learning of the
13 change but still 24 hours before the residential mortgage loan
14 is closed, it will not be liable for penalties or forfeitures
15 if the licensee cures in time for the borrower to avoid any
16 damage.

17 (c) If an increase in the total amount of the fee to be
18 paid by the borrower to the broker is not disclosed in
19 accordance with this Section, the broker shall refund to the
20 borrower the amount by which the fee was increased. If the fee
21 is financed into the residential mortgage loan, the broker
22 shall also refund to the borrower the interest charged to
23 finance the fee.

24 (d) The requirements of this Section do not apply to a
25 licensee providing a notice of change in loan terms pursuant to
26 the federal Consumer Financial Protection Bureau's Know Before

1 You Owe mortgage disclosure procedure pursuant to the federal
2 Truth in Lending Act and amendments promulgated under 12 CFR
3 1026 and the federal Real Estate Settlement Procedures Act and
4 amendments promulgated under 12 CFR 1024. Licensees limited to
5 ~~soliciting residential mortgage loan applications as approved~~
6 ~~by the Director under Title 38, Section 1050.2115(c)(1) of the~~
7 ~~Illinois Administrative Code are not required to provide the~~
8 ~~disclosures under this Section as long as the solicitor does~~
9 ~~not discuss the terms and conditions with the potential~~
10 ~~borrower.~~

11 (Source: P.A. 95-691, eff. 6-1-08.)

12 (205 ILCS 635/7-1A)

13 Sec. 7-1A. Mortgage loan originator license.

14 (a) It is unlawful for any individual to act or assume to
15 act as a mortgage loan originator, as defined in subsection
16 (jj) of Section 1-4 of this Act, without obtaining a license
17 from the Director, unless the individual is exempt under
18 subsection (c) of this Section. It is unlawful for any
19 individual who holds a mortgage loan originator license to
20 provide short sale facilitation services unless he or she holds
21 a license under the Real Estate License Act of 2000. Each
22 licensed mortgage loan originator must register with and
23 maintain a valid unique identifier issued by the Nationwide
24 Multistate Mortgage Licensing System and Registry.

25 (b) (Blank). ~~In order to facilitate an orderly transition~~

1 ~~to licensing and minimize disruption in the mortgage~~
2 ~~marketplace, the operability date for subsection (a) of this~~
3 ~~Section shall be as provided in this subsection (b). For this~~
4 ~~purpose, the Director may require submission of licensing~~
5 ~~information to the Nationwide Mortgage Licensing System and~~
6 ~~Registry prior to the operability dates designated by the~~
7 ~~Director pursuant to items (1) and (2) of this subsection (b).~~

8 ~~(1) For all individuals other than individuals~~
9 ~~described in item (2) of this subsection (b), the~~
10 ~~operability date as designated by the Director shall be no~~
11 ~~later than July 31, 2010, or any date approved by the~~
12 ~~Secretary of the U.S. Department of Housing and Urban~~
13 ~~Development, pursuant to the authority granted under~~
14 ~~federal Public Law 110-289, Section 1508.~~

15 ~~(2) For all individuals registered as loan originators~~
16 ~~as of the effective date of this amendatory Act of the 96th~~
17 ~~General Assembly, the operability date as designated by the~~
18 ~~Director shall be no later than January 1, 2011, or any~~
19 ~~date approved by the Secretary of the U.S. Department of~~
20 ~~Housing and Urban Development, pursuant to the authority~~
21 ~~granted under Public Law 110-289, Section 1508.~~

22 ~~(3) For all individuals described in item (1) or (2) of~~
23 ~~this subsection (b) who are loss mitigation specialists~~
24 ~~employed by servicers, the operability date shall be July~~
25 ~~31, 2011, or any date approved by the Secretary of the U.S.~~
26 ~~Department of Housing and Urban Development pursuant to~~

1 ~~authority granted under Public Law 110-289, Section 1508.~~

2 (c) The following, when engaged in the following
3 activities, are exempt from this Act:

4 (1) Registered mortgage loan originators, when acting
5 for an entity described in subsection (tt) of Section 1-4.

6 (2) Any individual who offers or negotiates terms of a
7 residential mortgage loan with or on behalf of an immediate
8 family member of the individual.

9 (3) Any individual who offers or negotiates terms of a
10 residential mortgage loan secured by a dwelling that served
11 as the individual's residence.

12 (4) A licensed attorney who negotiates the terms of a
13 residential mortgage loan on behalf of a client as an
14 ancillary matter to the attorney's representation of the
15 client, unless the attorney is compensated by a lender, a
16 mortgage broker, or other mortgage loan originator or by
17 any agent of a lender, mortgage broker, or other mortgage
18 loan originator.

19 (5) Any individual described in paragraph (2.2) of
20 subsection (d) of Section 1-4.

21 (d) A loan processor or underwriter who is an independent
22 contractor may not engage in the activities of a loan processor
23 or underwriter unless he or she obtains and maintains a license
24 under subsection (a) of this Section. Each independent
25 contractor loan processor or underwriter licensed as a mortgage
26 loan originator must have and maintain a valid unique

1 identifier issued by the Nationwide Multistate Mortgage
2 Licensing System and Registry.

3 (e) For the purposes of implementing an orderly and
4 efficient licensing process, the Director may establish
5 licensing rules or regulations and interim procedures for
6 licensing and acceptance of applications. For previously
7 registered or licensed individuals, the Director may establish
8 expedited review and licensing procedures.

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

10 (205 ILCS 635/7-2)

11 Sec. 7-2. State license application and issuance.

12 (a) Applicants for a license shall apply in a form
13 prescribed by the Director. Each form shall contain content as
14 set forth by rule, regulation, instruction, or procedure of the
15 Director and may be changed or updated as necessary by the
16 Director in order to carry out the purposes of this Act.

17 (b) In order to fulfill the purposes of this Act, the
18 Director is authorized to establish relationships or contracts
19 with the Nationwide Multistate Mortgage Licensing System and
20 Registry or other entities designated by the Nationwide
21 Multistate Mortgage Licensing System and Registry to collect
22 and maintain records and process transaction fees or other fees
23 related to licensees or other persons subject to this Act.

24 (c) In connection with an application for licensing as a
25 mortgage loan originator, the applicant shall, at a minimum,

1 furnish to the Nationwide Multistate Mortgage Licensing System
2 and Registry information concerning the applicant's identity,
3 including the following:

4 (1) Fingerprints for submission to the Federal Bureau
5 of Investigation, and any governmental agency or entity
6 authorized to receive such information for a state,
7 national and international criminal history background
8 check.

9 (2) Personal history and experience in a form
10 prescribed by the Nationwide Multistate Mortgage Licensing
11 System and Registry, including the submission of
12 authorization for the Nationwide Multistate Mortgage
13 Licensing System and Registry and the Director to obtain:

14 (A) an independent credit report obtained from a
15 consumer reporting agency described in Section 603(p)
16 of the Fair Credit Reporting Act; and

17 (B) information related to any administrative,
18 civil, or criminal findings by any governmental
19 jurisdiction.

20 (d) For the purpose of this Section, and in order to reduce
21 the points of contact which the Federal Bureau of Investigation
22 may have to maintain for purposes of subsection (c) of this
23 Section, the Director may use the Nationwide Multistate
24 ~~Mortgage~~ Licensing System and Registry as a channeling agent
25 for requesting information from and distributing information
26 to the Department of Justice or any governmental agency.

1 (e) For the purposes of this Section and in order to reduce
2 the points of contact which the Director may have to maintain
3 for purposes of item (2) of subsection (c) of this Section, the
4 Director may use the Nationwide Multistate Mortgage Licensing
5 System and Registry as a channeling agent for requesting and
6 distributing information to and from any source so directed by
7 the Director.

8 (Source: P.A. 96-112, eff. 7-31-09.)

9 (205 ILCS 635/7-4)

10 Sec. 7-4. Pre-licensing and education of mortgage loan
11 originators.

12 (a) In order to meet the pre-licensing education
13 requirement referred to in item (4) of Section 7-3 of this Act
14 an individual shall complete at least 20 hours of education
15 approved in accordance with subsection (b) of this Section,
16 which shall include at least:

17 (1) 3 hours of Federal law and regulations;

18 (2) 3 hours of ethics, which shall include instruction
19 on fraud, consumer protection, and fair lending issues; and

20 (3) 2 hours of training related to lending standards
21 for the nontraditional mortgage product marketplace.

22 (b) For purposes of subsection (a) of this Section,
23 pre-licensing education courses shall be reviewed and approved
24 by the Nationwide Multistate Mortgage Licensing System and
25 Registry based upon reasonable standards. Review and approval

1 of a pre-licensing education course shall include review and
2 approval of the course provider.

3 (c) Nothing in this Section shall preclude any
4 pre-licensing education course, as approved by the Nationwide
5 Multistate Mortgage Licensing System and Registry, that is
6 provided by the employer of the applicant or an entity which is
7 affiliated with the applicant by an agency contract, or any
8 subsidiary or affiliate of such an employer or entity.

9 (d) Pre-licensing education may be offered in a classroom,
10 online, or by any other means approved by the Nationwide
11 Multistate Mortgage Licensing System and Registry.

12 (e) The pre-licensing education requirements approved by
13 the Nationwide Multistate Mortgage Licensing System and
14 Registry for the subjects listed in items (1) through (3) of
15 subsection (a) for any state shall be accepted as credit
16 towards completion of pre-licensing education requirements in
17 Illinois.

18 (f) An individual previously registered under this Act who
19 is applying to be licensed after the effective date of this
20 amendatory Act of the 96th General Assembly must prove that he
21 or she has completed all of the continuing education
22 requirements for the year in which the registration or license
23 was last held.

24 (Source: P.A. 96-112, eff. 7-31-09.)

25 (205 ILCS 635/7-5)

1 Sec. 7-5. Testing of mortgage loan originators.

2 (a) In order to meet the written test requirement referred
3 to in item (5) of Section 7-3, an individual shall pass, in
4 accordance with the standards established under this
5 subsection (a), a qualified written test developed by the
6 Nationwide Multistate Mortgage Licensing System and Registry
7 and administered by a test provider approved by the Nationwide
8 Multistate Mortgage Licensing System and Registry based upon
9 reasonable standards.

10 (b) A written test shall not be treated as a qualified
11 written test for purposes of subsection (a) of this Section
12 unless the test adequately measures the applicant's knowledge
13 and comprehension in appropriate subject areas, including:

14 (1) ethics;

15 (2) federal law and regulation pertaining to mortgage
16 origination;

17 (3) State law and regulation pertaining to mortgage
18 origination; and

19 (4) federal and State law and regulation, including
20 instruction on fraud, consumer protection, the
21 nontraditional mortgage marketplace, and fair lending
22 issues.

23 (c) Nothing in this Section shall prohibit a test provider
24 approved by the Nationwide Multistate Mortgage Licensing
25 System and Registry from providing a test at the location of
26 the employer of the applicant or the location of any subsidiary

1 or affiliate of the employer of the applicant, or the location
2 of any entity with which the applicant holds an exclusive
3 arrangement to conduct the business of a mortgage loan
4 originator.

5 (d) An individual shall not be considered to have passed a
6 qualified written test unless the individual achieves a test
7 score of not less than 75% correct answers to questions.

8 An individual may retake a test 3 consecutive times with
9 each consecutive taking occurring at least 30 days after the
10 preceding test.

11 After failing 3 consecutive tests, an individual shall wait
12 at least 6 months before taking the test again.

13 A licensed mortgage loan originator who fails to maintain a
14 valid license for a period of 5 years or longer shall retake
15 the test, not taking into account any time during which such
16 individual is a registered mortgage loan originator.

17 (Source: P.A. 96-112, eff. 7-31-09.)

18 (205 ILCS 635/7-6)

19 Sec. 7-6. Standards for license renewal.

20 (a) The minimum standards for license renewal for mortgage
21 loan originators shall include the following:

22 (1) The mortgage loan originator continues to meet the
23 minimum standards for license issuance under Section 7-3.

24 (2) The mortgage loan originator has satisfied the
25 annual continuing education requirements described in

1 Section 7-7.

2 (3) The mortgage loan originator has paid all required
3 fees for renewal of the license.

4 (b) The license of a mortgage loan originator failing to
5 satisfy the minimum standards for license renewal shall expire.
6 The Director may adopt procedures for the reinstatement of
7 expired licenses consistent with the standards established by
8 the Nationwide Multistate Mortgage Licensing System and
9 Registry.

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

11 (205 ILCS 635/7-7)

12 Sec. 7-7. Continuing education for mortgage loan
13 originators.

14 (a) In order to meet the annual continuing education
15 requirements referred to in Section 7-6, a licensed mortgage
16 loan originator shall complete at least 8 hours of education
17 approved in accordance with subsection (b) of this Section,
18 which shall include at least:

19 (1) 3 hours of Federal law and regulations;

20 (2) 2 hours of ethics, which shall include instruction
21 on fraud, consumer protection, and fair lending issues; and

22 (3) 2 hours of training related to lending standards
23 for the nontraditional mortgage product marketplace.

24 (b) For purposes of this subsection (a), continuing
25 education courses shall be reviewed and approved by the

1 Nationwide Multistate Mortgage Licensing System and Registry
2 based upon reasonable standards. Review and approval of a
3 continuing education course shall include review and approval
4 of the course provider.

5 (c) Nothing in this Section shall preclude any education
6 course, as approved by the Nationwide Multistate Mortgage
7 Licensing System and Registry, that is provided by the employer
8 of the mortgage loan originator or an entity which is
9 affiliated with the mortgage loan originator by an agency
10 contract, or any subsidiary or affiliate of the employer or
11 entity.

12 (d) Continuing education may be offered either in a
13 classroom, online, or by any other means approved by the
14 Nationwide Multistate Mortgage Licensing System and Registry.

15 (e) A licensed mortgage loan originator:

16 (1) Except as provided in Section 7-6 and subsection
17 (i) of this Section, may only receive credit for a
18 continuing education course in the year in which the course
19 is taken; and

20 (2) May not take the same approved course in the same
21 or successive years to meet the annual requirements for
22 continuing education.

23 (f) A licensed mortgage loan originator who is an approved
24 instructor of an approved continuing education course may
25 receive credit for the licensed mortgage loan originator's own
26 annual continuing education requirement at the rate of 2 hours

1 credit for every one hour taught.

2 (g) A person having successfully completed the education
3 requirements approved by the Nationwide Multistate Mortgage
4 Licensing System and Registry for the subjects listed in
5 subsection (a) of this Section for any state shall be accepted
6 as credit towards completion of continuing education
7 requirements in this State.

8 (h) A licensed mortgage loan originator who subsequently
9 becomes unlicensed must complete the continuing education
10 requirements for the last year in which the license was held
11 prior to issuance of a new or renewed license.

12 (i) A person meeting the requirements of Section 7-6 may
13 make up any deficiency in continuing education as established
14 by rule or regulation of the Director.

15 (Source: P.A. 96-112, eff. 7-31-09.)

16 (205 ILCS 635/7-8)

17 Sec. 7-8. Authority to require license. In addition to any
18 other duties imposed upon the Director by law, the Director
19 shall require mortgage loan originators to be licensed and
20 registered through the Nationwide Multistate Mortgage
21 Licensing System and Registry. In order to carry out this
22 requirement the Director is authorized to participate in the
23 Nationwide Multistate Mortgage Licensing System and Registry.
24 For this purpose, the Director may establish by agreement,
25 order or rule requirements as necessary, including, but not

1 limited to, the following:

2 (1) Background checks for:

3 (A) criminal history through fingerprint or other
4 databases;

5 (B) civil or administrative records;

6 (C) credit history; or

7 (D) any other information as deemed necessary by
8 the Nationwide Multistate Mortgage Licensing System
9 and Registry.

10 (2) The payment of fees to apply for or renew licenses
11 through the Nationwide Multistate Mortgage Licensing
12 System and Registry;

13 (3) The setting or resetting as necessary of renewal or
14 reporting dates; and

15 (4) Requirements for amending or surrendering a
16 license or any other such activities as the Director deems
17 necessary for participation in the Nationwide Multistate
18 Mortgage Licensing System and Registry.

19 (Source: P.A. 96-112, eff. 7-31-09.)

20 (205 ILCS 635/7-9)

21 Sec. 7-9. Report to Nationwide Multistate Mortgage
22 Licensing System and Registry. Subject to State privacy laws,
23 the Director is required to report regularly violations of this
24 Act, as well as enforcement actions and other relevant
25 information, to the Nationwide Multistate Mortgage Licensing

1 System and Registry subject to the provisions contained in
2 Section 4-8.1A of this Act.

3 (Source: P.A. 96-112, eff. 7-31-09.)

4 (205 ILCS 635/7-10)

5 Sec. 7-10. Nationwide Multistate ~~Mortgage~~ Licensing System
6 and Registry information challenge process. The Director shall
7 establish a process whereby mortgage loan originators may
8 challenge information entered into the Nationwide Multistate
9 ~~Mortgage~~ Licensing System and Registry by the Director.

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

11 (205 ILCS 635/7-13)

12 Sec. 7-13. Prohibited acts and practices for mortgage loan
13 originators. It is a violation of this Act for an individual
14 subject to this Act to:

15 (1) Directly or indirectly employ any scheme, device,
16 or artifice to defraud or mislead borrowers or lenders or
17 to defraud any person.

18 (2) Engage in any unfair or deceptive practice toward
19 any person.

20 (3) Obtain property by fraud or misrepresentation.

21 (4) Solicit or enter into a contract with a borrower
22 that provides in substance that the person or individual
23 subject to this Act may earn a fee or commission through
24 "best efforts" to obtain a loan even though no loan is

1 actually obtained for the borrower.

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

6 (6) Conduct any business covered by this Act without
7 holding a valid license as required under this Act, or
8 assist or aid and abet any person in the conduct of
9 business under this Act without a valid license as required
10 under this Act.

11 (7) Fail to make disclosures as required by this Act
12 and any other applicable State or federal law, including
13 regulations thereunder.

14 (8) Fail to comply with this Act or rules or
15 regulations promulgated under this Act, or fail to comply
16 with any other state or federal law, including the rules
17 and regulations thereunder, applicable to any business
18 authorized or conducted under this Act.

19 (9) Make, in any manner, any false or deceptive
20 statement or representation of a material fact, or any
21 omission of a material fact, required on any document or
22 application subject to this Act.

23 (10) Negligently make any false statement or knowingly
24 and willfully make any omission of material fact in
25 connection with any information or report filed with a
26 governmental agency or the Nationwide Multistate Mortgage

1 Licensing System and Registry or in connection with any
2 investigation conducted by the Director or another
3 governmental agency.

4 (11) Make any payment, threat or promise, directly or
5 indirectly, to any person for the purpose of influencing
6 the independent judgment of the person in connection with a
7 residential mortgage loan, or make any payment threat or
8 promise, directly or indirectly, to any appraiser of a
9 property, for the purpose of influencing the independent
10 judgment of the appraiser with respect to the value of the
11 property.

12 (12) Collect, charge, attempt to collect or charge, or
13 use or propose any agreement purporting to collect or
14 charge any fee prohibited by this Act, including advance
15 fees for loan modification.

16 (13) Cause or require a borrower to obtain property
17 insurance coverage in an amount that exceeds the
18 replacement cost of the improvements as established by the
19 property insurer.

20 (14) Fail to truthfully account for monies belonging to
21 a party to a residential mortgage loan transaction.

22 (15) Engage in conduct that constitutes dishonest
23 dealings.

24 (16) Knowingly instruct, solicit, propose, or cause a
25 person other than the borrower to sign a borrower's
26 signature on a mortgage related document, or solicit,

1 accept or execute any contract or other document related to
2 the residential mortgage transaction that contains any
3 blanks to be filled in after signing or initialing the
4 contract or other document, except for forms authorizing
5 the verification of application information.

6 (17) Discourage any applicant from seeking or
7 participating in housing or financial counseling either
8 before or after the consummation of a loan transaction, or
9 fail to provide information on counseling resources upon
10 request.

11 (18) Charge for any ancillary products or services, not
12 essential to the basic loan transaction for which the
13 consumer has applied, without the applicant's knowledge
14 and written authorization, or charge for any ancillary
15 products or services not actually provided in the
16 transaction.

17 (19) Fail to give reasonable consideration to a
18 borrower's ability to repay the debt.

19 (20) Interfere or obstruct an investigation or
20 examination conducted pursuant to this Act.

21 (21) Structure activities or contracts to evade
22 provisions of this Act.

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

24 (205 ILCS 635/7-1 rep.)

25 Section 15. The Residential Mortgage License Act of 1987 is

1 amended by repealing Section 7-1.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.