

1 AN ACT concerning residential mortgage licensees.

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

4 Section 5. The Residential Mortgage License Act of 1987
5 is amended by changing Sections 1-4, 1-5, and 4-8 and adding
6 Sections 4-8.1, 4-8.2, 4-8.3, 4-8.4, 4-8.5, 4-8.6, 4-8.7,
7 4-8.8, 4-8.9, 4-8.10, and 4-8.11 as follows:

8 (205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

9 Sec. 1-4. Definitions.

10 (a) "Residential real property" or "residential real
11 estate" shall mean real property located in this State
12 improved by a one-to-four family dwelling used or occupied,
13 wholly or partly, as the home or residence of one or more
14 persons and may refer, subject to regulations of the
15 Commissioner, to unimproved real property upon which those
16 kinds dwellings are to be constructed.

17 (b) "Making a residential mortgage loan" or "funding a
18 residential mortgage loan" shall mean for compensation or
19 gain, either directly or indirectly, advancing funds or
20 making a commitment to advance funds to a loan applicant for
21 a residential mortgage loan.

22 (c) "Soliciting, processing, placing, or negotiating a
23 residential mortgage loan" shall mean for compensation or
24 gain, either directly or indirectly, accepting or offering to
25 accept an application for a residential mortgage loan,
26 assisting or offering to assist in the processing of an
27 application for a residential mortgage loan on behalf of a
28 borrower, or negotiating or offering to negotiate the terms
29 or conditions of a residential mortgage loan with a lender on
30 behalf of a borrower including, but not limited to, the
31 submission of credit packages for the approval of lenders,

1 the preparation of residential mortgage loan closing
2 documents, including a closing in the name of a broker.

3 (d) "Exempt entity" shall mean the following:

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

34 (2) Any person or entity that either--(i)--has--a

1 ~~physical--presenee-in-Illinois-or-(ii)~~ does not originate
2 mortgage loans in the ordinary course of business making
3 or acquiring residential mortgage loans with his or her
4 or its own funds for his or her or its own investment
5 without intent to make, acquire, or resell more than 10
6 residential mortgage loans in any one calendar year.

7 (3) Any person employed by a licensee to assist in
8 the performance of the activities regulated by this Act
9 who is compensated in any manner by only one licensee.

10 (4) Any person licensed pursuant to the Real Estate
11 License Act of 2000, who engages only in the taking of
12 applications and credit and appraisal information to
13 forward to a licensee or an exempt entity under this Act
14 and who is compensated by either a licensee or an exempt
15 entity under this Act, but is not compensated by either
16 the buyer (applicant) or the seller.

17 (5) Any individual, corporation, partnership, or
18 other entity that originates, services, or brokers
19 residential mortgage loans, as these activities are
20 defined in this Act, and who or which receives no
21 compensation for those activities, subject to the
22 Commissioner's regulations with regard to the nature and
23 amount of compensation.

24 (6) A person who prepares supporting documentation
25 for a residential mortgage loan application taken by a
26 licensee and performs ministerial functions pursuant to
27 specific instructions of the licensee who neither
28 requires nor permits the preparer to exercise his or her
29 discretion or judgment; provided that this activity is
30 engaged in pursuant to a binding, written agreement
31 between the licensee and the preparer that:

32 (A) holds the licensee fully accountable for
33 the preparer's action; and

34 (B) otherwise meets the requirements of this

1 Section and this Act, does not undermine the
2 purposes of this Act, and is approved by the
3 Commissioner.

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

8 (f) "Mortgage loan", "residential mortgage loan", or
9 "home mortgage loan" shall mean a loan to or for the benefit
10 of any natural person made primarily for personal, family, or
11 household use, primarily secured by either a mortgage on
12 residential real property or certificates of stock or other
13 evidence of ownership interests in and proprietary leases
14 from, corporations, partnerships, or limited liability
15 companies formed for the purpose of cooperative ownership of
16 residential real property, all located in Illinois.

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

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

30 (i) "Residential mortgage financing transaction" shall
31 mean the negotiation, acquisition, sale, or arrangement for
32 or the offer to negotiate, acquire, sell, or arrange for, a
33 residential mortgage loan or residential mortgage loan
34 commitment.

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

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

5 (l) "Party to a residential mortgage financing
6 transaction" shall mean a borrower, lender, or loan broker in
7 a residential mortgage financing transaction.

8 (m) "Payments" shall mean payment of all or any of the
9 following: principal, interest and escrow reserves for taxes,
10 insurance and other related reserves, and reimbursement for
11 lender advances.

12 (n) "Commissioner" shall mean the Commissioner of Banks
13 and Real Estate or a person authorized by the Commissioner,
14 the Office of Banks and Real Estate Act, or this Act to act
15 in the Commissioner's stead.

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

26 (p) "Loan broker" or "broker" shall mean a person,
27 partnership, association, corporation, or limited liability
28 company, other than those persons, partnerships,
29 associations, corporations, or limited liability companies
30 exempted from licensing pursuant to Section 1-4, subsection
31 (d), of this Act, who performs the activities described in
32 subsections (c) and (o) of this Section.

33 (q) "Servicing" shall mean the collection or remittance
34 for or the right or obligation to collect or remit for any

1 lender, noteowner, noteholder, or for a licensee's own
2 account, of payments, interests, principal, and trust items
3 such as hazard insurance and taxes on a residential mortgage
4 loan in accordance with the terms of the residential mortgage
5 loan; and includes loan payment follow-up, delinquency loan
6 follow-up, loan analysis and any notifications to the
7 borrower that are necessary to enable the borrower to keep
8 the loan current and in good standing.

9 (r) "Full service office" shall mean office and staff in
10 Illinois reasonably adequate to handle efficiently
11 communications, questions, and other matters relating to any
12 application for, or an existing home mortgage secured by
13 residential real estate situated in Illinois with respect to
14 which the licensee is brokering, funding originating,
15 purchasing, or servicing. The management and operation of
16 each full service office must include observance of good
17 business practices such as adequate, organized, and accurate
18 books and records; ample phone lines, hours of business,
19 staff training and supervision, and provision for a mechanism
20 to resolve consumer inquiries, complaints, and problems. The
21 Commissioner shall issue regulations with regard to these
22 requirements and shall include an evaluation of compliance
23 with this Section in his or her periodic examination of each
24 licensee.

25 (s) "Purchasing" shall mean the purchase of conventional
26 or government-insured mortgage loans secured by residential
27 real estate situated in Illinois from either the lender or
28 from the secondary market.

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

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

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

1 either of the following:

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

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

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

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

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

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

26 (aa) "Financial institution" shall mean a savings and
27 loan association, savings bank, credit union, or a bank
28 organized under the laws of Illinois or a savings and loan
29 association, savings bank, credit union or a bank organized
30 under the laws of the United States and headquartered in
31 Illinois.

32 (bb) "Escrow agent" shall mean a third party, individual
33 or entity charged with the fiduciary obligation for holding
34 escrow funds on a residential mortgage loan pending final

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

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

5 (dd) "Affiliate" shall mean:

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

10 (2) any entity:

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

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

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

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

28 (ee) "First tier subsidiary" shall be defined by
29 regulation incorporating the comparable definitions used by
30 the Office of the Comptroller of the Currency and the
31 Illinois Commissioner of Banks and Real Estate.

32 (ff) "Gross delinquency rate" means the quotient
33 determined by dividing (1) the sum of (i) the number of
34 government-insured residential mortgage loans funded or

1 purchased by a licensee in the preceding calendar year that
2 are delinquent and (ii) the number of conventional
3 residential mortgage loans funded or purchased by the
4 licensee in the preceding calendar year that are delinquent
5 by (2) the sum of (i) the number of government-insured
6 residential mortgage loans funded or purchased by the
7 licensee in the preceding calendar year and (ii) the number
8 of conventional residential mortgage loans funded or
9 purchased by the licensee in the preceding calendar year.

10 (gg) "Delinquency rate factor" means the factor set by
11 rule of the Commissioner that is multiplied by the average
12 gross delinquency rate of licensees, determined annually for
13 the immediately preceding calendar year, for the purpose of
14 determining which licensees shall be examined by the
15 Commissioner pursuant to subsection (b) of Section 4-8 of
16 this Act.

17 (Source: P.A. 90-772, eff. 1-1-99; 91-245, eff. 12-31-99.)

18 (205 ILCS 635/1-5) (from Ch. 17, par. 2321-5)

19 Sec. 1-5. Residential Mortgage Board.

20 (a) Board composition, compensation. There is created
21 the Residential Mortgage Board composed of 7 5 members
22 appointed by the Commissioner of Banks and Real Estate. The
23 majority of persons on the Board shall have no financial
24 interest in any residential mortgage business and one member
25 shall be a representative of the Mortgage Banking Trade
26 Association, and one member shall be a representative of the
27 Mortgage Broker Trade Association, one member shall be a
28 representative of the National Training and Information
29 Center and one member shall be a representative of the
30 Woodstock Institute. Members of the Board serving on the
31 effective date of this amendatory Act of 1996 shall continue
32 to serve their unexpired terms as members of the Residential
33 Mortgage Board. Thereafter, on or before January 15 of each

1 year, the Commissioner shall appoint one or more board
 2 members, as shall be necessary to maintain a 7 5 member
 3 Board, whose terms shall be for 3 years commencing February 1
 4 of the year in which they are respectively appointed.

5 If a vacancy occurs on the Residential Mortgage Board,
 6 the Commissioner shall within 60 days appoint a new member
 7 who shall hold office for the remainder of the vacated term.

8 The Board shall meet a minimum of 4 times each calendar
 9 year and at the call of the chairman, who along with a
 10 Secretary, shall be selected by the Board from among its
 11 members.

12 Members of the Board shall be entitled to receive a per
 13 diem allowance of \$25 for each day or part of a day spent on
 14 Board work and shall be entitled to their expenses actually
 15 and necessarily incurred in the performance of their duties.
 16 The members of the Board serve at the pleasure of the
 17 Commissioner.

18 (b) Duties of Board. The Residential Mortgage Board
 19 shall assist the Commissioner by:

20 (1) submitting recommendations to the Commissioner
 21 for the efficient administration of this Act; and

22 (2) submitting recommendations to the Commissioner
 23 for establishing guidelines for professional conduct of
 24 licensees under this Act, for the conduct of formal
 25 disciplinary proceedings brought under this Act, and for
 26 establishing guidelines for qualifications of applicants
 27 under this Act;

28 (3) participating in hearings conducted pursuant to
 29 Section 4-8.3 of this Act; and

30 (4) ~~(2)~~ performing other duties as are prescribed
 31 by the Commissioner.

32 (c) Notice of proposed rulemaking shall be transmitted
 33 to the Board, and the Commissioner shall review the response
 34 of the Board and any recommendations made in their response.

1 The Commissioner, at any time, may seek the expert advice and
2 knowledge of the Board on any matter relating to the
3 administration or enforcement of this Act.

4 (d) ~~(e)~~ Conflict of interest declarations. Each member
5 of the Residential Mortgage Board shall file annually, no
6 later than February 1, with the Commissioner a statement of
7 his or her current business transactions or other
8 affiliations with any licensee under this Act. The
9 Commissioner may adopt rules to avoid conflicts of interest
10 on the part of members of the Residential Mortgage Board in
11 connection with their position on the Board.

12 (Source: P.A. 89-355, eff. 8-17-95; 89-508, eff. 7-3-96.)

13 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

14 Sec. 4-8. Default rate; examination.

15 (a) The Commissioner shall obtain from the U.S.
16 Department of Housing and Urban Development on a semi-annual
17 basis that Department's default claim rates for endorsements
18 issued by that Department.

19 (b) The Commissioner shall conduct an examination of
20 each licensee having a default rate equal to or greater than
21 5%.

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

28 (c) The purpose of the examination under subsection (b)
29 shall be to determine whether the default rate of the
30 licensee has resulted from practices which deviate from sound
31 and accepted mortgage underwriting practices, including but
32 not limited to credit fraud, appraisal fraud and property
33 inspection fraud. For the purpose of conducting this

1 examination, the Commissioner may accept materials prepared
2 for the U.S. Department of Housing and Urban Development. At
3 the conclusion of the examination, the Commissioner shall
4 provide make his or her findings available to the Residential
5 Mortgage Board.

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

22 (e) The Commissioner shall, at the conclusion of the
23 public hearings, release his or her findings and shall also
24 make public any action taken with respect to the licensee.
25 The Commissioner shall also give full consideration to the
26 findings of this examination whenever reapplication is made
27 by the licensee for a new license under this Act.

28 (f) A licensee that is examined pursuant to subsection
29 (b) shall submit to the Commissioner a plan which shall be
30 designed to reduce that licensee's default rate to a figure
31 that is less than 5%. The plan shall be implemented by the
32 licensee as approved by the Commissioner. A licensee that is
33 examined pursuant to subsection (b) shall report monthly, for
34 a one year period, one, 2, and 3 month defaults.

1 (g) Whenever the Commissioner finds that a licensee's
2 default rate on insured mortgages is unusually high within a
3 particular geographic area, he or she shall require that
4 licensee to submit such information as is necessary to
5 determine whether that licensee's practices have constituted
6 credit fraud, appraisal fraud or property inspection fraud.
7 The Commissioner shall promulgate such rules as are necessary
8 to determine whether any licensee's default rate is unusually
9 high within a particular area.

10 (Source: P.A. 89-355, eff. 1-1-96; 89-626, eff. 8-9-96;
11 90-301, eff. 8-1-97.)

12 (205 ILCS 635/4-8.1 new)

13 Sec. 4-8.1. Investigations; notice of hearing. Upon the
14 motion of either the Commissioner or the Residential Mortgage
15 Board or upon the verified complaint in writing of any person
16 setting forth facts which, if proven, would constitute
17 grounds for refusal, suspension, or revocation of license
18 under this Act, the Commissioner shall investigate the
19 actions of any person, hereinafter called the "licensee", who
20 holds or represents that he or she holds a license under this
21 Act. The Commissioner shall, before suspending, revoking,
22 placing on probationary status, or taking any other
23 disciplinary action as the Commissioner may deem proper with
24 regard to any registration, at least 30 days prior to the
25 date set for the hearing, notify the licensee in writing of
26 any charges made and of the time and place for a hearing on
27 the charges. The Commissioner shall also direct the licensee
28 to file a written answer to the charges under oath within 20
29 days after the service of the notice upon the licensee and
30 inform the licensee that if he or she fails to file an
31 answer, his or her certificate of registration may be
32 suspended, revoked, or placed on probationary status or that
33 other disciplinary action may be taken with regard thereto,

1 as the Commissioner may deem proper. The written notice and
2 any notice in the proceeding may be served by delivery
3 personally to the licensee or by registered or certified mail
4 to the address specified by the licensee in his or her last
5 notification to the Commissioner. The Commissioner shall
6 preserve a record of all proceedings at the formal hearing of
7 any case involving the refusal to issue or renew a
8 registration or discipline of a licensee. The notice of
9 hearing, the complaint, all other documents in the nature of
10 pleadings and written motions filed in the proceedings, the
11 transcript of testimony, the report of the Board, and the
12 orders of the Commissioner shall be the record of the
13 proceedings.

14 (205 ILCS 635/4-8.2 new)

15 Sec. 4-8.2. Disciplinary actions.

16 (a) If a licensee, after receiving notice, fails to file
17 an answer, his or her license may, in the discretion of the
18 Commissioner, having first received the recommendation of the
19 Board, be suspended, revoked, or placed on probationary
20 status, or the Commissioner may take whatever disciplinary
21 action he or she may deem proper, including the imposition of
22 a fine, without a hearing, if the act or acts charged
23 constitute sufficient grounds for such action under this Act.

24 (b) The Commissioner may temporarily suspend the
25 registration of a licensee without a hearing, simultaneous to
26 the institution of proceedings for a hearing under this Act,
27 if the Commissioner finds that evidence in his possession
28 indicates that the person's continuation of use of the title
29 would constitute an immediate danger to the public. In the
30 event that the Commissioner temporarily suspends the
31 registration of a licensee without a hearing, a hearing
32 pursuant to Section 4-8.3 must be held within 15 days after
33 the suspension has occurred and must be concluded without

1 appreciable delay.

2 (205 ILCS 635/4-8.3 new)

3 Sec. 4-8.3. Hearings. At the time and place fixed in the
4 notice of hearing, the Commissioner shall proceed to hear the
5 charges before the Board, and both the licensee and the
6 complainant shall be accorded ample opportunity to present in
7 person, or by counsel, such statements, testimony, evidence,
8 and arguments as may be pertinent to the charges or to their
9 defense. The Commissioner may continue the hearing from time
10 to time. If the Board is not sitting at the time and place
11 fixed in the notice or at the time and place to which the
12 hearing has been continued, the Commissioner shall continue
13 the hearing for a period not to exceed 30 days. The
14 Commissioner shall have power to subpoena and bring before
15 him or her any licensee under this Act and to take testimony
16 either orally or by deposition, or both, with the same fees
17 and mileage and in the same manner as prescribed for civil
18 actions in this State. The Commissioner shall have power to
19 administer oaths at any hearing at which the Commissioner is
20 authorized by law to conduct.

21 (205 ILCS 635/4-8.4 new)

22 Sec. 4-8.4. Attendance of witnesses; production of
23 documents. Any circuit court, upon the application of the
24 Commissioner, may order the attendance of witnesses and the
25 production of relevant books and papers in any hearing
26 relative to the application for a suspension of, revocation
27 of, or refusal to renew a registration of, or the discipline
28 of a licensee. The court may compel obedience to its order by
29 proceedings for contempt.

30 (205 ILCS 635/4-8.5 new)

31 Sec. 4-8.5. Recommendations for disciplinary action;

1 action by Commissioner. The Board may advise the Commissioner
2 that probation be granted or that other disciplinary action,
3 including the limitation of the use of license, be taken, as
4 it deems proper. If disciplinary action other than suspension
5 or revocation is taken, the Board may advise the Commissioner
6 to impose reasonable limitations and requirements upon the
7 licensee to insure compliance with the terms of the probation
8 or other disciplinary action in such manner as the
9 Commissioner may require. The Board shall present to the
10 Commissioner a written report of its findings and
11 recommendations. A copy of the report shall be served upon
12 the licensee, either personally or by registered or certified
13 mail. Within 20 days after such service, the licensee may
14 present to the Commissioner his motion in writing for a
15 rehearing, specifying the particular grounds for rehearing.
16 If the licensee orders and pays for a transcript of the
17 record, the time elapsing until the transcript is ready for
18 delivery to him shall not be counted as part of such 20 days.
19 At the expiration of the time allowed for filing a motion for
20 rehearing, the Commissioner may take the action recommended
21 by the Board. Upon suspension, revocation, placement on
22 probationary status, or the taking of any other disciplinary
23 action, including the limiting of the use of the license,
24 deemed proper by the Commissioner, the licensee shall
25 surrender his or her license to the Commissioner if ordered
26 to do so by the Commissioner. Upon a failure or refusal to
27 do so, the Commissioner may seize the license. In all
28 instances in which the Board has rendered a recommendation to
29 the Commissioner with respect to a particular person, the
30 Commissioner shall, to the extent that he or she disagrees
31 with or takes action contrary to the recommendation of the
32 Board, file with the Board his specific written reasons of
33 disagreement. The reasons shall be filed within 30 days after
34 the Commissioner has taken the contrary position. Each order

1 of revocation, suspension, or other disciplinary action shall
2 contain a brief and concise statement of the ground or
3 grounds upon which the Commissioner's action is based, as
4 well as the specific terms and conditions of that action.
5 Whenever the Commissioner is satisfied that substantial
6 justice has not been done either in an examination or in the
7 revocation, suspension, or refusal to issue a license or
8 other disciplinary action, the Commissioner may order a
9 re-examination or rehearing.

10 (205 ILCS 635/4-8.6 new)

11 Sec. 4-8.6. Hearing officer. The Commissioner has the
12 authority to appoint any attorney duly licensed to practice
13 law in the State of Illinois to serve as the hearing officer
14 for any disciplinary action under this Act. The hearing
15 officer shall have full authority to conduct the hearing. The
16 hearing officer shall report his or her findings and
17 recommendations to the the Commissioner and the Board. The
18 Board shall have 60 days from receipt of the report to review
19 the report of the hearing officer and present its findings of
20 fact, conclusions of law, and recommendations to the
21 Commissioner. If the Board fails to present its report within
22 the 60 day period, the Commissioner may issue an order based
23 on the report of the hearing officer. If the Commissioner
24 disagrees in any regard with the Board's report, he or she
25 may issue an order in contravention of the Board's report.

26 (205 ILCS 635/4-8.7 new)

27 Sec. 4-8.7. Restoration. At any time after suspension,
28 revocation, placement on probationary status, or the taking
29 of any other disciplinary action with regard to any license,
30 the Commissioner may restore the license, or take any other
31 action to reinstate the license without examination, for good
32 cause shown in the opinion of the Commissioner.

1 (205 ILCS 635/4-8.8 new)

2 Sec. 4-8.8. Administrative Review Law. All final
3 administrative decisions of the Commissioner are subject to
4 judicial review under the Administrative Review Law and its
5 rules. The term "administrative decision" is defined as in
6 Section 3-101 of the Code of Civil Procedure. Proceedings for
7 judicial review shall be commenced in the circuit court of
8 the county in which the party applying for review resides,
9 but if the party is not a resident of this State, the venue
10 shall be in Sangamon County or Cook County. The Commissioner
11 shall not be required to certify any record to the court or
12 file any answer in court or otherwise appear in any court in
13 a judicial review proceeding, unless there is filed in the
14 court with the complaint a receipt from the Commissioner
15 acknowledging payment of the costs of furnishing and
16 certifying the record. Exhibits shall be certified without
17 cost. Failure on the part of the plaintiff to file a receipt
18 in court shall be grounds for dismissal of the action. During
19 the pendency and hearing of any and all judicial proceedings
20 incident to a disciplinary action, any sanctions imposed upon
21 the licensee by the Commissioner shall remain in full force
22 and effect.

23 (205 ILCS 635/4-8.9 new)

24 Sec. 4-8.9. Revocation orders. An order of revocation,
25 suspension, placement on probationary status, or other formal
26 disciplinary action as the Commissioner may deem proper, or a
27 certified copy thereof, over the seal of the Commissioner and
28 purporting to be signed by the Commissioner, is prima facie
29 proof that:

30 (1) the signature is the genuine signature of the
31 Commissioner;

32 (2) the Commissioner is duly appointed and
33 qualified; and

1 (3) the Board and the members thereof are
2 qualified.

3 (205 ILCS 635/4-8.10 new)

4 Sec. 4-8.10. Confidential information; disclosure. In
5 hearings conducted under this Act, information presented into
6 evidence that was acquired by the licensee when serving any
7 individual in connection with a residential mortgage,
8 including all financial information of the individual, shall
9 be deemed strictly confidential and shall only be made
10 available either as part of the record of a hearing hereunder
11 or otherwise: (1) when the record is required, in its
12 entirety, for purposes of judicial review; or (2) upon the
13 express written consent of the individual served, or in the
14 case of his or her death or disability, the consent of his or
15 her personal representative.

16 (205 ILCS 635/4-8.11 new)

17 Sec. 4-8.11. Reports of violation. Any person licensed
18 under this Act, or any other person, may report to the
19 Commissioner any information that person may have that
20 appears to show that a licensee under this Act is or may be
21 in violation of this Act.

22 Section 99. Effective date. This Act takes effect upon
23 becoming law.