

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 1. Short title. This Act may be cited as the
5 Homeowner Protection Act.

6 Section 5. Purpose and construction. The purpose of this
7 Act is to help homeowners and communities avoid the devastating
8 effects of foreclosure. This Act is to be construed as a
9 borrower protection statute for all purposes. This Act shall be
10 liberally construed to effectuate its purpose.

11 Section 10. Definitions. As used in this Act:

12 "Approved counseling agency" means a housing counseling
13 agency approved by the U.S. Department of Housing and Urban
14 Development, a credit counseling agency approved by the
15 Secretary, or any other person or entity approved by the
16 Secretary.

17 "Borrower" means a natural person who seeks or obtains a
18 home loan.

19 "Delinquent" means past due with respect to payments on a
20 home loan.

21 "Department" means the Department of Financial and
22 Professional Regulation.

1 "Foreclosure Prevention Report" means the report required
2 by Section 30 of this Act.

3 "Home loan" means a loan to or for the benefit of any
4 natural person made primarily for personal, family, or
5 household use, primarily secured by either a mortgage on
6 residential real property, title to a mobile home, or
7 certificates of stock or other evidence of ownership interests
8 in and proprietary leases from corporations, partnerships, or
9 limited liability companies formed for the purpose of
10 cooperative ownership of residential real property, all
11 located in this State.

12 "Lender" means any person, partnership, association,
13 corporation, or any other entity who either transfers, offers,
14 lends, or invests money in home loans.

15 "Secretary" means the Secretary of the Department of
16 Financial and Professional Regulation or other person
17 authorized to act in the Secretary's stead.

18 "Servicer" means any entity chartered under the Illinois
19 Banking Act, the Savings Bank Act, the Illinois Credit Union
20 Act, or the Illinois Savings and Loan Act of 1985 and any
21 person or entity licensed under the Residential Mortgage
22 License Act of 1987, the Consumer Installment Loan Act, or the
23 Sales Finance Agency Act who is responsible for the collection
24 or remittance for or has the right or obligation to collect or
25 remit for any lender, note owner, or note holder or for a
26 lender's own account of payments, interest, principal, and

1 escrow items (such as hazard insurance and taxes on a
2 residential mortgage loan) in accordance with the terms of the
3 home loan, including loan payment follow up, delinquency loan
4 follow up, loan analysis, and any notifications to the borrower
5 that are necessary to enable the borrower to keep the loan
6 current and in good standing.

7 Section 15. Counseling prior to perfecting foreclosure
8 proceedings.

9 (a) Except for home loans in which any borrower has filed
10 for relief under the United States Bankruptcy Code, if a home
11 loan becomes delinquent by more than 30 days, the servicer
12 shall send a notice advising the borrower that he or she may
13 wish to seek approved credit counseling.

14 (b) The notice required in subsection (a) of this Section
15 shall state the date on which the notice was mailed, shall be
16 headed in bold, 14-point type, "GRACE PERIOD NOTICE", and shall
17 state the following in 14-point type: "YOUR LOAN IS OR WAS MORE
18 THAN 30 DAYS PAST DUE. YOU MAY BE EXPERIENCING FINANCIAL
19 DIFFICULTY. IT MAY BE IN YOUR BEST INTEREST TO SEEK APPROVED
20 HOUSING OR CREDIT COUNSELING. YOU HAVE A GRACE PERIOD OF 30
21 DAYS FROM THE DATE OF THIS FORM TO OBTAIN APPROVED HOUSING OR
22 CREDIT COUNSELING. DURING THE GRACE PERIOD, THE LAW PROHIBITS
23 US FROM TAKING ANY LEGAL ACTION AGAINST YOU. A LIST OF APPROVED
24 COUNSELING AGENCIES MAY BE OBTAINED FROM THE ILLINOIS
25 DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION." The

1 notice shall also list the Department's current consumer
2 hotline, the Department's website, and the telephone number,
3 fax number, and mailing address of the servicer's loss
4 mitigation department. No language, other than the language
5 prescribed in this subsection (b), shall be included in the
6 notice. The requirements of this subsection (b) shall be deemed
7 satisfied if the language and format prescribed in this
8 subsection (b) is included in a counseling notification
9 required under federal law.

10 (c) Upon mailing the notice provided for under subsection
11 (b) of this Section, neither the lender, servicer, nor lender's
12 agent shall institute legal action under Part 15 of Article XV
13 of the Code of Civil Procedure for 30 days. Only one such
14 30-day period of forbearance is allowed under this subsection
15 (c) per subject loan.

16 (d) If, within the 30-day period provided under subsection
17 (c) of this Section, an approved counseling agency notifies the
18 lender, servicer, or lender's agent that the borrower is
19 seeking approved counseling services, then the lender,
20 servicer, or lender's agent shall not institute legal action
21 under Part 15 of Article XV of the Code of Civil Procedure for
22 30 days after the date of that notice. During the 30-day period
23 provided under this subsection (d), the borrower or counselor
24 or both may prepare and proffer to the lender, servicer, or
25 lender's agent a proposed debt management plan. The lender,
26 servicer, or lender's agent shall then determine whether to

1 accept the proposed debt management plan, based upon an
2 evaluation of the borrower's ability to repay the loan under
3 the proffered plan, in light of the borrower's current income
4 and other financial resources. If the lender, servicer, or
5 lender's agent and the borrower agree to a debt management
6 plan, then the lender, servicer, or lender's agent shall not
7 institute legal action under Part 15 of Article XV of the Code
8 of Civil Procedure for as long as the debt management plan is
9 complied with by the borrower. The agreed debt management plan
10 and any modifications thereto must be in writing and signed by
11 the lender, servicer, or lender's agent and the borrower. Upon
12 written notice to the lender, servicer, or lender's agent, the
13 borrower may change approved counseling agencies, but such a
14 change does not entitle the borrower to any additional period
15 of forbearance.

16 (e) If the borrower fails to comply with the agreed debt
17 management plan, then nothing in this Section shall be
18 construed to impair the legal right of the lender, servicer, or
19 lender's agent to enforce the contract.

20 (f) This Section is repealed on December 31, 2010.

21 Section 20. Foreclosure Prevention Report; requirements. A
22 servicer shall compile and submit to the Secretary on or before
23 the twentieth business day of every other month a Foreclosure
24 Prevention Report that contains the following information for
25 the preceding 2 months or as otherwise indicated:

1 (1) The number of home loans the servicer is servicing.

2 (2) The number of home loans that the servicer is
3 servicing that are in payment default.

4 (3) Information on loss mitigation activities
5 undertaken, including, but not limited to, the following:

6 (A) the number and identification of home loans
7 that were refinanced into more affordable or fixed home
8 loans;

9 (B) the number and identification of home loans for
10 which the borrower has sought housing or credit
11 counseling, if known;

12 (C) the number of workout arrangements entered
13 into by the servicer in connection with home loans; and

14 (D) the proactive steps taken by the servicer to
15 identify borrowers at a heightened risk of default,
16 such as those with impending interest rate resets,
17 including, but not limited to, contacts with borrowers
18 to assess their ability to repay their home loan
19 obligations.

20 (4) The number of foreclosure actions commenced in this
21 State in connection with home loans it is servicing.

22 (5) Any other information that the Secretary may deem
23 necessary, including geographic information regarding
24 applicable home loans.

25 Section 25. Foreclosure Prevention Report; form and manner

1 prescribed by Secretary. The Secretary shall prescribe the form
2 and manner for filing the Foreclosure Prevention Report. This
3 Section is repealed on December 31, 2010.

4 Section 30. Foreclosure Prevention Report; publication.
5 The Secretary may publish for public review the Foreclosure
6 Prevention Report or any information contained in the
7 Foreclosure Prevention Report, except personally identifying
8 information regarding borrowers. This Section is repealed on
9 December 31, 2010.

10 Section 90. Enforcement.

11 (a) The Secretary shall have the power to issue orders
12 against any person or entity if the Secretary has reasonable
13 cause to believe that a violation of this Act has occurred, is
14 occurring, or is about to occur, if any person has violated, is
15 violating, or is about to violate any law, rule, order, or
16 written agreement with the Secretary, or for the purpose of
17 administering the provisions of this Act and any rule
18 promulgated in accordance with this Act.

19 (b) The Secretary may impose civil penalties of up to
20 \$1,000 against any person for each violation of any provision
21 of this Act, any rule promulgated in accordance with this Act,
22 or any order of the Secretary. The Secretary shall also have
23 the power to subpoena witnesses, to administer an oath, to
24 examine any person under oath, and to require the production of

1 any relevant books, papers, accounts, and documents in the
2 course of and pursuant to any investigation being conducted or
3 any action being taken by the Secretary in respect of any
4 matter relating to the duties imposed upon or the powers vested
5 in the Secretary under the provisions of this Act or any rule
6 promulgated in accordance with this Act.

7 (c) Any actions taken by the Secretary pursuant to this
8 Section shall be done in accordance with the Illinois
9 Administrative Procedure Act.

10 Section 95. Rulemaking. The Department may adopt
11 reasonable rules to implement and administer this Act.

12 Section 100. Judicial review. All final administrative
13 decisions under this Act are subject to judicial review
14 pursuant to the provisions of the Administrative Review Law and
15 any rules adopted pursuant thereto.

16 Section 105. Waiver prohibited. There shall be no waiver of
17 any provision of this Act.

18 Section 900. The Residential Mortgage License Act of 1987
19 is amended by changing Sections 1-3, 1-4, 1-5, 2-2, 2-3, 2-4,
20 2-5, 2-6, 2-7, 2-8, 2-9, 2-11, 3-1, 3-2, 3-3, 3-4, 3-5, 3-9,
21 4-1, 4-2, 4-3, 4-4, 4-5, 4-6, 4-8, 4-8.1, 4-8.2, 4-8.3, 4-10,
22 4-11, 4-12, 4-13, 5-1, 6-3, and 7-1 and by adding Section 1-1.5

1 as follows:

2 (205 ILCS 635/1-1.5 new)

3 Sec. 1-1.5. Findings; procedures for multistate automated
4 licensing system.

5 (1) The General Assembly finds that establishing and
6 implementing an automated multistate licensing system for
7 residential mortgage licensees is consistent with and furthers
8 the Purpose of Act and Policy Statement of Section 1-2. For
9 this purpose, the Director is authorized:

10 (a) to participate in a multistate automated licensing
11 system as the exclusive record collection and maintenance
12 system to apply for, renew, amend, and surrender residential
13 mortgage licenses;

14 (b) to adopt rules as necessary to implement a multistate
15 automated licensing system;

16 (c) to cause criminal history background checks by the
17 Illinois State Police and Federal Bureau of Identification to
18 be performed for use in the multistate automated licensing
19 system;

20 (d) to require payments of licensing fees be made to the
21 third-party administrator for the multistate automated
22 licensing system for transfer to the State of Illinois and
23 payment of processing fees for use of the multistate automated
24 licensing system with those processing fees to be retained by
25 the third-party administrator; and

1 (e) to share licensing information in the multistate
2 automated licensing system pursuant to agreement with
3 participating state regulators and to protect licensing
4 information as so required by this Act or other applicable law.

5 (2) The Director shall not require any exempt person to
6 submit information to the multistate automated licensing
7 system. For purposes of this Section, "exempt person" means any
8 individual or company exempt from licensure in this State.

9 (3) No person shall be authorized to obtain information
10 from the multistate automated licensing system or initiate any
11 action based on information obtained from the multistate
12 automated licensing system that the person could not otherwise
13 have obtained or initiated based on information currently
14 available under existing State law.

15 (4) The Director shall accept and abide by the Privacy,
16 Data Security, and Security Breach Notification Policy, as
17 adopted by the multistate automated licensing system, and
18 ensure that it is in full compliance with existing State law.
19 The Director may make available, upon written request, a copy
20 of the contract between the Department and the multistate
21 automated licensing system that satisfies the provisions of
22 this subsection (4).

23 (5) The Director may, upon written request and consistent
24 with other state regulators, provide the most recently
25 available audited financial report of the multistate automated
26 licensing system.

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

2 Sec. 1-3. Necessity for License; Scope of Act.

3 (a) No person, partnership, association, corporation or
4 other entity shall engage in the business of brokering,
5 funding, originating, servicing or purchasing of residential
6 mortgage loans without first obtaining a license from the
7 Director ~~Commissioner~~ in accordance with the licensing
8 procedure provided in this Article I and such regulations as
9 may be promulgated by the Director ~~Commissioner~~. The licensing
10 provisions of this Section shall not apply to any entity
11 engaged solely in commercial mortgage lending or to any person,
12 partnership association, corporation or other entity exempted
13 pursuant to Section 1-4, subsection (d), of this Act or in
14 accordance with regulations promulgated by the Director
15 ~~Commissioner~~ hereunder. No person, partnership, association,
16 corporation, or other entity that is not required to obtain a
17 license under this Act shall be granted a license under this
18 Act. The license of any person, partnership, association,
19 corporation, or other entity that is not required to obtain a
20 license under this Act shall be void and shall not be renewed.

21 (b) No person, partnership, association, corporation, or
22 other entity except a licensee under this Act or an entity
23 exempt from licensing pursuant to Section 1-4, subsection (d),
24 of this Act shall do any business under any name or title, or
25 circulate or use any advertising or make any representation or

1 give any information to any person, which indicates or
2 reasonably implies activity within the scope of this Act.

3 (c) The Director ~~Commissioner~~ may, through the Attorney
4 General, request the circuit court of either Cook or Sangamon
5 County to issue an injunction to restrain any person from
6 violating or continuing to violate any of the foregoing
7 provisions of this Section.

8 (d) When the Director ~~Commissioner~~ has reasonable cause to
9 believe that any entity which has not submitted an application
10 for licensure is conducting any of the activities described in
11 subsection (a) hereof, the Director ~~Commissioner~~ shall have the
12 power to examine all books and records of the entity and any
13 additional documentation necessary in order to determine
14 whether such entity should become licensed under this Act.

15 (d-1) The Director ~~Commissioner~~ may issue orders against
16 any person if the Commissioner has reasonable cause to believe
17 that an unsafe, unsound, or unlawful practice has occurred, is
18 occurring, or is about to occur, if any person has violated, is
19 violating, or is about to violate any law, rule, or written
20 agreement with the Director ~~Commissioner~~, or for the purposes
21 of administering the provisions of this Act and any rule
22 adopted in accordance with this Act.

23 (e) Any person, partnership, association, corporation or
24 other entity who violates any provision of this Section commits
25 a business offense and shall be fined an amount not to exceed
26 \$25,000.

1 (f) Each person, partnership, association, corporation or
2 other entity conducting activities regulated by this Act shall
3 be issued one license. The person, partnership, association,
4 corporation, or other entity shall apply for a license only
5 under its real name and, if the application is approved, the
6 license shall be issued under and state the real name of the
7 person, partnership, association, corporation, or other
8 entity. In addition to the real name of the licensee, the
9 license shall also state any assumed name under which the
10 licensee intends to operate. A licensee may not operate under
11 an assumed name unless the Department has approved the use of
12 the assumed name and such name is stated on the license in
13 addition to the real name of the licensee. Each office, place
14 of business or location at which a residential mortgage
15 licensee conducts any part of his or her business must be
16 recorded with the Director ~~Commissioner~~ pursuant to Section 2-8
17 of this Act.

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

23 (h) This Act applies to all entities doing business in
24 Illinois as residential mortgage bankers, as defined by "An Act
25 to provide for the regulation of mortgage bankers", approved
26 September 15, 1977, as amended, regardless of whether licensed

1 under that or any prior Act. Any existing residential mortgage
2 lender or residential mortgage broker in Illinois whether or
3 not previously licensed, must operate in accordance with this
4 Act.

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

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

11 (Source: P.A. 93-1018, eff. 1-1-05.)

12 (205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

13 Sec. 1-4. Definitions.

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

21 (b) "Making a residential mortgage loan" or "funding a
22 residential mortgage loan" shall mean for compensation or gain,
23 either directly or indirectly, advancing funds or making a
24 commitment to advance funds to a loan applicant for a
25 residential mortgage loan.

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

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

14 (1) (i) Any banking organization or foreign banking
15 corporation licensed by the Director ~~Illinois Commissioner~~
16 ~~of Banks and Real Estate~~ or the United States Comptroller
17 of the Currency to transact business in this State; (ii)
18 any national bank, federally chartered savings and loan
19 association, federal savings bank, federal credit union;
20 (iii) any pension trust, bank trust, or bank trust company;
21 (iv) any bank, savings and loan association, savings bank,
22 industrial bank, or credit union organized under the laws
23 of this or any other state; (v) any Illinois Consumer
24 Installment Loan Act licensee; (vi) any insurance company
25 authorized to transact business in this State; (vii) any
26 entity engaged solely in commercial mortgage lending;

1 (viii) any service corporation or subsidiary of a savings
2 and loan association or savings bank organized under the
3 laws of this State, or any other state, or the service
4 corporation or subsidiary of a federally chartered savings
5 and loan association or savings bank ~~having its principal~~
6 ~~place of business in this State~~, other than a service
7 corporation or subsidiary licensed or entitled to
8 reciprocity under the Real Estate License Act of 2000; or
9 (ix) any first tier subsidiary of a bank, the charter of
10 which is issued under the Illinois Banking Act by the
11 Illinois Department of Financial and Professional
12 Regulation, Division of Banking, or the charter of which is
13 issued under the banking laws of any other state
14 ~~Commissioner of Banks and Real Estate~~, or the ~~first tier~~
15 subsidiary of a bank chartered by the United States
16 Comptroller of the Currency ~~and that has its principal~~
17 ~~place of business in this State~~, provided that the ~~first~~
18 ~~tier subsidiary is regularly examined by the Illinois~~
19 ~~Commissioner of Banks and Real Estate or the Comptroller of~~
20 ~~the Currency, or a consumer compliance examination is~~
21 ~~regularly conducted by the Federal Reserve Board.~~

22 (1.5) Any employee of a person or entity mentioned in
23 item (1) of this subsection.

24 (2) Any person or entity that does not originate
25 mortgage loans in the ordinary course of business making or
26 acquiring residential mortgage loans with his or her or its

1 own funds for his or her or its own investment without
2 intent to make, acquire, or resell more than 10 residential
3 mortgage loans in any one calendar year.

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

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

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

21 (6) A person who prepares supporting documentation for
22 a residential mortgage loan application taken by a licensee
23 and performs ministerial functions pursuant to specific
24 instructions of the licensee who neither requires nor
25 permits the preparer to exercise his or her discretion or
26 judgment; provided that this activity is engaged in

1 pursuant to a binding, written agreement between the
2 licensee and the preparer that:

3 (A) holds the licensee fully accountable for the
4 preparer's action; and

5 (B) otherwise meets the requirements of this
6 Section and this Act, does not undermine the purposes
7 of this Act, and is approved by the Director
8 ~~Commissioner~~.

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

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

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

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

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

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

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

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

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

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

24 (n) "Director" ~~"Commissioner"~~ shall mean the Director of
25 the Division of Banking of the Department of Financial and
26 Professional Regulation ~~Commissioner of Banks and Real Estate~~

1 or a person authorized by the Director, the Division of Banking
2 of the Department of Financial and Professional Regulation
3 ~~Commissioner, the Office of Banks and Real Estate Act~~, or this
4 Act to act in the Director's ~~Commissioner's~~ stead.

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

15 (p) "Loan broker" or "broker" shall mean a person,
16 partnership, association, corporation, or limited liability
17 company, other than those persons, partnerships, associations,
18 corporations, or limited liability companies exempted from
19 licensing pursuant to Section 1-4, subsection (d), of this Act,
20 who performs the activities described in subsections (c) and
21 (o) of this Section.

22 (q) "Servicing" shall mean the collection or remittance for
23 or the right or obligation to collect or remit for any lender,
24 noteowner, noteholder, or for a licensee's own account, of
25 payments, interests, principal, and trust items such as hazard
26 insurance and taxes on a residential mortgage loan in

1 accordance with the terms of the residential mortgage loan; and
2 includes loan payment follow-up, delinquency loan follow-up,
3 loan analysis and any notifications to the borrower that are
4 necessary to enable the borrower to keep the loan current and
5 in good standing.

6 (r) "Full service office" shall mean an office, provided by
7 the licensee and not subleased from the licensee's employees,
8 and staff in Illinois reasonably adequate to handle efficiently
9 communications, questions, and other matters relating to any
10 application for, or an existing home mortgage secured by
11 residential real estate situated in Illinois with respect to
12 which the licensee is brokering, funding originating,
13 purchasing, or servicing. The management and operation of each
14 full service office must include observance of good business
15 practices such as adequate, organized, and accurate books and
16 records; ample phone lines, hours of business, staff training
17 and supervision, and provision for a mechanism to resolve
18 consumer inquiries, complaints, and problems. The Director
19 ~~Commissioner~~ shall issue regulations with regard to these
20 requirements and shall include an evaluation of compliance with
21 this Section in his or her periodic examination of each
22 licensee.

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

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

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

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

8 (1) obtain a residential mortgage loan for the borrower
9 or assist the borrower in obtaining a residential mortgage
10 loan; or

11 (2) consider making a residential mortgage loan to the
12 borrower.

13 (w) "Advertisement" shall mean the attempt by publication,
14 dissemination, or circulation to induce, directly or
15 indirectly, any person to enter into a residential mortgage
16 loan agreement or residential mortgage loan brokerage
17 agreement relative to a mortgage secured by residential real
18 estate situated in Illinois.

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

21 (y) "Government-insured mortgage loan" shall mean any
22 mortgage loan made on the security of residential real estate
23 insured by the Department of Housing and Urban Development or
24 Farmers Home Loan Administration, or guaranteed by the Veterans
25 Administration.

26 (z) "Annual audit" shall mean a certified audit of the

1 licensee's books and records and systems of internal control
2 performed by a certified public accountant in accordance with
3 generally accepted accounting principles and generally
4 accepted auditing standards.

5 (aa) "Financial institution" shall mean a savings and loan
6 association, savings bank, credit union, or a bank organized
7 under the laws of Illinois or a savings and loan association,
8 savings bank, credit union or a bank organized under the laws
9 of the United States and headquartered in Illinois.

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

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

17 (dd) "Affiliate" shall mean:

18 (1) any entity that directly controls or is controlled
19 by the licensee and any other company that is directly
20 affecting activities regulated by this Act that is
21 controlled by the company that controls the licensee;

22 (2) any entity:

23 (A) that is controlled, directly or indirectly, by
24 a trust or otherwise, by or for the benefit of
25 shareholders who beneficially or otherwise control,
26 directly or indirectly, by trust or otherwise, the

1 licensee or any company that controls the licensee; or
2 (B) a majority of the directors or trustees of
3 which constitute a majority of the persons holding any
4 such office with the licensee or any company that
5 controls the licensee;

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

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

13 (ee) "First tier subsidiary" shall be defined by regulation
14 incorporating the comparable definitions used by the Office of
15 the Comptroller of the Currency and the Director ~~Illinois~~
16 ~~Commissioner of Banks and Real Estate~~.

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

1 mortgage loans funded or purchased by the licensee in the
2 preceding calendar year.

3 (gg) "Delinquency rate factor" means the factor set by rule
4 of the Director ~~Commissioner~~ that is multiplied by the average
5 gross delinquency rate of licensees, determined annually for
6 the immediately preceding calendar year, for the purpose of
7 determining which licensees shall be examined by the Director
8 ~~Commissioner~~ pursuant to subsection (b) of Section 4-8 of this
9 Act.

10 (hh) "Loan originator" means any natural person who, for
11 compensation or in the expectation of compensation, either
12 directly or indirectly makes, offers to make, solicits, places,
13 or negotiates a residential mortgage loan.

14 (ii) "Confidential supervisory information" means any
15 report of examination, visitation, or investigation prepared
16 by the Director ~~Commissioner~~ under this Act, any report of
17 examination visitation, or investigation prepared by the state
18 regulatory authority of another state that examines a licensee,
19 any document or record prepared or obtained in connection with
20 or relating to any examination, visitation, or investigation,
21 and any record prepared or obtained by the Director
22 ~~Commissioner~~ to the extent that the record summarizes or
23 contains information derived from any report, document, or
24 record described in this subsection. "Confidential supervisory
25 information" does not include any information or record
26 routinely prepared by a licensee and maintained in the ordinary

1 course of business or any information or record that is
2 required to be made publicly available pursuant to State or
3 federal law or rule.

4 (Source: P.A. 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

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

6 Sec. 1-5. Residential Mortgage Board.

7 (a) Board composition, compensation. There is created the
8 Residential Mortgage Board composed of 5 members appointed by
9 the Director of the Division of Banks of the Department of
10 Financial and Professional Regulation ~~Commissioner of Banks~~
11 ~~and Real Estate~~. The majority of persons on the Board shall
12 have no financial interest in any residential mortgage business
13 and one member shall be a representative of the Mortgage
14 Banking Trade Association and one member shall be a
15 representative of the Mortgage Broker Trade Association.
16 Members of the Board serving on the effective date of this
17 amendatory Act of 1996 shall continue to serve their unexpired
18 terms as members of the Residential Mortgage Board. Thereafter,
19 on or before January 15 of each year, the Director ~~Commissioner~~
20 shall appoint one or more board members, as shall be necessary
21 to maintain a 5 member Board, whose terms shall be for 3 years
22 commencing February 1 of the year in which they are
23 respectively appointed.

24 If a vacancy occurs on the Residential Mortgage Board, the
25 Director ~~Commissioner~~ shall within 60 days appoint a new member

1 who shall hold office for the remainder of the vacated term.

2 The Board shall meet at the call of the chairman, who along
3 with a Secretary, shall be selected by the Board from among its
4 members.

5 The members of the Board serve at the pleasure of the
6 Director ~~Commissioner~~.

7 (b) Duties of Board. The Residential Mortgage Board shall
8 assist the Director ~~Commissioner~~ by:

9 (1) submitting recommendations to the Director
10 ~~Commissioner~~ for the efficient administration of this Act;
11 and

12 (2) performing other duties as are prescribed by the
13 Director ~~Commissioner~~.

14 (c) Conflict of interest declarations. Each member of the
15 Residential Mortgage Board shall file annually, no later than
16 February 1, with the Director ~~Commissioner~~ a statement of his
17 or her current business transactions or other affiliations with
18 any licensee under this Act. The Director ~~Commissioner~~ may
19 adopt rules to avoid conflicts of interest on the part of
20 members of the Residential Mortgage Board in connection with
21 their position on the Board.

22 (Source: P.A. 93-1018, eff. 1-1-05.)

23 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

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

25 (a) The Director ~~Commissioner~~ shall issue a license upon

1 completion of all of the following:

2 (1) The filing of an application for license with the
3 Director or a multistate automated licensing system
4 approved by the Director. If an application is filed with
5 an approved multistate automated licensing system, then
6 the Director shall issue a license upon completion of the
7 multistate automated licensing system.

8 (2) The filing with the Director ~~Commissioner~~ of a
9 listing of judgments entered against, and bankruptcy
10 petitions by, the license applicant for the preceding 10
11 years.

12 (3) The payment, in certified funds, of investigation
13 and application fees, the total of which shall be in an
14 amount equal to \$2,700 annually, however, alternatively a
15 licensing fee equal to \$2,700 shall be paid through an
16 approved credit card or Automated Clearing House (ACH)
17 payment to the multistate automated licensing system. The
18 Director ~~the Commissioner~~ may increase the investigation
19 and application fees by rule as provided in Section 4-11.

20 (4) Except for a broker applying to renew a license,
21 the filing of an audited balance sheet including all
22 footnotes prepared by a certified public accountant in
23 accordance with generally accepted accounting principles
24 and generally accepted auditing principles which evidences
25 that the applicant meets the net worth requirements of
26 Section 3-5.

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

20 (6) An investigation of the averments required by
21 Section 2-4, which investigation must allow the Director
22 ~~Commissioner~~ to issue positive findings stating that the
23 financial responsibility, experience, character, and
24 general fitness of the license applicant and of the members
25 thereof if the license applicant is a partnership or
26 association, of the officers and directors thereof if the

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

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

16 (b) All licenses shall be issued ~~in duplicate with one copy~~
17 ~~being transmitted~~ to the license applicant or license status
18 may be posted on the multistate automated licensing system and
19 ~~the second being retained with the Commissioner.~~

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

25 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

1 (205 ILCS 635/2-3) (from Ch. 17, par. 2322-3)

2 Sec. 2-3. Application form.

3 (a) Application for a residential mortgage license must be
4 made in accordance with Section 2-6 and the requirements of the
5 multistate automated licensing system approved by the
6 Director. The application shall be in writing, under oath, and
7 on a form obtained from and prescribed by the Director, or may
8 be submitted electronically, with attestation, to the
9 multistate automated licensing system ~~Commissioner~~.

10 (b) The application shall contain the name and complete
11 business and residential address or addresses of the license
12 applicant. If the license applicant is a partnership,
13 association, corporation or other form of business
14 organization, the application shall contain the names and
15 complete business and residential addresses of each member,
16 director and principal officer thereof. Such application shall
17 also include a description of the activities of the license
18 applicant, in such detail and for such periods, as the Director
19 ~~Commissioner~~ may require, including all of the following:

20 (1) An affirmation of financial solvency noting such
21 capitalization requirements as may be required by the
22 Director ~~Commissioner~~, and access to such credit as may be
23 required by the Director ~~Commissioner~~.

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

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

18 (4) Upon written request by the licensee and
19 notwithstanding the provisions of paragraphs (1), (2), and
20 (3) of this subsection, the Director ~~Commissioner~~ may
21 permit the licensee to omit all or part of the information
22 required by those paragraphs if, in lieu of the omitted
23 information, the licensee submits an affidavit stating
24 that the information submitted on the licensee's previous
25 renewal application is still true and accurate. The
26 Director ~~Commissioner~~ may promulgate rules prescribing the

1 form and content of the affidavit that are necessary to
2 accomplish the purposes of this Section.

3 (5) Such other information as required by regulations
4 of the Director ~~Commissioner~~.

5 In the event the information required by the multistate
6 automated licensing system, as adopted by the Director,
7 conflicts with any information required in this subsection
8 (b), the requirements of the multistate automated
9 licensing system as adopted shall prevail.

10 (Source: P.A. 89-355, eff. 8-17-95.)

11 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

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

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

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

20 (c) Will keep and maintain for 36 months the same
21 written records as required by the federal Equal Credit
22 Opportunity Act, and any other information required by
23 regulations of the Director ~~Commissioner~~ regarding any
24 home mortgage in the course of the conduct of its
25 residential mortgage business;

1 (d) Will file with the Director, or multistate
2 automated licensing system ~~Commissioner~~, when due, any
3 report or reports which it is required to file under any of
4 the provisions of this Act;

5 (e) Will not engage, whether as principal or agent, in
6 the practice of rejecting residential mortgage
7 applications without reasonable cause, or varying terms or
8 application procedures without reasonable cause, for home
9 mortgages on real estate within any specific geographic
10 area from the terms or procedures generally provided by the
11 licensee within other geographic areas of the State;

12 (f) Will not engage in fraudulent home mortgage
13 underwriting practices;

14 (g) Will not make payment, whether directly or
15 indirectly, of any kind to any in house or fee appraiser of
16 any government or private money lending agency with which
17 an application for a home mortgage has been filed for the
18 purpose of influencing the independent judgment of the
19 appraiser with respect to the value of any real estate
20 which is to be covered by such home mortgage;

21 (h) Has filed tax returns (State and Federal) for the
22 past 3 years or filed as required by the Director ~~with the~~
23 ~~Commissioner~~ an accountant's or attorney's statement as to
24 why no return was filed;

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

1 (j) Will not knowingly make any false promises likely
2 to influence or persuade, or pursue a course of
3 misrepresentation and false promises through agents,
4 solicitors, advertising or otherwise;

5 (k) Will not knowingly misrepresent, circumvent or
6 conceal, through whatever subterfuge or device, any of the
7 material particulars or the nature thereof, regarding a
8 transaction to which it is a party to the injury of another
9 party thereto;

10 (l) Will disburse funds in accordance with its
11 agreements;

12 (m) Has not committed a crime against the law of this
13 State, any other state or of the United States, involving
14 moral turpitude, fraudulent or dishonest dealing, and that
15 no final judgment has been entered against it in a civil
16 action upon grounds of fraud, misrepresentation or deceit
17 which has not been previously reported to the Director
18 Commissioner;

19 (n) Will account or deliver to the owner upon request
20 ~~any person~~ any personal property such as money, fund,
21 deposit, check, draft, mortgage, other document or thing of
22 value, ~~which has come into its possession, and which is not~~
23 ~~its property, or~~ which it is not in law or equity entitled
24 to retain under the circumstances, ~~at the time which has~~
25 ~~been agreed upon or is required by law, or, in the absence~~
26 ~~of a fixed time, upon demand of the person entitled to such~~

1 ~~accounting and delivery;~~

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

4 (p) Has not become insolvent;

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

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

10 (s) Will advise the Director ~~Commissioner~~ in writing,
11 or the multistate automated licensing system by electronic
12 means, of any changes to the information submitted on the
13 most recent application for license within 30 days of said
14 change, or by the date required for entry of changes to the
15 multistate automated licensing system. The written notice
16 must be signed in the same form as the application for
17 license being amended;

18 (t) Will comply with the provisions of this Act, or
19 with any lawful order, rule or regulation made or issued
20 under the provisions of this Act;

21 (u) Will submit to periodic examination by the Director
22 ~~Commissioner~~ as required by this Act;

23 (v) Will advise the Director ~~Commissioner~~ in writing of
24 judgments entered against, and bankruptcy petitions by,
25 the license applicant within 5 days of occurrence;

26 (w) Will advise the Director ~~Commissioner~~ in writing

1 within 30 days of any request made to ~~when the license~~
2 ~~applicant requests~~ a licensee under this Act to repurchase
3 a loan in a manner that completely and clearly identifies
4 to whom the request was made, the loans involved, and the
5 reason for the request ~~, and the circumstances therefor;~~

6 (x) Will advise the Director ~~Commissioner~~ in writing
7 within 30 days of any request from any entity ~~when the~~
8 ~~license applicant is requested by another entity~~ to
9 repurchase a loan in a manner that completely and clearly
10 identifies who made the request, the loans involved, and
11 the reason for the request, ~~and the circumstances therefor;~~

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

14 (z) Will not knowingly hire or employ a loan originator
15 who is not registered with the Director ~~Commissioner~~ as
16 required under Section 7-1 of this Act.

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

21 (Source: P.A. 95-331, eff. 8-21-07.)

22 (205 ILCS 635/2-5) (from Ch. 17, par. 2322-5)

23 Sec. 2-5. Refusal to Issue License. The Director
24 ~~Commissioner~~ shall refuse to license or renew a license if:

25 (1) it is determined that the applicant is not in

1 compliance with any provisions of the Act or the provisions
2 of the multistate automated licensing system as approved by
3 the Director; or

4 (2) there is substantial continuity between the
5 applicant and any violator of this Act; or

6 (3) the Director ~~Commissioner~~ cannot make the findings
7 specified in Section 2-2, subsection (a), of this Act.

8 (Source: P.A. 86-137; 87-642.)

9 (205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

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

11 (a) Beginning July 1, 2003, licenses shall be renewed every
12 year on the anniversary of the date of issuance of the original
13 license, or if the multistate automated licensing system is
14 approved, then on the common renewal date selected for the
15 multistate automated licensing system. Properly completed
16 renewal application forms and filing fees must be received by
17 the Director ~~Commissioner~~ 60 days prior to the renewal date, or
18 if the multistate automated licensing system is approved, then
19 by the date of receipt selected for the multistate automated
20 licensing system.

21 (b) It shall be the responsibility of each licensee to
22 accomplish renewal of its license; failure of the licensee to
23 receive renewal forms or electronic notice ~~absent a request~~
24 ~~sent by certified mail for such forms~~ will not waive said
25 responsibility. Failure by a licensee to submit a properly

1 completed renewal application form, or complete renewal on the
2 multistate automated licensing system, and pay fees in a timely
3 fashion, absent a written extension from the Director
4 ~~Commissioner~~, will result in the assessment of additional fees,
5 as follows:

6 (1) A fee of \$750 will be assessed to the licensee 30
7 days after the proper renewal date and \$1,500 each month
8 thereafter, or late fees as determined by the Director in
9 conjunction with the multistate automated licensing
10 system, until the license is either renewed or expires
11 pursuant to Section 2-6, subsections (c) and (d), of this
12 Act.

13 (2) Such fee will be assessed without prior notice to
14 the licensee, but will be assessed only in cases wherein
15 the Director ~~Commissioner~~ has in his or her possession
16 documentation of the licensee's continuing activity for
17 which the unrenewed license was issued.

18 (c) A license which is not renewed by the date required in
19 this Section shall automatically become inactive. No activity
20 regulated by this Act shall be conducted by the licensee when a
21 license becomes inactive. The Director ~~Commissioner~~ may
22 require the licensee to provide a plan for the disposition of
23 any residential mortgage loans not closed or funded when the
24 license becomes inactive. The Director ~~Commissioner~~ may allow a
25 licensee with an inactive license to conduct activities
26 regulated by this Act for the sole purpose of assisting

1 borrowers in the closing or funding of loans for which the loan
2 application was taken from a borrower while the license was
3 active. An inactive license may be reactivated by the Director,
4 or by the multistate automated licensing system at the
5 direction of the Director, ~~Commissioner~~ upon payment of the
6 renewal fee, and payment of a reactivation fee equal to the
7 renewal fee.

8 (d) A license which is not renewed within one year of
9 becoming inactive shall expire.

10 (e) A licensee ceasing an activity or activities regulated
11 by this Act and desiring to no longer be licensed shall so
12 inform the Director ~~Commissioner~~ in writing and, at the same
13 time, convey the license and all other symbols or indicia of
14 licensure, or request a license status change on the multistate
15 automated licensing system. The licensee shall include a plan
16 for the withdrawal from regulated business, including a
17 timetable for the disposition of the business and comply with
18 surrender guidelines of the Director to ensure proper surrender
19 of the license. Upon completion of all requirements ~~receipt of~~
20 ~~such written notice,~~ the Director ~~Commissioner~~ shall issue a
21 certified statement canceling the license or the surrendered or
22 cancelled license status shall be posted on the multistate
23 automated licensing system.

24 (Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018,
25 eff. 1-1-05.)

1 (205 ILCS 635/2-7) (from Ch. 17, par. 2322-7)

2 Sec. 2-7. Waiver of licensing fee. The Director
3 ~~Commissioner~~ may waive the licensing fee upon receipt of:

4 (a) an application for a residential mortgage license in
5 Illinois,

6 (b) an addendum requesting waiver of the fee stating the
7 grounds in support of such waiver, including but not limited
8 to, not for profit status, bankruptcy or the showing of undue
9 hardship, and

10 (c) in case of an out-of-state servicer of loans in
11 Illinois, the following documentation is required:

12 (1) A verification that the firm services only 100 or
13 fewer loans secured by residential real estate situated in
14 Illinois;

15 (2) An agreement not to originate, purchase or acquire
16 additional servicing of loans secured by residential real
17 estate situated in Illinois;

18 (3) An agreement to maintain a dedicated toll free
19 (800) number for exclusive use by the licensee's Illinois
20 customers;

21 (4) An agreement to provide a written notice at least
22 annually to the licensee's Illinois customers advising
23 them of the dedicated toll free (800) number; and to
24 furnish the Director ~~Commissioner~~ with a copy of such
25 written notice.

26 A request for waiver of the filing fee must be submitted

1 each year in conjunction with the license renewal procedure.

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

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

4 Sec. 2-8. Additional Full-service Offices.

5 (a) A licensee may apply for authority to open and maintain
6 additional full-service offices by:

7 (1) Giving the Director or multistate automated licensing
8 system ~~Commissioner~~ prior notice of its intention in such form
9 as shall be prescribed by the Commissioner.

10 (2) Payment of a fee to be established by regulation.

11 (b) Upon receipt of the notice and fee required in
12 subsection (a) above, the Commissioner shall issue a
13 certificate for the additional full-service office, or the
14 license status shall be posted to the multistate automated
15 licensing system.

16 (c) The certificate, if issued by the Director, shall be
17 conspicuously posted in the respective additional full-service
18 offices.

19 (Source: P.A. 85-735.)

20 (205 ILCS 635/2-9) (from Ch. 17, par. 2322-9)

21 Sec. 2-9. Posting of license. The license of a licensee
22 whose home office is within the State of Illinois or of an
23 out-of-state licensee, if issued by the Director, shall be
24 conspicuously posted in every office of the licensee located in

1 Illinois. Out-of-state licensees without an Illinois office
2 shall produce the license, if issued, upon request. Licensees
3 originating loans on the Internet shall post on their Internet
4 web site their license number and ~~the address and~~ telephone
5 number of the Director ~~Commissioner~~. The license shall state
6 the full name and address of the licensee. The license shall
7 not be transferable or assignable. A separate certificate may
8 ~~shall~~ be issued for posting in each full service Illinois
9 office.

10 (Source: P.A. 91-586, eff. 8-14-99.)

11 (205 ILCS 635/2-11) (from Ch. 17, par. 2322-11)

12 Sec. 2-11. Miscellaneous fees. In addition to any license
13 fee collected under this Act, the Director ~~Commissioner~~ shall
14 by rule and regulation establish a schedule to apply to
15 assessment and collection of necessary contingent and
16 miscellaneous fees.

17 (Source: P.A. 85-735.)

18 (205 ILCS 635/3-1) (from Ch. 17, par. 2323-1)

19 Sec. 3-1. Bonds of licensees.

20 (a) Every licensee, with respect to any person appointed or
21 elected to any position requiring the receipt of payment,
22 management, or use of money belonging to a residential mortgage
23 licensee engaged in the activities of originating, servicing,
24 or purchasing mortgage loans or whose duties permit him or her

1 to have access to or custody of any of its money or securities
2 or custody of any money or securities belonging to third
3 parties or whose duties permit him or her regularly to make
4 entries in the books or other records of a licensee, shall,
5 before assuming his or her duties, maintain a fidelity bond in
6 the amount of \$100,000 by some fidelity insurance company
7 licensed to do business in this State.

8 (b) Each bond shall be for any loss the licensee may
9 sustain in money or other property through the commission of
10 any dishonest or criminal act or omission by any person
11 required to be bonded, whether committed alone or in concert
12 with another. The bond shall be in the form and amount approved
13 by the Director ~~Commissioner~~ who may at any time require one or
14 more additional bonds. A true copy of every bond, including all
15 riders and endorsements executed subsequent to the effective
16 date of the bond, shall be filed at all times with the Director
17 ~~Commissioner~~. Each bond shall provide that a cancellation
18 thereof shall not become effective unless and until 30 days
19 notice in writing first shall have been given to the Director
20 ~~Commissioner~~ unless he or she shall have approved the
21 cancellation earlier. If the Director ~~Commissioner~~ believes
22 the licensee's business is being conducted in an unsafe manner
23 due to the lack of bonds or the inadequacy of bonds, he or she
24 may proceed against the licensee as provided for in Section
25 4-5.

26 (c) All licensees shall maintain a bond in accordance with

1 this subsection. Each bond shall be for the recovery of
2 expenses, fines, or fees due to or levied by the Director
3 ~~Commissioner~~ in accordance with this Act. The bond shall be
4 payable when the licensee fails to comply with any provisions
5 of this Act and shall be in the form of a surety or licensure
6 bond in the amount and form as prescribed by the Director
7 ~~Commissioner~~ pursuant to rules and regulations. The bond shall
8 be payable to the Division of Banking of the Department of
9 Financial and Professional Regulation ~~Office of Banks and Real~~
10 ~~Estate~~ and shall be issued by some insurance company authorized
11 to do business in this State. A copy of the bond, including any
12 and all riders and endorsements executed subsequent to the
13 effective date of the bond, shall be placed on file with the
14 Division of Banking of the Department of Financial and
15 Professional Regulation ~~Office of Banks and Real Estate~~ within
16 10 days of the execution thereof.

17 (d) The Director ~~Commissioner~~ may promulgate rules with
18 respect to bonding requirements for residential mortgage
19 licensees that are reasonable and necessary to accomplish the
20 purposes of this Act.

21 (Source: P.A. 89-508, eff. 7-3-96.)

22 (205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

23 Sec. 3-2. Annual audit.

24 (a) At the licensee's fiscal year-end, but in no case more
25 than 12 months after the last audit conducted pursuant to this

1 Section, except as otherwise provided in this Section, it shall
2 be mandatory for each residential mortgage licensee to cause
3 its books and accounts to be audited by a certified public
4 accountant licensed under the Illinois Public Accounting Act or
5 by an equivalent state licensing law not connected with such
6 licensee. The books and records of all licensees under this Act
7 shall be maintained on an accrual basis. The audit must be
8 sufficiently comprehensive in scope to permit the expression of
9 an opinion on the financial statements, which must be prepared
10 in accordance with generally accepted accounting principles,
11 and must be performed in accordance with generally accepted
12 auditing standards. Notwithstanding the requirements of this
13 subsection, a licensee that is a first tier subsidiary may
14 submit audited consolidated financial statements of its parent
15 as long as the consolidated statements are supported by
16 consolidating statements. The licensee's chief financial
17 officer shall attest to the licensee's financial statements
18 disclosed in the consolidating statements.

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

23 (c) If a qualified or adverse opinion is expressed or if an
24 opinion is disclaimed, the reasons therefore must be fully
25 explained. An opinion, qualified as to a scope limitation,
26 shall not be acceptable.

1 (d) The most recent audit report shall be filed with the
2 Director ~~Commissioner~~ within 90 days after the end of the
3 licensee's fiscal year. The report filed with the Director
4 ~~Commissioner~~ shall be certified by the certified public
5 accountant conducting the audit. The Director ~~Commissioner~~ may
6 promulgate rules regarding late audit reports.

7 (e) If any licensee required to make an audit shall fail to
8 cause an audit to be made, the Director ~~Commissioner~~ shall
9 cause the same to be made by a certified public accountant at
10 the licensee's expense. The Director ~~Commissioner~~ shall select
11 such certified public accountant by advertising for bids or by
12 such other fair and impartial means as he or she establishes by
13 regulation.

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

19 (g) With respect to licensees who solely broker residential
20 mortgage loans as defined in subsection (o) of Section 1-4,
21 instead of the audit required by this Section, the Director
22 ~~Commissioner~~ may accept compilation financial statements
23 prepared at least every 12 months, and the compilation
24 financial statement must be prepared by an independent
25 certified public accountant licensed under the Illinois Public
26 Accounting Act or by an equivalent state licensing law with

1 full disclosure in accordance with generally accepted
2 accounting principals and must be submitted within 90 days
3 after the end of the licensee's fiscal year. If a licensee
4 under this Section fails to file a compilation as required, the
5 Director ~~Commissioner~~ shall cause an audit of the licensee's
6 books and accounts to be made by a certified public accountant
7 at the licensee's expense. The Director ~~Commissioner~~ shall
8 select the certified public accountant by advertising for bids
9 or by such other fair and impartial means as he or she
10 establishes by rule. A licensee who files false or misleading
11 compilation financial statements is guilty of a business
12 offense and shall be fined not less than \$5,000.

13 (h) The workpapers of the certified public accountants
14 employed by each licensee for purposes of this Section are to
15 be made available to the Director ~~Commissioner~~ or the
16 Director's ~~Commissioner's~~ designee upon request and may be
17 reproduced by the Director ~~Commissioner~~ or the Director's
18 ~~Commissioner's~~ designee to enable to the Director ~~Commissioner~~
19 to carry out the purposes of this Act.

20 (i) Notwithstanding any other provision of this Section, if
21 a licensee relying on subsection (g) of this Section causes its
22 books to be audited at any other time or causes its financial
23 statements to be reviewed, a complete copy of the audited or
24 reviewed financial statements shall be delivered to the
25 Director ~~Commissioner~~ at the time of the annual license renewal
26 payment following receipt by the licensee of the audited or

1 reviewed financial statements. All workpapers shall be made
2 available to the Director ~~Commissioner~~ upon request. The
3 financial statements and workpapers may be reproduced by the
4 Director ~~Commissioner~~ or the Director's ~~Commissioner's~~
5 designee to carry out the purposes of this Act.

6 (Source: P.A. 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

7 (205 ILCS 635/3-3) (from Ch. 17, par. 2323-3)

8 Sec. 3-3. Advertising. In addition to such other rules,
9 regulations and policies as the Director ~~Commissioner~~ may
10 promulgate to effectuate the purpose of this Act, the Director
11 ~~Commissioner~~ shall prescribe regulations governing the
12 advertising of mortgage loans, including without limitation,
13 the following requirements:

14 (a) Advertising for loans transacted under this Act may not
15 be false, misleading or deceptive. No entity whose activities
16 are regulated under this Act may advertise in any manner so as
17 to indicate or imply that its interest rates or charges for
18 loans are in any way "recommended", "approved", "set" or
19 "established" by the State or by this Act. The Director
20 ~~Commissioner~~ may issue a cease and desist order for any
21 violation of this Section.

22 (b) All advertisements by a licensee shall contain the name
23 and an office address of such entity, which shall conform to a
24 name and address on record with the Director ~~Commissioner~~.

25 (c) No licensee shall advertise its services in Illinois in

1 any media, whether print or electronic, without the words
2 "Illinois Residential Mortgage Licensee".

3 (Source: P.A. 87-1098.)

4 (205 ILCS 635/3-4) (from Ch. 17, par. 2323-4)

5 Sec. 3-4. Office and staff within the State.

6 (a) A licensee whose principal place of business is located
7 in the State of Illinois shall maintain at least one full
8 service office with staff reasonably adequate to handle
9 efficiently communications, questions, and all other matters
10 relating to any application for a home mortgage or an existing
11 home mortgage with respect to which such licensee is performing
12 services, regardless of kind, for any borrower or lender, note
13 owner or holder, or for himself or herself while engaged in the
14 residential mortgage business. The location and operation of a
15 full service office shall be in compliance with any applicable
16 zoning laws or ordinances and home office or business
17 regulations. The office or place of business shall not be
18 located in any real estate, retail, or financial business
19 establishment unless it is separated from the other business by
20 a separate and distinct area within the establishment.

21 (b) In lieu of maintaining a full service office in the
22 State of Illinois, and subject to the rules of the Department,
23 a licensee whose principal place of business is located outside
24 the State of Illinois may comply with all of the following
25 requirements:

1 (1) maintain a limited service office in Illinois that
2 is adequate to accommodate a full-scope examination of the
3 licensee's books and records as they relate to activity in
4 Illinois, as determined by the Department;

5 (2) ~~must~~ submit a certified audit as required in
6 Section 3-2 of this Act evidencing a minimum net worth of
7 \$150,000 ~~\$100,000~~, which must be maintained at all times;
8 and

9 (3) ~~, and shall submit and~~ maintain a fidelity bond in
10 the amount of \$100,000, a copy of which must be submitted
11 to the Department. The Department may promulgate rules
12 permitting licensees that do not comply with the net worth
13 requirement established on the effective date of this
14 amendatory Act of the 95th General Assembly to do so within
15 12 months after the effective date of this amendatory Act
16 of the 95th General Assembly.

17 (Source: P.A. 93-1018, eff. 1-1-05.)

18 (205 ILCS 635/3-5) (from Ch. 17, par. 2323-5)

19 Sec. 3-5. Net worth requirement. A licensee that holds a
20 license on the effective date of this amendatory Act of the
21 93rd General Assembly shall have and maintain a net worth of
22 not less than \$100,000; however, no later than 2 years after
23 the effective date of this amendatory Act of the 93rd General
24 Assembly, the licensee must maintain a net worth of not less
25 than \$150,000. A licensee that first obtains a license after

1 the effective date of this amendatory Act of the 93rd General
2 Assembly must have and maintain a net worth of not less than
3 \$150,000. Notwithstanding other requirements of this Section,
4 the net worth requirement for a residential mortgage licensee
5 whose only licensable activity is that of brokering residential
6 mortgage loans and that holds a license on the effective date
7 of this amendatory Act of the 93rd General Assembly shall be
8 \$35,000; however, no later than 2 years after the effective
9 date of this amendatory Act of the 93rd General Assembly, the
10 licensee must maintain a net worth of not less than \$50,000.
11 Such a licensee that first obtains a license after the
12 effective date of this amendatory Act of the 93rd General
13 Assembly must have and maintain a net worth of not less than
14 \$50,000. Net worth shall be evidenced by a balance sheet
15 prepared by a certified public accountant in accordance with
16 generally accepted accounting principles and generally
17 accepted auditing standards or by the compilation financial
18 statements authorized under subsection (g) of Section 3-2. The
19 Director ~~Commissioner~~ may promulgate rules with respect to net
20 worth definitions and requirements for residential mortgage
21 licensees as necessary to accomplish the purposes of this Act.
22 In lieu of the net worth requirement established by this
23 Section, the Director ~~Commissioner~~ may accept evidence of
24 conformance by the licensee with the net worth requirements of
25 the United States Department of Housing and Urban Development.
26 (Source: P.A. 93-561, eff. 1-1-04.)

1 (205 ILCS 635/3-9) (from Ch. 17, par. 2323-9)

2 Sec. 3-9. Escrow Funds. The Director ~~Commissioner~~ may
3 promulgate rules with respect to placement in escrow accounts
4 by any licensee of any money, fund, deposit, check or draft
5 entrusted to it by any persons dealing with it as a residential
6 mortgage licensee.

7 (Source: P.A. 85-735.)

8 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

9 Sec. 4-1. Director of the Division of Banking of the
10 Department of Financial and Professional Regulation
11 ~~Commissioner of Banks and Real Estate~~; functions, powers, and
12 duties. The functions, powers, and duties of the Director
13 ~~Commissioner of Banks and Real Estate~~ shall include the
14 following:

15 (a) To issue or refuse to issue any license as provided by
16 this Act;

17 (b) To revoke or suspend for cause any license issued under
18 this Act;

19 (c) To keep records of all licenses issued under this Act;

20 (d) To receive, consider, investigate, and act upon
21 complaints made by any person in connection with any
22 residential mortgage licensee in this State;

23 (e) To consider and act upon any recommendations from the
24 Residential Mortgage Board;

1 (f) To prescribe the forms of and receive:

2 (1) applications for licenses; and

3 (2) all reports and all books and records required to
4 be made by any licensee under this Act, including annual
5 audited financial statements and annual reports of
6 mortgage activity;

7 (g) To adopt rules and regulations necessary and proper for
8 the administration of this Act;

9 (h) To subpoena documents and witnesses and compel their
10 attendance and production, to administer oaths, and to require
11 the production of any books, papers, or other materials
12 relevant to any inquiry authorized by this Act;

13 (h-1) To issue orders against any person, if the Director
14 ~~Commissioner~~ has reasonable cause to believe that an unsafe,
15 unsound, or unlawful practice has occurred, is occurring, or is
16 about to occur, if any person has violated, is violating, or is
17 about to violate any law, rule, or written agreement with the
18 Director ~~Commissioner~~, or for the purpose of administering the
19 provisions of this Act and any rule adopted in accordance with
20 the Act;

21 (h-2) To address any inquiries to any licensee, or the
22 officers thereof, in relation to its activities and conditions,
23 or any other matter connected with its affairs, and it shall be
24 the duty of any licensee or person so addressed, to promptly
25 reply in writing to such inquiries. The Director ~~Commissioner~~
26 may also require reports from any licensee at any time the

1 Director ~~Commissioner~~ may deem desirable;

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

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

14 (k) To enforce provisions of this Act;

15 (l) To levy fees, fines, and charges for services performed
16 in administering this Act; the aggregate of all fees collected
17 by the Director ~~Commissioner~~ on and after the effective date of
18 this Act shall be paid promptly after receipt of the same,
19 accompanied by a detailed statement thereof, into the Savings
20 and Residential Finance Regulatory Fund; the amounts deposited
21 into that Fund shall be used for the ordinary and contingent
22 expenses of the Office of Banks and Real Estate. Nothing in
23 this Act shall prevent continuing the practice of paying
24 expenses involving salaries, retirement, social security, and
25 State-paid insurance of State officers by appropriation from
26 the General Revenue Fund.

1 (m) To appoint examiners, supervisors, experts, and
2 special assistants as needed to effectively and efficiently
3 administer this Act;

4 (n) To conduct hearings for the purpose of:

5 (1) appeals of orders of the Director ~~Commissioner~~;

6 (2) suspensions or revocations of licenses, or fining
7 of licensees;

8 (3) investigating:

9 (i) complaints against licensees; or

10 (ii) annual gross delinquency rates; and

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

12 (o) To exercise exclusive visitorial power over a licensee
13 unless otherwise authorized by this Act or as vested in the
14 courts, or upon prior consultation with the Director
15 ~~Commissioner~~, a foreign residential mortgage regulator with an
16 appropriate supervisory interest in the parent or affiliate of
17 a licensee;

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

22 (q) To assign an examiner or examiners to monitor the
23 affairs of a licensee with whatever frequency the Commissioner
24 determines appropriate and to charge the licensee for
25 reasonable and necessary expenses of the Director
26 ~~Commissioner~~, if in the opinion of the Director ~~Commissioner~~ an

1 emergency exists or appears likely to occur; and

2 (r) To impose civil penalties of up to \$50 per day against
3 a licensee for failing to respond to a regulatory request or
4 reporting requirement.

5 (Source: P.A. 93-1018, eff. 1-1-05.)

6 (205 ILCS 635/4-2) (from Ch. 17, par. 2324-2)

7 Sec. 4-2. Examination; prohibited activities.

8 (a) The business affairs of a licensee under this Act shall
9 be examined for compliance with this Act as often as the
10 Director ~~Commissioner~~ deems necessary and proper. The Director
11 ~~Commissioner~~ shall promulgate rules with respect to the
12 frequency and manner of examination. The Director ~~Commissioner~~
13 shall appoint a suitable person to perform such examination.
14 The Director ~~Commissioner~~ and his appointees may examine the
15 entire books, records, documents, and operations of each
16 licensee and its subsidiary, affiliate, or agent, and may
17 examine any of the licensee's or its subsidiary's, affiliate's,
18 or agent's officers, directors, employees and agents under
19 oath. For purposes of this Section, "agent" includes service
20 providers such as accountants, closing services providers,
21 providers of outsourced services such as call centers,
22 marketing consultants, and loan processors, even if exempt from
23 licensure under this Act.

24 (b) The Director ~~Commissioner~~ shall prepare a sufficiently
25 detailed report of each licensee's examination, shall issue a

1 copy of such report to each licensee's principals, officers, or
2 directors and shall take appropriate steps to ensure correction
3 of violations of this Act.

4 (c) Affiliates of a licensee shall be subject to
5 examination by the Director ~~Commissioner~~ on the same terms as
6 the licensee, but only when reports from, or examination of a
7 licensee provides for documented evidence of unlawful activity
8 between a licensee and affiliate benefiting, affecting or
9 deriving from the activities regulated by this Act.

10 (d) The expenses of any examination of the licensee and
11 affiliates shall be borne by the licensee and assessed by the
12 Commissioner as established by regulation.

13 (e) Upon completion of the examination, the Director
14 ~~Commissioner~~ shall issue a report to the licensee. All
15 confidential supervisory information, including the
16 examination report and the work papers of the report, shall
17 belong to the Director's ~~Commissioner's~~ office and may not be
18 disclosed to anyone other than the licensee, law enforcement
19 officials or other regulatory agencies that have an appropriate
20 regulatory interest as determined by the Commissioner, or to a
21 party presenting a lawful subpoena to the Office of the
22 Director ~~Commissioner~~. The Director ~~Commissioner~~ may
23 immediately appeal to the court of jurisdiction the disclosure
24 of such confidential supervisory information and seek a stay of
25 the subpoena pending the outcome of the appeal. Reports
26 required of licensees by the Director ~~Commissioner~~ under this

1 Act and results of examinations performed by the Director
2 ~~Commissioner~~ under this Act shall be the property of only the
3 Director ~~Commissioner~~, but may be shared with the licensee.
4 Access under this Act to the books and records of each licensee
5 shall be limited to the Director ~~Commissioner~~ and his agents as
6 provided in this Act and to the licensee and its authorized
7 agents and designees. No other person shall have access to the
8 books and records of a licensee under this Act. Any person upon
9 whom a demand for production of confidential supervisory
10 information is made, whether by subpoena, order, or other
11 judicial or administrative process, must withhold production
12 of the confidential supervisory information and must notify the
13 Director ~~Commissioner~~ of the demand, at which time the Director
14 ~~Commissioner~~ is authorized to intervene for the purpose of
15 enforcing the limitations of this Section or seeking the
16 withdrawal or termination of the attempt to compel production
17 of the confidential supervisory information. The Director
18 ~~Commissioner~~ may impose any conditions and limitations on the
19 disclosure of confidential supervisory information that are
20 necessary to protect the confidentiality of such information.
21 Except as authorized by the Director ~~Commissioner~~, no person
22 obtaining access to confidential supervisory information may
23 make a copy of the confidential supervisory information. The
24 Director ~~Commissioner~~ may condition a decision to disclose
25 confidential supervisory information on entry of a protective
26 order by the court or administrative tribunal presiding in the

1 particular case or on a written agreement of confidentiality.
2 In a case in which a protective order or agreement has already
3 been entered between parties other than the Director
4 ~~Commissioner~~, the Director ~~Commissioner~~ may nevertheless
5 condition approval for release of confidential supervisory
6 information upon the inclusion of additional or amended
7 provisions in the protective order. The Director ~~Commissioner~~
8 may authorize a party who obtained the records for use in one
9 case to provide them to another party in another case, subject
10 to any conditions that the Director ~~Commissioner~~ may impose on
11 either or both parties. The requestor shall promptly notify
12 other parties to a case of the release of confidential
13 supervisory information obtained and, upon entry of a
14 protective order, shall provide copies of confidential
15 supervisory information to the other parties.

16 (f) The Director, deputy directors, and employees of the
17 Division of Banks of the Department of Financial and
18 Professional Regulation ~~Commissioner, deputy commissioners,~~
19 ~~and employees of the Office of Banks and Real Estate~~ shall be
20 subject to the restrictions provided in Section 2.5 of the
21 Office of Banks and Real Estate Act including, without
22 limitation, the restrictions on (i) owning shares of stock or
23 holding any other equity interest in an entity regulated under
24 this Act or in any corporation or company that owns or controls
25 an entity regulated under this Act; (ii) being an officer,
26 director, employee, or agent of an entity regulated under this

1 Act; and (iii) obtaining a loan or accepting a gratuity from an
2 entity regulated under this Act.

3 (g) After the initial examination for those licensees whose
4 only mortgage activity is servicing fewer than 1,000 Illinois
5 residential loans, the examination required in subsection (a)
6 may be waived upon submission of a letter from the licensee's
7 independent certified auditor that the licensee serviced fewer
8 than 1,000 Illinois residential loans during the year in which
9 the audit was performed.

10 (Source: P.A. 93-1018, eff. 1-1-05.)

11 (205 ILCS 635/4-3) (from Ch. 17, par. 2324-3)

12 Sec. 4-3. Subpoena power of the Director ~~Commissioner~~. (a)
13 The Director ~~Commissioner~~ shall have the power to issue and to
14 serve subpoenas and subpoenas duces tecum to compel the
15 attendance of witnesses and the production of all books,
16 accounts, records and other documents and materials relevant to
17 an examination or investigation. The Director ~~Commissioner~~ or
18 his or her duly authorized representative, shall have power to
19 administer oaths and affirmations to any person.

20 (b) In the event of noncompliance with a subpoena or
21 subpoena duces tecum issued or caused to be issued by the
22 Director ~~Commissioner~~, the Director ~~Commissioner~~ may petition
23 the circuit court of the county in which the person subpoenaed
24 resides or has its principal place of business for an order
25 requiring the subpoenaed person to appear and testify and to

1 produce such books, accounts, records and other documents as
2 are specified in the subpoena duces tecum. The court may grant
3 injunctive relief restraining the person from advertising,
4 promoting, soliciting, entering into, offering to enter into,
5 continuing, or completing any residential mortgage financing
6 transaction or residential mortgage servicing transaction. The
7 court may grant such other relief, including, but not limited
8 to, the restraint, by injunction or appointment of a receiver,
9 of any transfer, pledge, assignment or other disposition of the
10 person's assets or any concealment, alteration, destruction or
11 other disposition of books, accounts, records or other
12 documents and materials as the court deems appropriate, until
13 the person has fully complied with the subpoena or subpoena
14 duces tecum and the Director ~~Commissioner~~ has completed an
15 investigation or examination.

16 (c) When it shall appear to the Director ~~Commissioner~~ that
17 the compliance with a subpoena or subpoena duces tecum issued
18 or caused to be issued by the Director ~~Commissioner~~ pursuant to
19 this Section is essential to an investigation or examination,
20 the Director ~~Commissioner~~, in addition to the other remedies
21 provided for herein, may apply for relief to the circuit court
22 of the county in which the subpoenaed person resides or has its
23 principal place of business. The court shall thereupon direct
24 the issuance of an order against the subpoenaed person
25 requiring sufficient bond conditioned on compliance with the
26 subpoena or subpoena duces tecum. The court shall cause to be

1 endorsed on the order a suitable amount of bond or payment
2 pursuant to which the person named in the order shall be freed,
3 having a due regard to the nature of the case.

4 (d) In addition, the Director ~~Commissioner~~ may seek a writ
5 of attachment or an equivalent order from the circuit court
6 having jurisdiction over the person who has refused to obey a
7 subpoena, who has refused to give testimony or who has refused
8 to produce the matters described in the subpoena duces tecum.

9 (Source: P.A. 85-735.)

10 (205 ILCS 635/4-4) (from Ch. 17, par. 2324-4)

11 Sec. 4-4. Report Required of Licensee; False Statements;
12 Delay; Penalties. (a) In addition to any reports required under
13 this Act, every licensee shall file such other reports as the
14 Director ~~Commissioner~~ shall request.

15 (b) Any licensee or any officer, director, employee or
16 agent of any licensee who shall fail to file any reports
17 required by this Act, including those under subsection (a)
18 above, or who shall deliberately, wilfully or knowingly make,
19 subscribe to or cause to be made any false entry with intent to
20 deceive the Director ~~Commissioner~~ or his or her appointees or
21 who shall purposely cause unreasonable delay in filing such
22 reports, shall be guilty of a Class 4 Felony.

23 (Source: P.A. 85-735.)

24 (205 ILCS 635/4-5) (from Ch. 17, par. 2324-5)

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

2 (a) Upon written notice to a licensee, the Director
3 ~~Commissioner~~ may suspend or revoke any license issued pursuant
4 to this Act if he or she shall make a finding of one or more of
5 the following in the notice that:

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

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

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

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

25 (c) The Director ~~Commissioner~~, on good cause shown that an
26 emergency exists, may suspend any license for a period not

1 exceeding 180 days, pending investigation. Upon a showing that
2 a licensee has failed to meet the experience or educational
3 requirements of Section 2-2 or the requirements of subsection
4 (g) of Section 3-2, the Director ~~Commissioner~~ shall suspend,
5 prior to hearing as provided in Section 4-12, the license until
6 those requirements have been met.

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

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

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

22 (g) Whenever the Director ~~Commissioner~~ shall revoke or
23 suspend a license issued pursuant to this Act or fine a
24 licensee under this Act, he or she shall forthwith execute ~~in~~
25 ~~duplicate~~ a written order to that effect. The Director
26 ~~Commissioner~~ shall publish notice of such order in the Illinois

1 Register ~~or and~~ post notice of the order on an agency Internet
2 site maintained by the Director ~~Commissioner~~ and shall
3 forthwith serve a copy of such order upon the licensee. Any
4 such order may be reviewed in the manner provided by Section
5 4-12 of this Act.

6 (h) When the Director ~~Commissioner~~ finds any person in
7 violation of the grounds set forth in subsection (i), he or she
8 may enter an order imposing one or more of the following
9 penalties:

10 (1) Revocation of license;

11 (2) Suspension of a license subject to reinstatement
12 upon satisfying all reasonable conditions the Director
13 ~~Commissioner~~ may specify;

14 (3) Placement of the licensee or applicant on probation
15 for a period of time and subject to all reasonable
16 conditions as the Director ~~Commissioner~~ may specify;

17 (4) Issuance of a reprimand;

18 (5) Imposition of a fine not to exceed \$25,000 for each
19 count of separate offense; and

20 (6) Denial of a license.

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

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

1 moral turpitude;

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

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

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

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

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

20 (7) Failure to disburse funds in accordance with
21 agreements;

22 (8) Any misuse, misapplication, or misappropriation of
23 trust funds or escrow funds;

24 (9) Having a license, or the equivalent, to practice
25 any profession or occupation revoked, suspended, or
26 otherwise acted against, including the denial of licensure

1 by a licensing authority of this State or another state,
2 territory or country for fraud, dishonest dealing or any
3 other act of moral turpitude;

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

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

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

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

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

21 (15) Refusing, obstructing, evading, or unreasonably
22 delaying an investigation, information request, or
23 examination authorized under this Act, or refusing,
24 obstructing, evading, or unreasonably delaying compliance
25 with the Director's Refusal to permit an investigation or
26 examination of the licensee's or its affiliates' books and

1 ~~records or refusal to comply with the Commissioner's~~
2 subpoena or subpoena duces tecum;

3 (16) A pattern of substantially underestimating the
4 maximum closing costs;

5 (17) Failure to comply with or violation of any
6 provision of this Act.

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

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

15 (l) Procedure for surrender of license:

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

25 (i) The licensee has failed to comply with any
26 provision of this Act or any order, decision, finding,

1 rule, regulation or direction of the Director
2 ~~Commissioner~~ lawfully made pursuant to the authority
3 of this Act; or

4 (ii) Any fact or condition exists which, if it had
5 existed at the time of the original application for the
6 license, clearly would have warranted the Commissioner
7 in refusing to issue the license.

8 (2) A surrender of a license ~~Any licensee may surrender~~
9 ~~a license by delivering to the Commissioner written notice~~
10 ~~that he or she thereby surrenders such license, but~~
11 ~~surrender~~ shall not affect the licensee's civil or criminal
12 liability for acts committed prior to surrender or entitle
13 the licensee to a return of any part of the license fee.

14 (Source: P.A. 93-561, eff. 1-1-04; 93-1018, eff. 1-1-05.)

15 (205 ILCS 635/4-6) (from Ch. 17, par. 2324-6)

16 Sec. 4-6. Investigation of Complaints. The Director
17 ~~Commissioner~~ shall at all times maintain staff and facilities
18 adequate to receive, record and investigate complaints and
19 inquiries made by any person concerning this Act and any
20 licensees under this Act. Each licensee shall open its books,
21 records, documents and offices wherever situated to the
22 Director ~~Commissioner~~ or his or her appointees as needed to
23 facilitate such investigations.

24 (Source: P.A. 85-735.)

1 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

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

3 (a) The Director ~~Commissioner~~ shall obtain from the U.S.
4 Department of Housing and Urban Development on a semi-annual
5 basis that Department's default claim rates for endorsements
6 issued by that Department.

7 (b) The Director ~~Commissioner~~ shall conduct an examination
8 of each licensee having a default rate equal to or greater than
9 5%.

10 This subsection shall not be construed as a limitation of
11 the Director's ~~Commissioner's~~ examination authority under
12 Section 4-2 of this Act or as otherwise provided in this Act.
13 The Director ~~Commissioner~~ may require a licensee to provide
14 loan default data as the Director ~~Commissioner~~ deems necessary
15 for the proper enforcement of the Act.

16 (c) The purpose of the examination under subsection (b)
17 shall be to determine whether the default rate of the licensee
18 has resulted from practices which deviate from sound and
19 accepted mortgage underwriting practices, including but not
20 limited to credit fraud, appraisal fraud and property
21 inspection fraud. For the purpose of conducting this
22 examination, the Director ~~Commissioner~~ may accept materials
23 prepared for the U.S. Department of Housing and Urban
24 Development. At the conclusion of the examination, the Director
25 ~~Commissioner~~ shall make his or her findings available to the
26 Residential Mortgage Board.

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

17 (e) The Director ~~Commissioner~~ shall, at the conclusion of
18 the public hearings, release his or her findings and shall also
19 make public any action taken with respect to the licensee. The
20 Director ~~Commissioner~~ shall also give full consideration to the
21 findings of this examination whenever reapplication is made by
22 the licensee for a new license under this Act.

23 (f) A licensee that is examined pursuant to subsection (b)
24 shall submit to the Director ~~Commissioner~~ a plan which shall be
25 designed to reduce that licensee's default rate to a figure
26 that is less than 5%. The plan shall be implemented by the

1 licensee as approved by the Director ~~Commissioner~~. A licensee
2 that is examined pursuant to subsection (b) shall report
3 monthly, for a one year period, one, 2, and 3 month defaults.

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

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

15 (205 ILCS 635/4-8.2)

16 Sec. 4-8.2. Reports of violations. Any person licensed
17 under this Act or any other person may report to the Director
18 ~~Commissioner~~ any information to show that a person subject to
19 this Act is or may be in violation of this Act.

20 (Source: P.A. 93-561, eff. 1-1-04.)

21 (205 ILCS 635/4-8.3)

22 Sec. 4-8.3. Annual reports ~~report~~ of mortgage, brokerage,
23 and servicing activity. On or before March 1 of each year, or
24 by the date selected by the multistate automated licensing

1 system, each licensee, ~~except residential mortgage brokers,~~
2 shall file a report of its mortgage, brokerage, and servicing
3 activity with the Director ~~Commissioner~~ that shall disclose
4 such information as the Commissioner requires. Exempt entities
5 as defined in subsection (d) of Section 1-4 shall not file the
6 annual reports ~~report~~ of mortgage, brokerage, and servicing
7 activity required by this Section.

8 (Source: P.A. 93-1018, eff. 1-1-05.)

9 (205 ILCS 635/4-10) (from Ch. 17, par. 2324-10)

10 (Text of Section before amendment by P.A. 95-691)

11 Sec. 4-10. Rules and Regulations of the Director
12 ~~Commissioner~~. (a) In addition to such powers as may be
13 prescribed by this Act, the Director ~~Commissioner~~ is hereby
14 authorized and empowered to promulgate regulations consistent
15 with the purposes of this Act, including but not limited to:

16 (1) Such rules and regulations in connection with the
17 activities of licensees as may be necessary and appropriate for
18 the protection of consumers in this State;

19 (2) Such rules and regulations as may be necessary and
20 appropriate to define improper or fraudulent business
21 practices in connection with the activities of licensees in
22 making mortgage loans;

23 (3) Such rules and regulations as may define the terms used
24 in this Act and as may be necessary and appropriate to
25 interpret and implement the provisions of this Act; and

1 (4) Such rules and regulations as may be necessary for the
2 enforcement of this Act.

3 (b) The Director ~~Commissioner~~ is hereby authorized and
4 empowered to make such specific rulings, demands and findings
5 as he or she may deem necessary for the proper conduct of the
6 mortgage lending industry.

7 (Source: P.A. 85-735.)

8 (Text of Section after amendment by P.A. 95-691)

9 Sec. 4-10. Rules and Regulations of the Director
10 ~~Commissioner~~.

11 (a) In addition to such powers as may be prescribed by this
12 Act, the Director ~~Commissioner~~ is hereby authorized and
13 empowered to promulgate regulations consistent with the
14 purposes of this Act, including but not limited to:

15 (1) Such rules and regulations in connection with the
16 activities of licensees as may be necessary and appropriate
17 for the protection of consumers in this State;

18 (2) Such rules and regulations as may be necessary and
19 appropriate to define improper or fraudulent business
20 practices in connection with the activities of licensees in
21 making mortgage loans;

22 (3) Such rules and regulations as may define the terms
23 used in this Act and as may be necessary and appropriate to
24 interpret and implement the provisions of this Act; and

25 (4) Such rules and regulations as may be necessary for

1 the enforcement of this Act.

2 (b) The Director ~~Commissioner~~ is hereby authorized and
3 empowered to make such specific rulings, demands and findings
4 as he or she may deem necessary for the proper conduct of the
5 mortgage lending industry.

6 (c) A person or entity may make a written application to
7 the Department for a written interpretation of this Act. The
8 Department may then, in its sole discretion, choose to issue a
9 written interpretation. To be valid, a written interpretation
10 must be signed by the Secretary, or his or her designated
11 Director of Financial and Professional Regulation, and the
12 Department's General Counsel. A written interpretation expires
13 2 years after the date that it was issued.

14 (d) No provision in this Act that imposes liability or
15 establishes violations shall apply to any act taken by a person
16 or entity in conformity with a written interpretation of this
17 Act that is in effect at the time the act is taken,
18 notwithstanding whether the written interpretation is later
19 amended, rescinded, or determined by judicial or other
20 authority to be invalid for any reason.

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

22 (205 ILCS 635/4-11) (from Ch. 17, par. 2324-11)

23 Sec. 4-11. Costs of Supervision; Examination and
24 Investigative Fees. The expenses of administering this Act,
25 including investigations and examinations provided for in this

1 Act shall be borne by and assessed against entities regulated
2 by this Act. The Director ~~Commissioner~~ shall establish fees by
3 regulation in at least the following categories:

4 (1) application fees;

5 (2) investigation of license applicant fees;

6 (3) examination fees;

7 (4) contingent fees;

8 and such other categories as may be required to administer this
9 Act.

10 (Source: P.A. 85-735.)

11 (205 ILCS 635/4-12) (from Ch. 17, par. 2324-12)

12 Sec. 4-12. Appeal and Review. (a) Any person or entity
13 affected by a decision of the Director ~~Commissioner~~ under any
14 provision of this Act may obtain review of such decision within
15 the Office of the Director ~~Commissioner~~.

16 (b) The Director ~~Commissioner~~ shall, in accordance with the
17 "Illinois Administrative Procedure Act", promulgate rules and
18 regulations to provide for review within the Office of the
19 Director ~~Commissioner~~ (hereinafter referred to as "agency
20 review") of his or her decisions affecting the rights of
21 entities under this Act. Such review shall provide for, at a
22 minimum:

23 (1) appointment of a hearing officer other than a regular
24 employee of the Office of the Director ~~Commissioner~~;

25 (2) appropriate procedural rules, specific deadlines for

1 filings, and standards of evidence and of proof;

2 (3) provision for apportioning costs among parties to the
3 appeal.

4 (c) All final agency determinations of appeals to decisions
5 of the Director ~~Commissioner~~ may be reviewed in accordance with
6 and under the provisions of the "Administrative Review Law".
7 Appeals from all final orders and judgments entered by a court
8 in review of any final administrative decision of the Director
9 ~~Commissioner~~ or of any final agency review of a decision of the
10 Director ~~Commissioner~~ may be taken as in other civil cases.

11 (Source: P.A. 85-735.)

12 (205 ILCS 635/4-13) (from Ch. 17, par. 2324-13)

13 Sec. 4-13. Violations of this Act; Director's
14 ~~Commissioner's~~ Orders. If the Director ~~Commissioner~~ finds, as
15 the result of examination, investigation or review of reports
16 submitted by a licensee that the business and affairs of a
17 licensee are not being conducted in accordance with this Act,
18 the Director ~~Commissioner~~ shall notify the licensee of the
19 correction necessary. Should a licensee fail to correct such
20 violations, the Director ~~Commissioner~~ shall issue an order
21 requiring immediate correction and compliance with this Act,
22 specifying a reasonable date for performance.

23 The Director ~~Commissioner~~ shall promulgate rules and
24 regulations to provide for an orderly and timely appeal of all
25 orders within the Office of the Director ~~Commissioner~~. Such

1 rules shall include provision for assessment of fees and costs.

2 (Source: P.A. 85-735.)

3 (205 ILCS 635/5-1) (from Ch. 17, par. 2325-1)

4 Sec. 5-1. The Director ~~Commissioner~~ may promulgate rules
5 with respect to brokering and lending procedures of residential
6 mortgage licensees as necessary to accomplish the purposes of
7 this Act.

8 (Source: P.A. 85-735.)

9 (205 ILCS 635/6-3) (from Ch. 17, par. 2326-3)

10 Sec. 6-3. Appointment of receiver or conservator. When the
11 Director ~~Commissioner~~ makes a finding that a receivership or
12 conservatorship is necessary to protect consumers of a licensee
13 from the consequences of the licensee's failures to comply with
14 this Act or other unsafe and unsound practices, the Director
15 ~~Commissioner~~ shall request the Attorney General of this State
16 to petition the Circuit Court of Cook County, or of the county
17 in which the licensee is located, to appoint a receiver or
18 conservator for purposes of protecting consumers and resolving
19 the affairs of the licensee.

20 (Source: P.A. 87-1098.)

21 (205 ILCS 635/7-1)

22 Sec. 7-1. Registration required; rules and regulations.
23 Beginning 6 months after the effective date of this amendatory

1 Act of the 93rd General Assembly, it is unlawful for any
2 natural person to act or assume to act as a loan originator, as
3 defined in subsection (hh) of Section 1-4, without being
4 registered with the Director ~~Commissioner~~ unless the natural
5 person is exempt under items (1) and (1.5) of subsection (d) of
6 Section 1-4 of this Act. The Director ~~Commissioner~~ shall
7 promulgate rules prescribing the criteria for the registration
8 and regulation of loan originators, including but not limited
9 to, qualifications, fees, examination, education, supervision,
10 and enforcement.

11 (Source: P.A. 93-561, eff. 1-1-04.)

12 Section 95. No acceleration or delay. Where this Act makes
13 changes in a statute that is represented in this Act by text
14 that is not yet or no longer in effect (for example, a Section
15 represented by multiple versions), the use of that text does
16 not accelerate or delay the taking effect of (i) the changes
17 made by this Act or (ii) provisions derived from any other
18 Public Act.

19 Section 950. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.

21 Section 999. Effective date. This Act takes effect January
22 1, 2009.

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