



Sen. Kwame Raoul

Filed: 5/6/2009

09600HB4011sam002

LRB096 05294 MJR 26273 a

1 AMENDMENT TO HOUSE BILL 4011

2 AMENDMENT NO. _____. Amend House Bill 4011 on page 1, line
3 5, by replacing "1-2," with "1-2, 1-3,"; and

4 on page 1, line 6, by replacing "4-8.3, and" with "4-8.3, 7-1,
5 and"; and

6 on page 3, immediately below line 19, by inserting the
7 following:

8 "(205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

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

10 (a) No person, partnership, association, corporation or
11 other entity shall engage in the business of brokering,
12 funding, originating, servicing or purchasing of residential
13 mortgage loans without first obtaining a license from the
14 Commissioner in accordance with the licensing procedure
15 provided in this Article I and such regulations as may be

1 promulgated by the Commissioner. The licensing provisions of
2 this Section shall not apply to any entity engaged solely in
3 commercial mortgage lending or to any person, partnership
4 association, corporation or other entity exempted pursuant to
5 Section 1-4, subsection (d), of this Act or in accordance with
6 regulations promulgated by the Commissioner hereunder. No
7 provision of this Act shall apply to an exempt person or entity
8 as defined in items (1) and (1.5) of subsection (d) of Section
9 1-4 of this Act.

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

17 (c) The Commissioner may, through the Attorney General,
18 request the circuit court of either Cook or Sangamon County to
19 issue an injunction to restrain any person from violating or
20 continuing to violate any of the foregoing provisions of this
21 Section.

22 (d) When the Commissioner has reasonable cause to believe
23 that any entity which has not submitted an application for
24 licensure is conducting any of the activities described in
25 subsection (a) hereof, the Commissioner shall have the power to
26 examine all books and records of the entity and any additional

1 documentation necessary in order to determine whether such
2 entity should become licensed under this Act.

3 (d-1) The Commissioner may issue orders against any person
4 if the Commissioner has reasonable cause to believe that an
5 unsafe, unsound, or unlawful practice has occurred, is
6 occurring, or is about to occur, if any person has violated, is
7 violating, or is about to violate any law, rule, or written
8 agreement with the Commissioner, or for the purposes of
9 administering the provisions of this Act and any rule adopted
10 in accordance with this Act.

11 (e) Any person, partnership, association, corporation or
12 other entity who violates any provision of this Section commits
13 a business offense and shall be fined an amount not to exceed
14 \$25,000.

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

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

26 (h) This Act applies to all entities doing business in

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

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

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

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

15 on page 6, by replacing lines 1 through 3 with the following:

16 "(1.5) Any employee of a person or entity mentioned in
17 item (1) of this subsection, when acting for such person or
18 entity, or any registered mortgage loan originator when
19 acting for an entity described in subsection (tt) of this
20 Section."; and

21 on page 7, immediately below line 12, by inserting the
22 following:

23 "(7) A nonprofit organization that is recognized as tax
24 exempt under 26 U.S.C. 501(c)(3) whose primary activity is

1 the construction, remodeling, or rehabilitation of homes
2 for sale to and or use by low-income families is exempt
3 from this Section provided that:

4 (A) the nonprofit organization makes no profit
5 mortgage loans to low-income families; and

6 (B) no fees accrue directly to the nonprofit
7 organization from those mortgage loans."; and

8 on page 19, immediately below line 18, by inserting the
9 following:

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

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

14 on page 48, line 12, by replacing "in duplicate" with "~~in~~
15 duplicate"; and

16 on page 48, line 16, after "Commissioner", by inserting "or on
17 the Nationwide Mortgage Licensing System and Registry"; and

18 on page 59, line 13, by replacing "brokering" with "brokerage";
19 and

20 by replacing line 9 on page 60 through line 22 on page 62 with
21 the following:

1 "(205 ILCS 635/7-1)

2 Sec. 7-1. Registration required; rules and regulations.
3 Beginning 6 months after the effective date of this amendatory
4 Act of the 93rd General Assembly, it is unlawful for any
5 natural person to act or assume to act as a loan originator, as
6 defined in subsection (hh) of Section 1-4, without being
7 registered with the Commissioner unless the natural person is
8 exempt under items (1) and (1.5) of subsection (d) of Section
9 1-4 of this Act. The Commissioner shall promulgate rules
10 prescribing the criteria for the registration and regulation of
11 loan originators, including but not limited to,
12 qualifications, fees, examination, education, supervision, and
13 enforcement. This Section shall not be effective on or after
14 (1) the operability date of January 1, 2011 or (2) the
15 operability date selected pursuant to Section 7-1A of this Act
16 for a mortgage loan originator license; provided, however, that
17 a violation of this Section committed before the operability
18 date remains subject to penalties authorized by this Act.

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

20 (205 ILCS 635/7-1A new)

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

22 (a) It is unlawful for any individual to act or assume to
23 act as a mortgage loan originator, as defined in subsection
24 (jj) of Section 1-4 of this Act, without obtaining a license

1 from the Director, unless the individual is exempt under
2 subsection (c) of this Section. Each licensed mortgage loan
3 originator must register with and maintain a valid unique
4 identifier issued by the Nationwide Mortgage Licensing System
5 and Registry.

6 (b) In order to facilitate an orderly transition to
7 licensing and minimize disruption in the mortgage marketplace,
8 the operability date for subsection (a) of this Section shall
9 be January 1, 2011, or any later date approved by the Secretary
10 of the U.S. Department of Housing and Urban Development,
11 pursuant to the authority granted under federal Public Law
12 110-289, Section 1508(a), provided that for all individuals who
13 are loss mitigation specialists employed by servicers, the
14 operability date shall be July 31, 2011, or any later date
15 approved by the Secretary of the U.S. Department of Housing and
16 Urban Development pursuant to authority granted under Public
17 Law 110-289, Section 1508(a).

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

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

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

25 (3) Any individual who offers or negotiates terms of a
26 residential mortgage loan secured by a dwelling that served

1 as the individual's residence.

2 (4) A licensed attorney who negotiates the terms of a
3 residential mortgage loan on behalf of a client as an
4 ancillary matter to the attorney's representation of the
5 client, unless the attorney is compensated by a lender, a
6 mortgage broker, or other mortgage loan originator or by
7 any agent of a lender, mortgage broker, or other mortgage
8 loan originator.

9 (d) A loan processor or underwriter who is an independent
10 contractor may not engage in the activities of a loan processor
11 or underwriter unless he or she obtains and maintains a license
12 under subsection (a) of this Section. Each independent
13 contractor loan processor or underwriter licensed as a mortgage
14 loan originator must have and maintain a valid unique
15 identifier issued by the Nationwide Mortgage Licensing System
16 and Registry.

17 (e) For the purposes of implementing an orderly and
18 efficient licensing process, the Director may establish
19 licensing rules or regulations and interim procedures for
20 licensing and acceptance of applications. For previously
21 registered or licensed individuals, the Director may establish
22 expedited review and licensing procedures."; and

23 on page 66, line 18, by replacing "7-11" with "7-12".