

1 AN ACT concerning property.

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

4 Section 5. The Mortgage Escrow Account Act is amended by
5 adding Section 6.5 as follows:

6 (765 ILCS 910/6.5 new)

7 Sec. 6.5. Homeownership preservation program.

8 (a) For purposes of this Section,

9 "Homeownership Preservation Program" means

10 (1) a program that is expressly intended to assist
11 homeowners by refinancing or restructuring existing
12 mortgage obligations either (i) to avoid default or
13 foreclosure, or both, or (ii) to lower interest rates, and
14 that is sponsored by a federal, state, or local government
15 authority or a non-profit organization; or

16 (2) a lender-sponsored program that is expressly
17 intended to assist homeowners by restructuring existing
18 mortgage obligations to avoid default or foreclosure, or
19 both.

20 "Subprime Mortgage Lender" means a mortgage lender that
21 has, for at least 2 of the prior 3 reporting years, reported
22 the rate spread, as required under 12 C.F.R. § 203.4(a)(12),
23 for at least 75% of the loans reported by the mortgage lender

1 in the Loan/Application Register filed in compliance with the
2 federal Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq.,
3 and implementing Regulation C, 12 C.F.R. 201 et seq.

4 (b) Section 6 shall not apply:

5 (1) to a mortgage loan made by a subprime mortgage
6 lender in compliance with the requirements for
7 higher-priced mortgage loans established in Regulation Z
8 12 C.F.R. Part 226, issued by the Board of Governors of the
9 Federal Reserve System to implement the federal Truth in
10 Lending Act, whether or not the mortgage loan is a
11 higher-priced mortgage loan, provided that:

12 (A) for loans that are not higher-priced mortgage
13 loans, the escrow account must be terminated upon the
14 borrower's request at no cost to the borrower; and

15 (B) for loans that are higher-priced mortgage
16 loans, the escrow account must be terminated upon the
17 borrower's request at no cost to the borrower on terms
18 no stricter than the following conditions:

19 (i) the escrow termination requirements
20 established in Regulation Z are satisfied;

21 (ii) the borrower has maintained a
22 satisfactory payment history (no payments more
23 than 30 days late) for the 12 months prior to the
24 mortgage lender's receipt of the borrower's
25 termination request; and

26 (iii) the borrower has reimbursed the mortgage

1 lender for any escrow advances or escrow
2 deficiencies existing at the time of the
3 borrower's termination request.

4 (2) to a refinance or modification made by a subprime
5 mortgage lender under a homeownership preservation program
6 that requires establishment of an escrow account as a
7 condition or requirement of the refinance or modification,
8 provided that the escrow account must be terminated upon
9 the borrower's request at no cost to the borrower on terms
10 no stricter than the following conditions:

11 (A) termination is permitted under the terms of the
12 government or non-profit sponsored homeownership
13 preservation program, if applicable, and the borrower
14 complies with all conditions or requirements for
15 termination established by or allowed under such
16 program;

17 (B) the borrower has maintained a satisfactory
18 payment history (no payments more than 30 days late)
19 for the 12 months prior to the mortgage lender's
20 receipt of the borrower's termination request; and

21 (C) the borrower has reimbursed the mortgage
22 lender for any escrow advances or escrow deficiencies
23 existing at the time of the borrower's termination
24 request.

25 Termination may not be denied for failure to reimburse
26 escrow advances or escrow deficiencies under item (iii) of

1 subparagraph (B) of paragraph (1) of subsection (b), or
2 subparagraph (C) of paragraph (2) of subsection (b) if the
3 borrower claims, in writing, that there is an error with such
4 advances or deficiencies. In such case, the lender must
5 terminate the escrow account if all other conditions of
6 termination are satisfied; however, such termination will not
7 alter or affect any other rights of the mortgage lender or the
8 borrower with respect to the collection of such escrow advances
9 or escrow deficiencies.

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.