

1 AN ACT concerning regulation.

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

4 Section 5. The Residential Mortgage License Act of 1987 is  
5 amended by changing Sections 1-4, 2-2, 2-4, and 3-2 as follows:

6 (205 ILCS 635/1-4)

7 Sec. 1-4. Definitions.

8 (a) "Residential real property" or "residential real  
9 estate" shall mean any real property located in Illinois, upon  
10 which is constructed or intended to be constructed a dwelling.

11 (b) "Making a residential mortgage loan" or "funding a  
12 residential mortgage loan" shall mean for compensation or gain,  
13 either directly or indirectly, advancing funds or making a  
14 commitment to advance funds to a loan applicant for a  
15 residential mortgage loan.

16 (c) "Soliciting, processing, placing, or negotiating a  
17 residential mortgage loan" shall mean for compensation or gain,  
18 either directly or indirectly, accepting or offering to accept  
19 an application for a residential mortgage loan, assisting or  
20 offering to assist in the processing of an application for a  
21 residential mortgage loan on behalf of a borrower, or  
22 negotiating or offering to negotiate the terms or conditions of  
23 a residential mortgage loan with a lender on behalf of a

1 borrower including, but not limited to, the submission of  
2 credit packages for the approval of lenders, the preparation of  
3 residential mortgage loan closing documents, including a  
4 closing in the name of a broker.

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

6 (1) (i) Any banking organization or foreign banking  
7 corporation licensed by the Illinois Commissioner of Banks  
8 and Real Estate or the United States Comptroller of the  
9 Currency to transact business in this State; (ii) any  
10 national bank, federally chartered savings and loan  
11 association, federal savings bank, federal credit union;  
12 (iii) (blank); ~~any pension trust, bank trust, or bank trust~~  
13 ~~company;~~ (iv) any bank, savings and loan association,  
14 savings bank, or credit union organized under the laws of  
15 this or any other state; (v) any Illinois Consumer  
16 Installment Loan Act licensee; (vi) any insurance company  
17 authorized to transact business in this State; (vii) any  
18 entity engaged solely in commercial mortgage lending;  
19 (viii) any service corporation of a savings and loan  
20 association or savings bank organized under the laws of  
21 this State or the service corporation of a federally  
22 chartered savings and loan association or savings bank  
23 having its principal place of business in this State, other  
24 than a service corporation licensed or entitled to  
25 reciprocity under the Real Estate License Act of 2000; or  
26 (ix) any first tier subsidiary of a bank, the charter of

1           which is issued under the Illinois Banking Act by the  
2           Illinois Commissioner of Banks and Real Estate, or the  
3           first tier subsidiary of a bank chartered by the United  
4           States Comptroller of the Currency and that has its  
5           principal place of business in this State, provided that  
6           the first tier subsidiary is regularly examined by the  
7           Illinois Commissioner of Banks and Real Estate or the  
8           Comptroller of the Currency, or a consumer compliance  
9           examination is regularly conducted by the Federal Reserve  
10          Board.

11           (1.5) Any employee of a person or entity mentioned in  
12          item (1) of this subsection, when acting for such person or  
13          entity, or any registered mortgage loan originator when  
14          acting for an entity described in subsection (tt) of this  
15          Section.

16           (1.8) Any person or entity that does not originate  
17          mortgage loans in the ordinary course of business, but  
18          makes or acquires residential mortgage loans with his or  
19          her own funds for his or her or its own investment without  
20          intent to make, acquire, or resell more than 3 residential  
21          mortgage loans in any one calendar year.

22           (2) (Blank).

23           (3) Any person employed by a licensee to assist in the  
24          performance of the residential mortgage licensee's  
25          activities regulated by this Act who is compensated in any  
26          manner by only one licensee.

1 (4) (Blank).

2 (5) Any individual, corporation, partnership, or other  
3 entity that originates, services, or brokers residential  
4 mortgage loans, as these activities are defined in this  
5 Act, and who or which receives no compensation for those  
6 activities, subject to the Commissioner's regulations and  
7 the federal Secure and Fair Enforcement for Mortgage  
8 Licensing Act of 2008 and the rules promulgated under that  
9 Act with regard to the nature and amount of compensation.

10 (6) (Blank).

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

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

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) "Commissioner" shall mean the Commissioner of Banks and  
25 Real Estate, except that, beginning on April 6, 2009 (the  
26 effective date of Public Act 95-1047), all references in this

1 Act to the Commissioner of Banks and Real Estate are deemed, in  
2 appropriate contexts, to be references to the Secretary of  
3 Financial and Professional Regulation, or his or her designee,  
4 including the Director of the Division of Banking of the  
5 Department of Financial and Professional Regulation.

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

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

25 (p) "Loan broker" or "broker" shall mean a person,  
26 partnership, association, corporation, or limited liability

1 company, other than those persons, partnerships, associations,  
2 corporations, or limited liability companies exempted from  
3 licensing pursuant to Section 1-4, subsection (d), of this Act,  
4 who performs the activities described in subsections (c), (o),  
5 and (yy) of this Section.

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

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

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

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

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

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

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

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

25 (2) consider making a residential mortgage loan to the  
26 borrower.



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

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

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

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

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

24           (bb) "Escrow agent" shall mean a third party, individual or  
25 entity charged with the fiduciary obligation for holding escrow  
26 funds on a residential mortgage loan pending final payout of

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

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

5 (dd) "Affiliate" shall mean:

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

10 (2) any entity:

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

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

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

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

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

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

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

24           (hh) "Loan originator" means any natural person who, for  
25 compensation or in the expectation of compensation, either  
26 directly or indirectly makes, offers to make, solicits, places,

1 or negotiates a residential mortgage loan. This definition  
2 applies only to Section 7-1 of this Act.

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

18 (jj) "Mortgage loan originator" means an individual who for  
19 compensation or gain or in the expectation of compensation or  
20 gain:

21 (i) takes a residential mortgage loan application; or

22 (ii) offers or negotiates terms of a residential  
23 mortgage loan.

24 "Mortgage loan originator" includes an individual engaged  
25 in loan modification activities as defined in subsection (yy)  
26 of this Section. A mortgage loan originator engaged in loan

1 modification activities shall report those activities to the  
2 Department of Financial and Professional Regulation in the  
3 manner provided by the Department; however, the Department  
4 shall not impose a fee for reporting, nor require any  
5 additional qualifications to engage in those activities beyond  
6 those provided pursuant to this Act for mortgage loan  
7 originators.

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

12 "Mortgage loan originator" does not include a person or  
13 entity that only performs real estate brokerage activities and  
14 is licensed in accordance with the Real Estate License Act of  
15 2000, unless the person or entity is compensated by a lender, a  
16 mortgage broker, or other mortgage loan originator, or by any  
17 agent of that lender, mortgage broker, or other mortgage loan  
18 originator.

19 "Mortgage loan originator" does not include a person or  
20 entity solely involved in extensions of credit relating to  
21 timeshare plans, as that term is defined in Section 101(53D) of  
22 Title 11, United States Code.

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

26 (ll) "Dwelling" means a residential structure or mobile

1 home which contains one to 4 family housing units, or  
2 individual units of condominiums or cooperatives.

3 (mm) "Immediate family member" means a spouse, child,  
4 sibling, parent, grandparent, or grandchild, and includes  
5 step-parents, step-children, step-siblings, or adoptive  
6 relationships.

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

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

14 (i) the receipt, collection, distribution, and  
15 analysis of information common for the processing or  
16 underwriting of a residential mortgage loan; and

17 (ii) communicating with a consumer to obtain the  
18 information necessary for the processing or underwriting  
19 of a loan, to the extent that the communication does not  
20 include offering or negotiating loan rates or terms, or  
21 counseling consumers about residential mortgage loan rates  
22 or terms. An individual engaging solely in loan processor  
23 or underwriter activities shall not represent to the  
24 public, through advertising or other means of  
25 communicating or providing information, including the use  
26 of business cards, stationery, brochures, signs, rate

1 lists, or other promotional items, that the individual can  
2 or will perform any of the activities of a mortgage loan  
3 originator.

4 (pp) "Nationwide Mortgage Licensing System and Registry"  
5 means a mortgage licensing system developed and maintained by  
6 the Conference of State Bank Supervisors and the American  
7 Association of Residential Mortgage Regulators for the  
8 licensing and registration of licensed mortgage loan  
9 originators.

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

12 (rr) "Person" means a natural person, corporation,  
13 company, limited liability company, partnership, or  
14 association.

15 (ss) "Real estate brokerage activity" means any activity  
16 that involves offering or providing real estate brokerage  
17 services to the public, including:

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

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

22 (3) negotiating, on behalf of any party, any portion of  
23 a contract relating to the sale, purchase, lease, rental,  
24 or exchange of real property, other than in connection with  
25 providing financing with respect to any such transaction;

26 (4) engaging in any activity for which a person engaged

1 in the activity is required to be registered or licensed as  
2 a real estate agent or real estate broker under any  
3 applicable law; or

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

6 (tt) "Registered mortgage loan originator" means any  
7 individual that:

8 (1) meets the definition of mortgage loan originator  
9 and is an employee of:

10 (A) a depository institution;

11 (B) a subsidiary that is:

12 (i) owned and controlled by a depository  
13 institution; and

14 (ii) regulated by a federal banking agency; or

15 (C) an institution regulated by the Farm Credit  
16 Administration; and

17 (2) is registered with, and maintains a unique  
18 identifier through, the Nationwide Mortgage Licensing  
19 System and Registry.

20 (uu) "Unique identifier" means a number or other identifier  
21 assigned by protocols established by the Nationwide Mortgage  
22 Licensing System and Registry.

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

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



1           (xx) "Secretary" means the Secretary of the Department of  
2 Financial and Professional Regulation, or a person authorized  
3 by the Secretary or by this Act to act in the Secretary's  
4 stead.

5           (yy) "Loan modification" means, for compensation or gain,  
6 either directly or indirectly offering or negotiating on behalf  
7 of a borrower or homeowner to adjust the terms of a residential  
8 mortgage loan in a manner not provided for in the original or  
9 previously modified mortgage loan.

10          (zz) "Short sale facilitation" means, for compensation or  
11 gain, either directly or indirectly offering or negotiating on  
12 behalf of a borrower or homeowner to facilitate the sale of  
13 residential real estate subject to one or more residential  
14 mortgage loans or debts constituting liens on the property in  
15 which the proceeds from selling the residential real estate  
16 will fall short of the amount owed and the lien holders are  
17 contacted to agree to release their lien on the residential  
18 real estate and accept less than the full amount owed on the  
19 debt.

20          (Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10;  
21 96-1216, eff. 1-1-11; 97-143, eff. 7-14-11; 97-891, eff.  
22 8-3-12.)

23           (205 ILCS 635/2-2)

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

25           (a) The Secretary shall issue a license upon completion of

1 all of the following:

2 (1) The filing of an application for license with the  
3 Director or the Nationwide Mortgage Licensing System and  
4 Registry as approved by the Director.

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

8 (3) The payment, in certified funds, of investigation  
9 and application fees, the total of which shall be in an  
10 amount equal to \$2,700 annually. To comply with the common  
11 renewal date and requirements of the Nationwide Mortgage  
12 Licensing System and Registry, the term of initial licenses  
13 may be extended or shortened with applicable fees prorated  
14 or combined accordingly.

15 (4) Except for a broker applying to renew a license,  
16 the filing of an audited balance sheet including all  
17 footnotes prepared by a certified public accountant in  
18 accordance with generally accepted accounting principles  
19 and generally accepted auditing standards ~~principles~~ which  
20 evidences that the applicant meets the net worth  
21 requirements of Section 3-5. Notwithstanding the  
22 requirements of this subsection, an applicant that is a  
23 subsidiary may submit audited consolidated financial  
24 statements of its parent, intermediary parent, or ultimate  
25 parent as long as the consolidated statements are supported  
26 by consolidating statements which include the applicant's

1       financial statement. If the consolidating statements are  
2       unaudited, the applicant's chief financial officer shall  
3       attest to the applicant's financial statements disclosed  
4       in the consolidating statements.

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

24           (6) An investigation of the averments required by  
25      Section 2-4, which investigation must allow the  
26      Commissioner to issue positive findings stating that the

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

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

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

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. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10;  
26 97-891, eff. 8-3-12.)

1 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

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

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

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

10 (c) Will keep and maintain for 36 months the same  
11 written records as required by the federal Equal Credit  
12 Opportunity Act, and any other information required by  
13 regulations of the Commissioner regarding any home  
14 mortgage in the course of the conduct of its residential  
15 mortgage business;

16 (d) Will file with the Commissioner or Nationwide  
17 Mortgage Licensing System and Registry as applicable, when  
18 due, any report or reports which it is required to file  
19 under any of the provisions of this Act;

20 (e) Will not engage, whether as principal or agent, in  
21 the practice of rejecting residential mortgage  
22 applications without reasonable cause, or varying terms or  
23 application procedures without reasonable cause, for home  
24 mortgages on real estate within any specific geographic  
25 area from the terms or procedures generally provided by the

1 licensee within other geographic areas of the State;

2 (f) Will not engage in fraudulent home mortgage  
3 underwriting practices;

4 (g) Will not make payment, whether directly or  
5 indirectly, of any kind to any in house or fee appraiser of  
6 any government or private money lending agency with which  
7 an application for a home mortgage has been filed for the  
8 purpose of influencing the independent judgment of the  
9 appraiser with respect to the value of any real estate  
10 which is to be covered by such home mortgage;

11 (h) Has filed tax returns (State and Federal) for the  
12 past 3 years or filed with the Commissioner an accountant's  
13 or attorney's statement as to why no return was filed;

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

16 (j) Will not knowingly make any false promises likely  
17 to influence or persuade, or pursue a course of  
18 misrepresentation and false promises through agents,  
19 solicitors, advertising or otherwise;

20 (k) Will not knowingly misrepresent, circumvent or  
21 conceal, through whatever subterfuge or device, any of the  
22 material particulars or the nature thereof, regarding a  
23 transaction to which it is a party to the injury of another  
24 party thereto;

25 (l) Will disburse funds in accordance with its  
26 agreements;

1           (m) Has not committed a crime against the law of this  
2 State, any other state or of the United States, involving  
3 moral turpitude, fraudulent or dishonest dealing, and that  
4 no final judgment has been entered against it in a civil  
5 action upon grounds of fraud, misrepresentation or deceit  
6 which has not been previously reported to the Commissioner;

7           (n) Will account or deliver to the owner upon request  
8 any personal property such as money, fund, deposit, check,  
9 draft, mortgage, other document or thing of value which it  
10 is not in law or equity entitled to retain under the  
11 circumstances;

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

14           (p) Has not become insolvent;

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

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

20           (s) Will advise the Commissioner in writing, or the  
21 Nationwide Mortgage Licensing System and Registry as  
22 applicable, of any changes to the information submitted on  
23 the most recent application for license or averments of  
24 record within 30 days of said change. The written notice  
25 must be signed in the same form as the application for  
26 license being amended;

1           (t) Will comply with the provisions of this Act, or  
2           with any lawful order, rule or regulation made or issued  
3           under the provisions of this Act;

4           (u) Will submit to periodic examination by the  
5           Commissioner as required by this Act;

6           (v) Will advise the Commissioner in writing of  
7           judgments entered against, and bankruptcy petitions by,  
8           the license applicant within 5 days of occurrence;

9           (w) Will advise the Commissioner in writing within 30  
10          days of any request made to a licensee under this Act to  
11          repurchase a loan in a manner that completely and clearly  
12          identifies to whom the request was made, the loans  
13          involved, and the reason therefor;

14          (x) Will advise the Commissioner in writing within 30  
15          days of any request from any entity to repurchase a loan in  
16          a manner that completely and clearly identifies to whom the  
17          request was made, the loans involved, and the reason for  
18          the request;

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

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

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



1           and

2                   (bb) Will not structure activities or contracts to  
3           evade provisions of this Act.

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

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

9                   (205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

10           Sec. 3-2. Annual audit.

11           (a) At the licensee's fiscal year-end, but in no case more  
12           than 12 months after the last audit conducted pursuant to this  
13           Section, except as otherwise provided in this Section, it shall  
14           be mandatory for each residential mortgage licensee to cause  
15           its books and accounts to be audited by a certified public  
16           accountant not connected with such licensee. The books and  
17           records of all licensees under this Act shall be maintained on  
18           an accrual basis. The audit must be sufficiently comprehensive  
19           in scope to permit the expression of an opinion on the  
20           financial statements, which must be prepared in accordance with  
21           generally accepted accounting principles, and must be  
22           performed in accordance with generally accepted auditing  
23           standards. Notwithstanding the requirements of this  
24           subsection, a licensee that is a ~~first-tier~~ subsidiary may  
25           submit audited consolidated financial statements of its

1 parent, intermediary parent, or ultimate parent as long as the  
2 consolidated statements are supported by consolidating  
3 statements which include the licensee's financial statement.  
4 If the consolidating statements are unaudited, the. ~~The~~  
5 licensee's chief financial officer shall attest to the  
6 licensee's financial statements disclosed in the consolidating  
7 statements.

8 (b) As used herein, the term "expression of opinion"  
9 includes either (1) an unqualified opinion, (2) a qualified  
10 opinion, (3) a disclaimer of opinion, or (4) an adverse  
11 opinion.

12 (c) If a qualified or adverse opinion is expressed or if an  
13 opinion is disclaimed, the reasons therefore must be fully  
14 explained. An opinion, qualified as to a scope limitation,  
15 shall not be acceptable.

16 (d) The most recent audit report shall be filed with the  
17 Commissioner within 90 days after the end of the licensee's  
18 fiscal year, or with the Nationwide Mortgage Licensing System  
19 and Registry, if applicable, pursuant to Mortgage Call Report  
20 requirements. The report filed with the Commissioner shall be  
21 certified by the certified public accountant conducting the  
22 audit. The Commissioner may promulgate rules regarding late  
23 audit reports.

24 (e) If any licensee required to make an audit shall fail to  
25 cause an audit to be made, the Commissioner shall cause the  
26 same to be made by a certified public accountant at the

1 licensee's expense. The Commissioner shall select such  
2 certified public accountant by advertising for bids or by such  
3 other fair and impartial means as he or she establishes by  
4 regulation.

5 (f) In lieu of the audit or compilation financial statement  
6 required by this Section, a licensee shall submit and the  
7 Commissioner may accept any audit made in conformance with the  
8 audit requirements of the U.S. Department of Housing and Urban  
9 Development.

10 (g) With respect to licensees who solely broker residential  
11 mortgage loans as defined in subsection (o) of Section 1-4,  
12 instead of the audit required by this Section, the Commissioner  
13 may accept compilation financial statements prepared at least  
14 every 12 months, and the compilation financial statement must  
15 be submitted within 90 days after the end of the licensee's  
16 fiscal year, or with the Nationwide Mortgage Licensing System  
17 and Registry, if applicable, pursuant to Mortgage Call Report  
18 requirements. If a licensee under this Section fails to file a  
19 compilation as required, the Commissioner shall cause an audit  
20 of the licensee's books and accounts to be made by a certified  
21 public accountant at the licensee's expense. The Commissioner  
22 shall select the certified public accountant by advertising for  
23 bids or by such other fair and impartial means as he or she  
24 establishes by rule. A licensee who files false or misleading  
25 compilation financial statements is guilty of a business  
26 offense and shall be fined not less than \$5,000.

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

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

18           (Source: P.A. 97-813, eff. 7-13-12; 97-891, eff. 8-3-12;  
19 98-463, eff. 8-16-13.)

20           Section 10. The Residential Real Property Disclosure Act is  
21 amended by changing Sections 70, 72, 74, 76, 78, and 80 as  
22 follows:

23           (765 ILCS 77/70)

24           Sec. 70. Predatory lending database program.

1 (a) As used in this Article:

2 "Adjustable rate mortgage" or "ARM" means a closed-end  
3 mortgage transaction that allows adjustments of the loan  
4 interest rate during the first 3 years of the loan term.

5 "Borrower" means a person seeking a mortgage loan.

6 "Broker" means a "broker" or "loan broker", as defined in  
7 subsection (p) of Section 1-4 of the Residential Mortgage  
8 License Act of 1987.

9 "Closing agent" means an individual assigned by a title  
10 insurance company or a broker or originator to ensure that the  
11 execution of documents related to the closing of a real estate  
12 sale or the refinancing of a real estate loan and the  
13 disbursement of closing funds are in conformity with the  
14 instructions of the entity financing the transaction.

15 "Counseling" means in-person counseling provided by a  
16 counselor employed by a HUD-approved ~~HUD-certified~~ counseling  
17 agency to all borrowers, or documented telephone counseling  
18 where a hardship would be imposed on one or more borrowers. A  
19 hardship shall exist in instances in which the borrower is  
20 confined to his or her home due to medical conditions, as  
21 verified in writing by a physician, or the borrower resides 50  
22 miles or more from the nearest participating HUD-approved  
23 ~~HUD-certified~~ housing counseling agency. In instances of  
24 telephone counseling, the borrower must supply all necessary  
25 documents to the counselor at least 72 hours prior to the  
26 scheduled telephone counseling session.

1 "Counselor" means a counselor employed by a HUD-approved  
2 ~~HUD-certified~~ housing counseling agency.

3 "Credit score" means a credit risk score as defined by the  
4 Fair Isaac Corporation, or its successor, and reported under  
5 such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE"  
6 by one or more of the following credit reporting agencies or  
7 their successors: Equifax, Inc., Experian Information  
8 Solutions, Inc., and TransUnion LLC. If the borrower's credit  
9 report contains credit scores from 2 reporting agencies, then  
10 the broker or loan originator shall report the lower score. If  
11 the borrower's credit report contains credit scores from 3  
12 reporting agencies, then the broker or loan originator shall  
13 report the middle score.

14 "Department" means the Department of Financial and  
15 Professional Regulation.

16 "Exempt person or entity" means that term as it is defined  
17 in subsections (d)(1), (d)(1.5), and (d)(1.8) of Section 1-4 of  
18 the Residential Mortgage License Act of 1987.

19 "First-time homebuyer" means a borrower who has not held an  
20 ownership interest in residential property.

21 "HUD-approved ~~HUD-certified~~ counseling" or "counseling"  
22 means counseling given to a borrower by a counselor employed by  
23 a HUD-approved ~~HUD-certified~~ housing counseling agency.

24 "Interest only" means a closed-end loan that permits one or  
25 more payments of interest without any reduction of the  
26 principal balance of the loan, other than the first payment on

1 the loan.

2 "Lender" means that term as it is defined in subsection (g)  
3 of Section 1-4 of the Residential Mortgage License Act of 1987.

4 "Licensee" means that term as it is defined in subsection  
5 (e) of Section 1-4 of the Residential Mortgage License Act of  
6 1987.

7 "Mortgage loan" means that term as it is defined in  
8 subsection (f) of Section 1-4 of the Residential Mortgage  
9 License Act of 1987.

10 "Negative amortization" means an amortization method under  
11 which the outstanding balance may increase at any time over the  
12 course of the loan because the regular periodic payment does  
13 not cover the full amount of interest due.

14 "Originator" means a "loan originator" as defined in  
15 subsection (hh) of Section 1-4 of the Residential Mortgage  
16 License Act of 1987, except an exempt person, and means a  
17 "mortgage loan originator" as defined in subsection (jj) of  
18 Section 1-4 of the Residential Mortgage License Act of 1987,  
19 except an exempt person.

20 "Points and fees" has the meaning ascribed to that term in  
21 Section 10 of the High Risk Home Loan Act.

22 "Prepayment penalty" means a charge imposed by a lender  
23 under a mortgage note or rider when the loan is paid before the  
24 expiration of the term of the loan.

25 "Refinancing" means a loan secured by the borrower's or  
26 borrowers' primary residence where the proceeds are not used as

1 purchase money for the residence.

2 "Title insurance company" means any domestic company  
3 organized under the laws of this State for the purpose of  
4 conducting the business of guaranteeing or insuring titles to  
5 real estate and any title insurance company organized under the  
6 laws of another State, the District of Columbia, or a foreign  
7 government and authorized to transact the business of  
8 guaranteeing or insuring titles to real estate in this State.

9 (a-5) A predatory lending database program shall be  
10 established within Cook County. The program shall be  
11 administered in accordance with this Article. The inception  
12 date of the program shall be July 1, 2008. A predatory lending  
13 database program shall be expanded to include Kane, Peoria, and  
14 Will counties. The inception date of the expansion of the  
15 program as it applies to Kane, Peoria, and Will counties shall  
16 be July 1, 2010. Until the inception date, none of the duties,  
17 obligations, contingencies, or consequences of or from the  
18 program shall be imposed. The program shall apply to all  
19 mortgage applications that are governed by this Article and  
20 that are made or taken on or after the inception of the  
21 program.

22 (b) The database created under this program shall be  
23 maintained and administered by the Department. The database  
24 shall be designed to allow brokers, originators, counselors,  
25 title insurance companies, and closing agents to submit  
26 information to the database online. The database shall not be



1 designed to allow those entities to retrieve information from  
2 the database, except as otherwise provided in this Article.  
3 Information submitted by the broker or originator to the  
4 Department may be used to populate the online form submitted by  
5 a counselor, title insurance company, or closing agent.

6 (c) Within 10 business days after taking a mortgage  
7 application, the broker or originator for any mortgage on  
8 residential property within the program area must submit to the  
9 predatory lending database all of the information required  
10 under Section 72 and any other information required by the  
11 Department by rule. Within 7 business days after receipt of the  
12 information, the Department shall compare that information to  
13 the housing counseling standards in Section 73 and issue to the  
14 borrower and the broker or originator a determination of  
15 whether counseling is recommended for the borrower. The  
16 borrower may not waive counseling. If at any time after  
17 submitting the information required under Section 72 the broker  
18 or originator (i) changes the terms of the loan or (ii) issues  
19 a new commitment to the borrower, then, within 5 business days  
20 thereafter, the broker or originator shall re-submit all of the  
21 information required under Section 72 and, within 4 business  
22 days after receipt of the information re-submitted by the  
23 broker or originator, the Department shall compare that  
24 information to the housing counseling standards in Section 73  
25 and shall issue to the borrower and the broker or originator a  
26 new determination of whether re-counseling is recommended for

1 the borrower based on the information re-submitted by the  
2 broker or originator. The Department shall require  
3 re-counseling if the loan terms have been modified to meet  
4 another counseling standard in Section 73, or if the broker has  
5 increased the interest rate by more than 200 basis points.

6 (d) If the Department recommends counseling for the  
7 borrower under subsection (c), then the Department shall notify  
8 the borrower of all participating HUD-approved ~~HUD-certified~~  
9 counseling agencies located within the State and direct the  
10 borrower to interview with a counselor associated with one of  
11 those agencies. Within 10 business days after receipt of the  
12 notice of HUD-approved ~~HUD-certified~~ counseling agencies, it  
13 is the borrower's responsibility to ~~borrower shall~~ select one  
14 of those agencies and shall engage in an interview with a  
15 counselor associated with that agency. The selection must take  
16 place and the appointment for the interview must be set within  
17 10 business days, although the interview may take place beyond  
18 the 10 business day period. Within 7 business days after  
19 interviewing the borrower, the counselor must submit to the  
20 predatory lending database all of the information required  
21 under Section 74 and any other information required by the  
22 Department by rule. Reasonable and customary costs not to  
23 exceed \$300 associated with counseling provided under the  
24 program shall be paid by the broker or originator and shall not  
25 be charged back to, or recovered from, the borrower. The  
26 Department shall annually calculate to the nearest dollar an

1 adjusted rate for inflation. A counselor shall not recommend or  
2 suggest that a borrower contact any specific mortgage  
3 origination company, financial institution, or entity that  
4 deals in mortgage finance to obtain a loan, another quote, or  
5 for any other reason related to the specific mortgage  
6 transaction; however, a counselor may suggest that the borrower  
7 seek an opinion or a quote from another mortgage origination  
8 company, financial institution, or entity that deals in  
9 mortgage finance. A counselor or housing counseling agency that  
10 in good faith provides counseling shall not be liable to a  
11 broker or originator or borrower for civil damages, except for  
12 willful or wanton misconduct on the part of the counselor in  
13 providing the counseling.

14 (e) The broker or originator and the borrower may not take  
15 any legally binding action concerning the loan transaction  
16 until the later of the following:

17 (1) the Department issues a determination not to  
18 recommend HUD-approved ~~HUD-certified~~ counseling for the  
19 borrower in accordance with subsection (c); or

20 (2) the Department issues a determination that  
21 HUD-approved ~~HUD-certified~~ counseling is recommended for  
22 the borrower and the counselor submits all required  
23 information to the database in accordance with subsection  
24 (d).

25 (f) Within 10 business days after closing, the title  
26 insurance company or closing agent must submit to the predatory

1 lending database all of the information required under Section  
2 76 and any other information required by the Department by  
3 rule.

4 (g) The title insurance company or closing agent shall  
5 attach to the mortgage a certificate of compliance with the  
6 requirements of this Article, as generated by the database. If  
7 the transaction is exempt, the title insurance company or  
8 closing agent shall attach to the mortgage a certificate of  
9 exemption, as generated by the database. If the title insurance  
10 company or closing agent fails to attach the certificate of  
11 compliance or exemption, whichever is required, then the  
12 mortgage is not recordable. In addition, if any lis pendens for  
13 a residential mortgage foreclosure is recorded on the property  
14 within the program area, a certificate of service must be  
15 simultaneously recorded that affirms that a copy of the lis  
16 pendens was filed with the Department. The lis pendens may be  
17 filed with the Department either electronically or by filing a  
18 hard copy. If the certificate of service is not recorded, then  
19 the lis pendens pertaining to the residential mortgage  
20 foreclosure in question is not recordable and is of no force  
21 and effect.

22 (h) All information provided to the predatory lending  
23 database under the program is confidential and is not subject  
24 to disclosure under the Freedom of Information Act, except as  
25 otherwise provided in this Article. Information or documents  
26 obtained by employees of the Department in the course of

1 maintaining and administering the predatory lending database  
2 are deemed confidential. Employees are prohibited from making  
3 disclosure of such confidential information or documents. Any  
4 request for production of information from the predatory  
5 lending database, whether by subpoena, notice, or any other  
6 source, shall be referred to the Department of Financial and  
7 Professional Regulation. Any borrower may authorize in writing  
8 the release of database information. The Department may use the  
9 information in the database without the consent of the  
10 borrower: (i) for the purposes of administering and enforcing  
11 the program; (ii) to provide relevant information to a  
12 counselor providing counseling to a borrower under the program;  
13 or (iii) to the appropriate law enforcement agency or the  
14 applicable administrative agency if the database information  
15 demonstrates criminal, fraudulent, or otherwise illegal  
16 activity.

17 (i) Nothing in this Article is intended to prevent a  
18 borrower from making his or her own decision as to whether to  
19 proceed with a transaction.

20 (j) Any person who violates any provision of this Article  
21 commits an unlawful practice within the meaning of the Consumer  
22 Fraud and Deceptive Business Practices Act.

23 (j-1) A violation of any provision of this Article by a  
24 mortgage banking licensee or licensed mortgage loan originator  
25 shall constitute a violation of the Residential Mortgage  
26 License Act of 1987.

1           (j-2) A violation of any provision of this Article by a  
2 title insurance company, title agent, or escrow agent shall  
3 constitute a violation of the Title Insurance Act.

4           (j-3) A violation of any provision of this Article by a  
5 housing counselor shall be referred to the Department of  
6 Housing and Urban Development.

7           (k) During the existence of the program, the Department  
8 shall submit semi-annual reports to the Governor and to the  
9 General Assembly by May 1 and November 1 of each year detailing  
10 its findings regarding the program. The report shall include,  
11 by county, at least the following information for each  
12 reporting period:

13                   (1) the number of loans registered with the program;

14                   (2) the number of borrowers receiving counseling;

15                   (3) the number of loans closed;

16                   (4) the number of loans requiring counseling for each  
17 of the standards set forth in Section 73;

18                   (5) the number of loans requiring counseling where the  
19 mortgage originator changed the loan terms subsequent to  
20 counseling;

21                   (6) the number of licensed mortgage brokers and loan  
22 originators entering information into the database;

23                   (7) the number of investigations based on information  
24 obtained from the database, including the number of  
25 licensees fined, the number of licenses suspended, and the  
26 number of licenses revoked;

1           (8) a summary of the types of non-traditional mortgage  
2 products being offered; and

3           (9) a summary of how the Department is actively  
4 utilizing the program to combat mortgage fraud.

5 (Source: P.A. 96-328, eff. 8-11-09; 96-856, eff. 12-31-09;  
6 97-891, eff. 1-1-13.)

7           (765 ILCS 77/72)

8           Sec. 72. Originator; required information. As part of the  
9 predatory lending database program, the broker or originator  
10 must submit all of the following information for inclusion in  
11 the predatory lending database for each loan for which the  
12 originator takes an application:

13           (1) The borrower's name, address, social security  
14 number or taxpayer identification number, date of birth,  
15 and income and expense information, including total  
16 monthly consumer debt, contained in the mortgage  
17 application.

18           (2) The address, permanent index number, and a  
19 description of the collateral and information about the  
20 loan or loans being applied for and the loan terms,  
21 including the amount of the loan, the rate and whether the  
22 rate is fixed or adjustable, amortization or loan period  
23 terms, and any other material terms.

24           (3) The borrower's credit score at the time of  
25 application.

1           (4) Information about the originator and the company  
2           the originator works for, including the originator's  
3           license number and address, fees being charged, whether the  
4           fees are being charged as points up front, the yield spread  
5           premium payable outside closing, and other charges made or  
6           remuneration required by the broker or originator or its  
7           affiliates or the broker's or originator's employer or its  
8           affiliates for the mortgage loans.

9           (5) Information about affiliated or third party  
10          service providers, including the names and addresses of  
11          appraisers, title insurance companies, closing agents,  
12          attorneys, and realtors who are involved with the  
13          transaction and the broker or originator and any moneys  
14          received from the broker or originator in connection with  
15          the transaction.

16          (6) All information indicated on the Good Faith  
17          Estimate and Truth in Lending statement disclosures given  
18          to the borrower by the broker or originator.

19          (7) Annual real estate taxes for the property, together  
20          with any assessments payable in connection with the  
21          property to be secured by the collateral and the proposed  
22          monthly principal and interest charge of all loans to be  
23          taken by the borrower and secured by the property of the  
24          borrower.

25          (8) Information concerning how the broker or  
26          originator obtained the client and the name of its referral



1 source, if any.

2 (9) Information concerning the notices provided by the  
3 broker or originator to the borrower as required by law and  
4 the date those notices were given.

5 (10) Information concerning whether a sale and  
6 leaseback is contemplated and the names of the lessor and  
7 lessee, seller, and purchaser.

8 (11) Any and all financing by the borrower for the  
9 subject property within 12 months prior to the date of  
10 application.

11 (12) Loan information, including interest rate, term,  
12 purchase price, down payment, and closing costs.

13 (13) Whether the buyer is a first-time homebuyer or  
14 refinancing a primary residence.

15 (14) Whether the loan permits interest only payments.

16 (15) Whether the loan may result in negative  
17 amortization.

18 (16) Whether the total points and fees payable by the  
19 borrowers at or before closing will exceed 5%.

20 (17) Whether the loan includes a prepayment penalty,  
21 and, if so, the terms of the penalty.

22 (18) Whether the loan is an ARM.

23 All information entered into the predatory lending  
24 database must be true and correct to the best of the  
25 originator's knowledge. The originator shall, prior to  
26 closing, correct, update, or amend the data as necessary. If

1 any corrections become necessary after the file has been  
2 accessed by the closing agent or housing counselor, a new file  
3 must be entered.

4 (Source: P.A. 97-891, eff. 1-1-13.)

5 (765 ILCS 77/74)

6 Sec. 74. Counselor; required information. As part of the  
7 predatory lending database program, a counselor must submit all  
8 of the following information for inclusion in the predatory  
9 lending database:

10 (1) The information called for in items (1), (6), (9),  
11 (11), (12), (13), (14), (15), (16), (17), and (18) of  
12 Section 72.

13 (2) Any information from the borrower that confirms or  
14 contradicts the information called for under item (1) of  
15 this Section.

16 (3) The name of the counselor and address of the  
17 HUD-approved ~~HUD-certified~~ housing counseling agency that  
18 employs the counselor.

19 (4) Information pertaining to the borrower's monthly  
20 expenses that assists the counselor in determining whether  
21 the borrower can afford the loans or loans for which the  
22 borrower is applying.

23 (5) A list of the disclosures furnished to the  
24 borrower, as seen and reviewed by the counselor, and a  
25 comparison of that list to all disclosures required by law.

1           (6) Whether the borrower provided tax returns to the  
2 broker or originator or to the counselor, and, if so, who  
3 prepared the tax returns.

4           (7) A statement of the recommendations of the counselor  
5 that indicates the counselor's response to each of the  
6 following statements:

7           (A) The loan should not be approved due to indicia  
8 of fraud.

9           (B) The loan should be approved; no material  
10 problems noted.

11           (C) The borrower cannot afford the loan.

12           (D) The borrower does not understand the  
13 transaction.

14           (E) The borrower does not understand the costs  
15 associated with the transaction.

16           (F) The borrower's monthly income and expenses  
17 have been reviewed and disclosed.

18           (G) The rate of the loan is above market rate.

19           (H) The borrower should seek a competitive bid from  
20 another broker or originator.

21           (I) There are discrepancies between the borrower's  
22 verbal understanding and the originator's completed  
23 form.

24           (J) The borrower is precipitously close to not  
25 being able to afford the loan.

26           (K) The borrower understands the true cost of debt

1 consolidation and the need for credit card discipline.

2 (L) The information that the borrower provided the  
3 originator has been amended by the originator.

4 (Source: P.A. 97-813, eff. 7-13-12.)

5 (765 ILCS 77/76)

6 Sec. 76. Title insurance company or closing agent; required  
7 information. As part of the predatory lending database ~~pilot~~  
8 program, a title insurance company or closing agent must submit  
9 all of the following information for inclusion in the predatory  
10 lending database:

11 (1) The borrower's name, address, social security  
12 number or taxpayer identification number, date of birth,  
13 and income and expense information contained in the  
14 mortgage application.

15 (2) The address, permanent index number, and a  
16 description of the collateral and information about the  
17 loan or loans being applied for and the loan terms,  
18 including the amount of the loan, the rate and whether the  
19 rate is fixed or adjustable, amortization or loan period  
20 terms, and any other material terms.

21 (3) Annual real estate taxes for the property, together  
22 with any assessments payable in connection with the  
23 property to be secured by the collateral and the proposed  
24 monthly principal and interest charge of all loans to be  
25 taken by the borrower and secured by the property of the

1 borrower as well as any required escrows and the amounts  
2 paid monthly for those escrows.

3 (4) All itemizations and descriptions set forth in the  
4 RESPA settlement statement including items to be  
5 disbursed, payable outside closing "POC" items noted on the  
6 statement, and a list of payees and the amounts of their  
7 checks.

8 (5) The name and license number of the title insurance  
9 company or closing agent together with the name of the  
10 agent actually conducting the closing.

11 (6) The names and addresses of all originators,  
12 brokers, appraisers, sales persons, attorneys, and  
13 surveyors that are present at the closing.

14 (7) The date of closing, a detailed list of all notices  
15 provided to the borrower at closing and the date of those  
16 notices, and all information indicated on the Truth in  
17 Lending statement and Good Faith Estimate disclosures.

18 (Source: P.A. 94-280, eff. 1-1-06.)

19 (765 ILCS 77/78)

20 Sec. 78. Exemption. Borrowers applying for reverse  
21 mortgage financing of residential real estate including under  
22 programs regulated by the Federal Housing Administration (FHA)  
23 that require HUD-approved ~~HUD-certified~~ counseling are exempt  
24 from the program and may submit a HUD counseling certificate to  
25 comply with the program. A certificate of exemption is required

1 for recording.

2 Mortgages secured by non-owner occupied property,  
3 commercial property, residential property consisting of more  
4 than 4 units, and government property are exempt but require a  
5 certificate of exemption for recording.

6 Mortgages originated by an exempt person or entity are  
7 exempt but require a certificate of exemption for recording.

8 (Source: P.A. 98-463, eff. 8-16-13.)

9 (765 ILCS 77/80)

10 Sec. 80. Predatory Lending Database Program Fund. The  
11 Predatory Lending Database Program Fund is created as a special  
12 fund in the State treasury. Subject to appropriation, moneys in  
13 the Fund shall be appropriated to the Illinois Housing  
14 Development Authority for the purpose of making grants for  
15 HUD-approved ~~HUD-certified~~ counseling agencies participating  
16 in the Predatory Lending Database Program to assist with  
17 implementation and development of the Predatory Lending  
18 Database Program.

19 (Source: P.A. 95-707, eff. 1-11-08.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 205 ILCS 635/1-4

4 205 ILCS 635/2-2

5 205 ILCS 635/2-4 from Ch. 17, par. 2322-4

6 205 ILCS 635/3-2 from Ch. 17, par. 2323-2

7 765 ILCS 77/70

8 765 ILCS 77/72

9 765 ILCS 77/74

10 765 ILCS 77/76

11 765 ILCS 77/78

12 765 ILCS 77/80