

AN ACT concerning regulation.

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

Section 5. The Student Loan Servicing Rights Act is amended by changing Sections 15-15, 15-20, 15-25, 15-30, 15-40, 20-5, and 20-30 as follows:

(110 ILCS 992/15-15)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15-15. Application process; investigation; fees.

(a) The Secretary shall issue a license upon completion of all of the following:

(1) the filing of an application for license with the Secretary or the Nationwide Multistate Mortgage Licensing System and Registry as approved by the Secretary;

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

(3) the payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to \$1,000 for an initial application and \$800 for a background investigation;

(4) the filing of an audited balance sheet, including

all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards; notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements that include the applicant's financial statement; if the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed in the consolidating statements; and

(5) an investigation of the averments required by Section 15-30, which investigation must allow the Secretary to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company, are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly, and efficiently within the purpose of this Act; if the

Secretary does not so find, he or she shall not issue the license, and he or she shall notify the license applicant of the denial.

The Secretary may impose conditions on a license if the Secretary determines that those conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Secretary.

(b) All licenses shall be issued to the license applicant. Upon receipt of the license, a student loan servicing licensee shall be authorized to engage in the business regulated by this Act. The license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee, or revoked or suspended as hereinafter provided.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/15-20)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15-20. Application form.

(a) Application for a student loan servicer license must be made in accordance with Section 15-40 and, if applicable, in accordance with requirements of the Nationwide Multistate Mortgage Licensing System and Registry. The application shall be in writing, under oath, and on a form obtained from and prescribed by the Secretary, or may be submitted

electronically, with attestation, to the Nationwide Multistate Mortgage Licensing System and Registry.

(b) The application shall contain the name and complete business and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation, or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director, and principal officer thereof. The application shall also include a description of the activities of the license applicant in such detail and for such periods as the Secretary may require, including all of the following:

(1) an affirmation of financial solvency noting such capitalization requirements as may be required by the Secretary and access to such credit as may be required by the Secretary;

(2) an affirmation that the license applicant or its members, directors, or principals, as may be appropriate, are at least 18 years of age;

(3) information as to the character, fitness, financial and business responsibility, background, experience, and criminal record of any (i) person, entity, or ultimate equitable owner that owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant; (ii) person, entity, or ultimate equitable owner that is not a depository institution, as

defined in Section 1007.50 of the Savings Bank Act, that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to or more than 10% of the license applicant's net worth; (iii) person, entity, or ultimate equitable owner that controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or (iv) person, entity, or ultimate equitable owner that the Secretary finds influences management of the license applicant; the provisions of this subsection shall not apply to a public official serving on the board of directors of a State guaranty agency;

(4) upon written request by the licensee and notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the Secretary may permit the licensee to omit all or part of the information required by those paragraphs if, in lieu of the omitted information, the licensee submits an affidavit stating that the information submitted on the licensee's previous renewal application is still true and accurate; the Secretary may adopt rules prescribing the form and content of the affidavit that are necessary to accomplish the purposes of this Section; and

(5) such other information as required by rules of the Secretary.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/15-25)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15-25. Student loan servicer license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Secretary. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the Secretary and may be changed or updated as necessary by the Secretary in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Secretary is authorized to establish relationships or contracts with the Nationwide Multistate Mortgage Licensing System and Registry or other entities designated by the Nationwide Multistate Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Multistate Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a State,

national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Multistate Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Mortgage Licensing System and Registry and the Secretary to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purposes of this Section, and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of subsection (c) of this Section, the Secretary may use the Nationwide Multistate Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the federal Department of Justice or any governmental agency.

(e) For the purposes of this Section, and in order to reduce the points of contact that the Secretary may have to maintain for purposes of paragraph (2) of subsection (c) of this Section, the Secretary may use the Nationwide Multistate

~~Mortgage~~ Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source as directed by the Secretary.

(f) The provisions of this Section shall not apply to a public official serving on the board of directors of a State guaranty agency.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/15-30)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15-30. Averments of licensee. Each application for license shall be accompanied by the following averments stating that the applicant:

(1) will file with the Secretary or Nationwide Multistate ~~Mortgage~~ Licensing System and Registry, as applicable, when due, any report or reports that it is required to file under any of the provisions of this Act;

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

(3) has not engaged in any conduct that would be cause

for denial of a license;

(4) has not become insolvent;

(5) has not submitted an application for a license under this Act that contains a material misstatement;

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

(7) will advise the Secretary in writing or the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry, as applicable, of any changes to the information submitted on the most recent application for license or averments of record within 30 days of the change; the written notice must be signed in the same form as the application for the license being amended;

(8) will comply with the provisions of this Act and with any lawful order, rule, or regulation made or issued under the provisions of this Act;

(9) will submit to periodic examination by the Secretary as required by this Act; and

(10) will advise the Secretary in writing of judgments entered against and bankruptcy petitions by the license applicant within 5 days after the occurrence.

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

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/15-40)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 15-40. License issuance and renewal; fees.

(a) Licenses shall be renewed every year using the common renewal date of the Nationwide Multistate Mortgage ~~Mortgage~~ Licensing System and Registry, as adopted by the Secretary. Properly completed renewal application forms and filing fees may be received by the Secretary 60 days prior to the license expiration date, but, to be deemed timely, the completed renewal application forms and filing fees must be received by the Secretary no later than 30 days prior to the license expiration date.

(b) It shall be the responsibility of each licensee to accomplish renewal of its license. Failure by a licensee to submit a properly completed renewal application form and fees in a timely fashion, absent a written extension from the Secretary, shall result in the license becoming inactive.

(c) No activity regulated by this Act shall be conducted by the licensee when a license becomes inactive. An inactive license may be reactivated by the Secretary upon payment of the renewal fee and payment of a reactivation fee equal to the renewal fee.

(d) A licensee ceasing an activity or activities regulated

by this Act and desiring to no longer be licensed shall so inform the Secretary in writing and, at the same time, convey any license issued and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business, and comply with the surrender guidelines or requirements of the Secretary. Upon receipt of such written notice, the Secretary shall post the cancellation or issue a certified statement canceling the license.

(e) The expenses of administering this Act, including investigations and examinations provided for in this Act, shall be borne by and assessed against entities regulated by this Act. Subject to the limitations set forth in Section 15-15 of this Act, the Secretary shall establish fees by rule in at least the following categories:

- (1) investigation of licensees and license applicant fees;
- (2) examination fees;
- (3) contingent fees; and
- (4) such other categories as may be required to administer this Act.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/20-5)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 20-5. Functions; powers; duties. The functions, powers, and duties of the Secretary shall include the following:

(1) to issue or refuse to issue any license as provided by this Act;

(2) to revoke or suspend for cause any license issued under this Act;

(3) to keep records of all licenses issued under this Act;

(4) to receive, consider, investigate, and act upon complaints made by any person in connection with any student loan servicing licensee in this State;

(5) to prescribe the forms of and receive:

(A) applications for licenses; and

(B) all reports and all books and records required to be made by any licensee under this Act, including annual audited financial statements and annual reports of student loan activity;

(6) to adopt rules necessary and proper for the administration of this Act;

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

(8) to issue orders against any person if the Secretary has reasonable cause to believe that an unsafe, unsound, or

unlawful practice has occurred, is occurring, or is about to occur; if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary; or for the purpose of administering the provisions of this Act and any rule adopted in accordance with this Act;

(9) to address any inquiries to any licensee, or the officers thereof, in relation to its activities and conditions, or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed to promptly reply in writing to those inquiries; the Secretary may also require reports from any licensee at any time the Secretary may deem desirable;

(10) to examine the books and records of every licensee under this Act;

(11) to enforce provisions of this Act;

(12) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Secretary on and after the effective date of this Act shall be paid promptly after receipt, accompanied by a detailed statement thereof, into the Bank and Trust Company Fund under Section 20-10; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Department; nothing in this Act shall prevent the continuation of the practice of paying expenses involving salaries, retirement, social security,

and State-paid insurance of State officers by appropriation from the General Revenue Fund;

(13) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(14) to conduct hearings for the purpose of:

(A) appeals of orders of the Secretary;

(B) suspensions or revocations of licenses, or fining of licensees;

(C) investigating:

(i) complaints against licensees; or

(ii) annual gross delinquency rates; and

(D) carrying out the purposes of this Act;

(15) to exercise exclusive visitorial power over a licensee unless otherwise authorized by this Act or as vested in the courts, or upon prior consultation with the Secretary, a foreign student loan servicing regulator with an appropriate supervisory interest in the parent or affiliate of a licensee;

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

(17) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Secretary determines appropriate and to charge the licensee for

reasonable and necessary expenses of the Secretary if in the opinion of the Secretary an emergency exists or appears likely to occur;

(18) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(19) to enter into agreements in connection with the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry.

(Source: P.A. 100-540, eff. 12-31-18.)

(110 ILCS 992/20-30)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 20-30. Suspension; revocation of licenses; fines.

(a) Upon written notice to a licensee, the Secretary may suspend or revoke any license issued pursuant to this Act if, in the notice, he or she makes a finding of one or more of the following:

(1) that through separate acts or an act or a course of conduct, the licensee has violated any provisions of this Act, any rule adopted by the Secretary, or any other law, rule, or regulation of this State or the United States;

(2) that any fact or condition exists that, if it had existed at the time of the original application for the license, would have warranted the Secretary in refusing

originally to issue the license; or

(3) that if a licensee is other than an individual, any ultimate equitable owner, officer, director, or member of the licensed partnership, association, corporation, or other entity has acted or failed to act in a way that would be cause for suspending or revoking a license to that party as an individual.

(b) No license shall be suspended or revoked, except as provided in this Section, nor shall any licensee be fined without notice of his or her right to a hearing as provided in Section 20-65 of this Act.

(c) The Secretary, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation.

(d) The provisions of subsection (d) of Section 15-40 of this Act shall not affect a licensee's civil or criminal liability for acts committed prior to surrender of a license.

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

(f) Every license issued under this Act shall remain in force and effect until the license expires without renewal, is surrendered, is revoked, or is suspended in accordance with the provisions of this Act, but the Secretary shall have authority to reinstate a suspended license or to issue a new license to a licensee whose license has been revoked if no fact or condition

then exists which would have warranted the Secretary in refusing originally to issue that license under this Act.

(g) Whenever the Secretary revokes or suspends a license issued pursuant to this Act or fines a licensee under this Act, he or she shall execute a written order to that effect. The Secretary shall post notice of the order on an agency Internet site maintained by the Secretary or on the Nationwide Multistate Mortgage Licensing System and Registry and shall serve a copy of the order upon the licensee. Any such order may be reviewed in the manner provided by Section 20-65 of this Act.

(h) If the Secretary finds any person in violation of the grounds set forth in subsection (i), he or she may enter an order imposing one or more of the following penalties:

- (1) revocation of license;
- (2) suspension of a license subject to reinstatement upon satisfying all reasonable conditions the Secretary may specify;
- (3) placement of the licensee or applicant on probation for a period of time and subject to all reasonable conditions as the Secretary may specify;
- (4) issuance of a reprimand;
- (5) imposition of a fine not to exceed \$25,000 for each count of separate offense; except that a fine may be imposed not to exceed \$75,000 for each separate count of offense of paragraph (2) of subsection (i) of this Section;

or

(6) denial of a license.

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

(1) being convicted or found guilty, regardless of pendency of an appeal, of a crime in any jurisdiction that involves fraud, dishonest dealing, or any other act of moral turpitude;

(2) fraud, misrepresentation, deceit, or negligence in any student loan transaction;

(3) a material or intentional misstatement of fact on an initial or renewal application;

(4) insolvency or filing under any provision of the federal Bankruptcy Code as a debtor;

(5) failure to account or deliver to any person any property, such as any money, fund, deposit, check, draft, or other document or thing of value, that has come into his or her hands and that is not his or her property or that he or she is not in law or equity entitled to retain, under the circumstances and at the time which has been agreed upon or is required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery;

(6) failure to disburse funds in accordance with agreements;

(7) having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory, or country for fraud, dishonest dealing, or any other act of moral turpitude;

(8) failure to comply with an order of the Secretary or rule made or issued under the provisions of this Act;

(9) engaging in activities regulated by this Act without a current, active license unless specifically exempted by this Act;

(10) failure to pay in a timely manner any fee, charge, or fine under this Act;

(11) failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by the provisions of this Act and the rules of the Secretary;

(12) refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Secretary's subpoena or subpoena duces tecum; and

(13) failure to comply with or a violation of any provision of this Act.

(j) A licensee shall be subject to the disciplinary actions specified in this Act for violations of subsection (i) by any

officer, director, shareholder, joint venture, partner, ultimate equitable owner, or employee of the licensee.

(k) A licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations or there is substantial harm to a consumer.

(l) Procedures for surrender of a license include the following:

(1) The Secretary may, after 10 days' notice by certified mail to the licensee at the address set forth on the license, stating the contemplated action and in general the grounds for the contemplated action and the date, time, and place of a hearing thereon, and after providing the licensee with a reasonable opportunity to be heard prior to such action, fine such licensee an amount not exceeding \$25,000 per violation, or revoke or suspend any license issued under this Act if he or she finds that:

(i) the licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation, or direction of the Secretary lawfully made pursuant to the authority of this Act; or

(ii) any fact or condition exists that, if it had existed at the time of the original application for the license, clearly would have warranted the Secretary in refusing to issue the license.

(2) Any licensee may submit an application to surrender

a license, but, upon the Secretary approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

(Source: P.A. 100-540, eff. 12-31-18.)

Section 10. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-3, 1-4, 2-2, 2-3, 2-3A, 2-4, 2-6, 3-2, 4-1, 4-5, 4-8, 4-8.1A, 4-8.3, 4-9.1, 5-9, 7-1A, 7-2, 7-4, 7-5, 7-6, 7-7, 7-8, 7-9, 7-10, and 7-13 as follows:

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

Sec. 1-3. Necessity for license; scope of Act.

(a) No person, partnership, association, corporation or other entity shall engage in the business of brokering, funding, originating, servicing or purchasing of residential mortgage loans without first obtaining a license from the Secretary in accordance with the licensing procedure provided in this Article I and such regulations as may be promulgated by the Secretary. The licensing provisions of this Section shall not apply to any entity engaged solely in commercial mortgage lending or to any person, partnership association, corporation or other entity exempted pursuant to Section 1-4, subsection (d), of this Act or in accordance with regulations promulgated by the Secretary hereunder. No provision of this Act shall apply to an exempt person or entity as defined in items (1) and

(1.5) of subsection (d) of Section 1-4 of this Act. Notwithstanding anything to the contrary in the preceding sentence, an individual acting as a mortgage loan originator who is not employed by and acting for an entity described in item (1) of subsection (tt) of Section 1-4 of this Act shall be subject to the mortgage loan originator licensing requirements of Article VII of this Act.

Effective January 1, 2011, no provision of this Act shall apply to an exempt person or entity as defined in item (1.8) of subsection (d) of Section 1-4 of this Act. Notwithstanding anything to the contrary in the preceding sentence, an individual acting as a mortgage loan originator who is not employed by and acting for an entity described in item (1) of subsection (tt) of Section 1-4 of this Act shall be subject to the mortgage loan originator licensing requirements of Article VII of this Act, and provided that an individual acting as a mortgage loan originator under item (1.8) of subsection (d) of Section 1-4 of this Act shall be further subject to a determination by the U.S. Department of Housing and Urban Development through final rulemaking or other authorized agency determination under the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

(a-1) A person who is exempt from licensure pursuant to paragraph (ii) of item (1) of subsection (d) of Section 1-4 of this Act as a federally chartered savings bank that is registered with the Nationwide Multistate ~~Mortgage~~ Licensing

System and Registry may apply to the Secretary for an exempt company registration for the purpose of sponsoring one or more individuals subject to the mortgage loan originator licensing requirements of Article VII of this Act. Registration with the Division of Banking of the Department shall not affect the exempt status of the applicant.

(1) A mortgage loan originator eligible for licensure under this subsection shall (A) be covered under an exclusive written contract with, and originate residential mortgage loans solely on behalf of, that exempt person; and (B) hold a current, valid insurance producer license under Article XXXI of the Illinois Insurance Code.

(2) An exempt person shall: (A) fulfill any reporting requirements required by the Nationwide Multistate Mortgage Licensing System and Registry or the Secretary; (B) provide a blanket surety bond pursuant to Section 7-12 of this Act covering the activities of all its sponsored mortgage loan originators; (C) reasonably supervise the activities of all its sponsored mortgage loan originators; (D) comply with all rules and orders (including the averments contained in Section 2-4 of this Act as applicable to a non-licensed exempt entity provided for in this Section) that the Secretary deems necessary to ensure compliance with the federal SAFE Act; and (E) pay an annual registration fee established by the Director.

(3) The Secretary may deny an exempt company

registration to an exempt person or fine, suspend, or revoke an exempt company registration if the Secretary finds one of the following:

(A) that the exempt person is not a person of honesty, truthfulness, or good character;

(B) that the exempt person violated any applicable law, rule, or order;

(C) that the exempt person refused or failed to furnish, within a reasonable time, any information or make any report that may be required by the Secretary;

(D) that the exempt person had a final judgment entered against him or her in a civil action on grounds of fraud, deceit, or misrepresentation, and the conduct on which the judgment is based indicates that it would be contrary to the interest of the public to permit the exempt person to manage a loan originator;

(E) that the exempt person had an order entered against him or her involving fraud, deceit, or misrepresentation by an administrative agency of this State, the federal government, or any other state or territory of the United States, and the facts relating to the order indicate that it would be contrary to the interest of the public to permit the exempt person to manage a loan originator;

(F) that the exempt person made a material misstatement or suppressed or withheld information on

the application for an exempt company registration or any document required to be filed with the Secretary; or

(G) that the exempt person violated Section 4-5 of this Act.

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

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

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

(d-1) The Secretary may issue orders against any person if the Secretary has reasonable cause to believe that an unsafe,

unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Secretary, or for the purposes of administering the provisions of this Act and any rule adopted in accordance with this Act.

(e) Any person, partnership, association, corporation or other entity who violates any provision of this Section commits a business offense and shall be fined an amount not to exceed \$25,000. A mortgage loan brokered, funded, originated, serviced, or purchased by a party who is not licensed under this Section shall not be held to be invalid solely on the basis of a violation under this Section. The changes made to this Section by this amendatory Act of the 99th General Assembly are declarative of existing law.

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

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

(h) This Act applies to all entities doing business in Illinois as residential mortgage bankers, as defined by "An Act

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

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

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

(Source: P.A. 98-492, eff. 8-16-13; 99-113, eff. 7-23-15.)

(205 ILCS 635/1-4)

Sec. 1-4. Definitions. The following words and phrases have the meanings given to them in this Section:

(a) "Residential real property" or "residential real estate" shall mean any real property located in Illinois, upon which is constructed or intended to be constructed a dwelling. Those terms include a manufactured home as defined in subdivision (53) of Section 9-102 of the Uniform Commercial Code which is real property as defined in Section 5-35 of the Conveyance and Encumbrance of Manufactured Homes as Real Property and Severance Act.

(b) "Making a residential mortgage loan" or "funding a

residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, advancing funds or making a commitment to advance funds to a loan applicant for a residential mortgage loan.

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

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

(1) (i) Any banking organization or foreign banking corporation licensed by the Illinois Commissioner of Banks and Real Estate or the United States Comptroller of the Currency to transact business in this State; (ii) any national bank, federally chartered savings and loan association, federal savings bank, federal credit union; (iii) (blank); (iv) any bank, savings and loan association, savings bank, or credit union organized under the laws

of this or any other state; (v) any Illinois Consumer Installment Loan Act licensee; (vi) any insurance company authorized to transact business in this State; (vii) any entity engaged solely in commercial mortgage lending; (viii) any service corporation of a savings and loan association or savings bank organized under the laws of this State or the service corporation of a federally chartered savings and loan association or savings bank having its principal place of business in this State, other than a service corporation licensed or entitled to reciprocity under the Real Estate License Act of 2000; or (ix) any first tier subsidiary of a bank, the charter of which is issued under the Illinois Banking Act by the Illinois Commissioner of Banks and Real Estate, or the first tier subsidiary of a bank chartered by the United States Comptroller of the Currency and that has its principal place of business in this State, provided that the first tier subsidiary is regularly examined by the Illinois Commissioner of Banks and Real Estate or the Comptroller of the Currency, or a consumer compliance examination is regularly conducted by the Federal Reserve Board.

(1.5) Any employee of a person or entity mentioned in item (1) of this subsection, when acting for such person or entity, or any registered mortgage loan

originator when acting for an entity described in subsection (tt) of this Section.

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

(2) (Blank).

(2.1) A bona fide nonprofit organization.

(2.2) An employee of a bona fide nonprofit organization when acting on behalf of that organization.

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

(4) (Blank).

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

nature and amount of compensation.

(6) (Blank).

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

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

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

(h) "Ultimate equitable owner" shall mean a person who, directly or indirectly, owns or controls an ownership interest in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint

stock companies, or other entities or devices, or any combination thereof.

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

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

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

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

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

(n) "Commissioner" shall mean the Commissioner of Banks and Real Estate, except that, beginning on April 6, 2009 (the effective date of Public Act 95-1047), all references in this Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial

and Professional Regulation.

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

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

(p) "Loan broker" or "broker" shall mean a person, partnership, association, corporation, or limited liability company, other than those persons, partnerships, associations, corporations, or limited liability companies exempted from licensing pursuant to Section 1-4,

subsection (d), of this Act, who performs the activities described in subsections (c), (o), and (yy) of this Section.

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

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

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

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

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

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

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

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

(2) consider making a residential mortgage loan to

the borrower.

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

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

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

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

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

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

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

(dd) "Affiliate" shall mean:

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

(2) any entity:

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

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

(3) any company, including a real estate investment trust, that is sponsored and advised on a

contractual basis by the licensee or any subsidiary or affiliate of the licensee.

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

(ff) "Gross delinquency rate" means the quotient determined by dividing (1) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by a licensee in the preceding calendar year that are delinquent and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year that are delinquent by (2) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by the licensee in the preceding calendar year and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year.

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

(hh) (Blank). ~~"Loan originator" means any natural~~

~~person who, for compensation or in the expectation of compensation, either directly or indirectly makes, offers to make, solicits, places, or negotiates a residential mortgage loan. This definition applies only to Section 7-1 of this Act.~~

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

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

(i) takes a residential mortgage loan application;

or

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

"Mortgage loan originator" includes an individual engaged in loan modification activities as defined in subsection (yy) of this Section. A mortgage loan originator engaged in loan modification activities shall report those activities to the Department of Financial and Professional Regulation in the manner provided by the Department; however, the Department shall not impose a fee for reporting, nor require any additional qualifications to engage in those activities beyond those provided pursuant to this Act for mortgage loan originators.

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

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

"Mortgage loan originator" does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in Section

101(53D) of Title 11, United States Code.

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

(ll) "Dwelling" means a residential structure or mobile home which contains one to 4 family housing units, or individual units of condominiums or cooperatives.

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

(nn) "Individual" means a natural person.

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

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

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about

residential mortgage loan rates or terms. An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

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

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

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

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

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

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

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

(4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; or

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

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

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

(A) a depository institution;

(B) a subsidiary that is:

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

(ii) regulated by a federal banking agency; or

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

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

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

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

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

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

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

(zz) "Short sale facilitation" means, for compensation or gain, either directly or indirectly offering or negotiating on behalf of a borrower or homeowner to facilitate the sale of residential real estate subject to

one or more residential mortgage loans or debts constituting liens on the property in which the proceeds from selling the residential real estate will fall short of the amount owed and the lien holders are contacted to agree to release their lien on the residential real estate and accept less than the full amount owed on the debt.

(aaa) "Bona fide nonprofit organization" means an organization that is described in Section 501(c)(3) of the Internal Revenue Code, is exempt from federal income tax under Section 501(a) of the Internal Revenue Code, does not operate in a commercial context, and does all of the following:

(1) Promotes affordable housing or provides home ownership education or similar services.

(2) Conducts its activities in a manner that serves public or charitable purposes.

(3) Receives funding and revenue and charges fees in a manner that does not create an incentive for itself or its employees to act other than in the best interests of its clients.

(4) Compensates its employees in a manner that does not create an incentive for its employees to act other than in the best interests of its clients.

(5) Provides to, or identifies for, the borrower residential mortgage loans with terms favorable to the borrower and comparable to residential mortgage loans

and housing assistance provided under government housing assistance programs.

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

(Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15; 99-78, eff. 7-20-15.)

(205 ILCS 635/2-2)

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

(a) The Secretary shall issue a license upon completion of all of the following:

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

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

(3) The payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to \$2,700 annually.

(4) Except for a broker applying to renew a license, the filing of an audited balance sheet including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards which evidences

that the applicant meets the net worth requirements of Section 3-5. Notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements which include the applicant's financial statement. If the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed in the consolidating statements.

(5) The filing of proof satisfactory to the Secretary ~~Commissioner~~ that the applicant, the members thereof if the applicant is a partnership or association, the members or managers thereof that retain any authority or responsibility under the operating agreement if the applicant is a limited liability company, or the officers thereof if the applicant is a corporation have 3 years experience preceding application in real estate finance. Instead of this requirement, the applicant and the applicant's officers or members, as applicable, may satisfactorily complete a program of education in real estate finance and fair lending, as approved by the Secretary ~~Commissioner~~, prior to receiving the initial license. The Secretary ~~Commissioner~~ shall adopt ~~promulgate~~ rules regarding proof of experience requirements and

educational requirements and the satisfactory completion of those requirements. The Secretary ~~Commissioner~~ may establish by rule a list of duly licensed professionals and others who may be exempt from this requirement.

(6) An investigation of the application ~~averments~~ ~~required by Section 2-4~~, which investigation must allow the Secretary ~~Commissioner~~ to issue positive findings stating that the financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purpose of this Act. If the Secretary ~~Commissioner~~ shall not so find, he or she shall not issue such license, and he or she shall notify the license applicant of the denial.

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

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

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

(Source: P.A. 98-1081, eff. 1-1-15; 99-15, eff. 1-1-16.)

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

Sec. 2-3. Application form.

(a) Application for a residential mortgage license must be made in accordance with Section 2-6 and, if applicable, in accordance with requirements of the Nationwide Multistate Mortgage Licensing System and Registry. The application shall be in writing, under oath, and on a form obtained from and prescribed by the Commissioner, or may be submitted electronically, with attestation, to the Nationwide Multistate Mortgage Licensing System and Registry.

(b) The application shall contain the name and complete business and residential address or addresses of the license applicant. If the license applicant is a partnership, association, corporation or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director and principal officer thereof. Such application shall also include a description of the activities of the license

applicant, in such detail and for such periods, as the Commissioner may require, including all of the following:

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

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

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

(4) Upon written request by the licensee and notwithstanding the provisions of paragraphs (1), (2), and (3) of this subsection, the Commissioner may permit the licensee to omit all or part of the information required by those paragraphs if, in lieu of the omitted information, the licensee submits an affidavit stating that the information submitted on the licensee's previous renewal application is still true and accurate. The Commissioner may promulgate rules prescribing the form and content of the affidavit that are necessary to accomplish the purposes of this Section.

(5) Such other information as required by regulations of the Commissioner.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/2-3A)

Sec. 2-3A. Residential mortgage license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Director. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the Director and may be changed or updated as necessary by the Director in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Director is authorized to establish relationships or contracts with the Nationwide Multistate Mortgage Licensing System and

Registry or other entities designated by the Nationwide Multistate Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing, the applicant may be required, at a minimum, to furnish to the Nationwide Multistate Mortgage Licensing System and Registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the Federal Bureau of Investigation or any governmental agency or entity authorized to receive such information for a State, national, and international criminal history background check; and

(2) personal history and experience in a form prescribed by the Nationwide Multistate Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Mortgage Licensing System and Registry and the Director to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)); and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purposes of this Section, and in order to

reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of subsection (c) of this Section, the Director may use the Nationwide Multistate Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(e) For the purposes of this Section, and in order to reduce the points of contact that the Director may have to maintain for purposes of item (2) of subsection (c) of this Section, the Director may use the Nationwide Multistate Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Director.

(Source: P.A. 97-891, eff. 8-3-12.)

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

Sec. 2-4. Prohibited acts and practices for licensees.
~~Averments of Licensee. It is a violation of this Act for a licensee subject to this Act to~~ Each application for license shall be accompanied by the following averments stating that the applicant:

(a) fail to ~~Will~~ maintain at least one full service office within the State of Illinois if required to do so pursuant to Section 3-4 of this Act;

(b) fail to ~~Will~~ maintain staff reasonably adequate to

meet the requirements of Section 3-4 of this Act;

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

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

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

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

(g) make ~~Will not make~~ payment, whether directly or indirectly, of any kind to any in house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed for the purpose of influencing the independent judgment of the

appraiser with respect to the value of any real estate which is to be covered by such home mortgage;

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

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

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

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

(l) fail to ~~Will~~ disburse funds in accordance with its agreements;

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

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

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

(p) become ~~Has not become~~ insolvent;

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

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

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

(t) fail to ~~Will~~ comply with the provisions of this Act, or with any lawful order, rule or regulation made or issued under the provisions of this Act;

(u) fail to ~~Will~~ submit to periodic examination by the Secretary ~~Commissioner~~ as required by this Act;

(v) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in writing of judgments entered against, and bankruptcy petitions by, the license applicant within 5 days of occurrence;

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

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

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

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

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

(bb) structure ~~Will not structure~~ activities or

contracts to evade provisions of this Act.

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

(Source: P.A. 97-891, eff. 8-3-12; 98-1081, eff. 1-1-15.)

(205 ILCS 635/2-6)

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

(a) Licenses shall be renewed every year using the common
renewal date of the Nationwide Multistate Mortgage Licensing
System and Registry as adopted by the Director. Properly
completed renewal application forms and filing fees may be
received by the Secretary 60 days prior to the license
expiration date, but, to be deemed timely, the completed
renewal application forms and filing fees must be received by
the Secretary no later than 30 days prior to the license
expiration date.

(b) It shall be the responsibility of each licensee to
accomplish renewal of its license. Failure by a licensee to
submit a properly completed renewal application form and fees
in a timely fashion, absent a written extension from the
Secretary, will result in the license becoming inactive.

(c) No activity regulated by this Act shall be conducted by
the licensee when a license becomes inactive. The Commissioner

may require the licensee to provide a plan for the disposition of any residential mortgage loans not closed or funded when the license becomes inactive. The Commissioner may allow a licensee with an inactive license to conduct activities regulated by this Act for the sole purpose of assisting borrowers in the closing or funding of loans for which the loan application was taken from a borrower while the license was active. An inactive license may be reactivated by the Commissioner upon payment of the renewal fee, and payment of a reactivation fee equal to the renewal fee.

(d) (Blank).

(e) A licensee ceasing an activity or activities regulated by this Act and desiring to no longer be licensed shall so inform the Commissioner in writing and, at the same time, convey any license issued and all other symbols or indicia of licensure. The licensee shall include a plan for the withdrawal from regulated business, including a timetable for the disposition of the business, and comply with the surrender guidelines or requirements of the Director. Upon receipt of such written notice, the Commissioner shall post the cancellation or issue a certified statement canceling the license.

(Source: P.A. 99-15, eff. 1-1-16.)

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

Sec. 3-2. Annual audit.

(a) At the licensee's fiscal year-end, but in no case more than 12 months after the last audit conducted pursuant to this Section, except as otherwise provided in this Section, it shall be mandatory for each residential mortgage licensee to cause its books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all licensees under this Act shall be maintained on an accrual basis. The audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements, which must be prepared in accordance with generally accepted accounting principles, and must be performed in accordance with generally accepted auditing standards. Notwithstanding the requirements of this subsection, a licensee that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements which include the licensee's financial statement. If the consolidating statements are unaudited, the licensee's chief financial officer shall attest to the licensee's financial statements disclosed in the consolidating statements.

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

(c) If a qualified or adverse opinion is expressed or if an

opinion is disclaimed, the reasons therefore must be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

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

(e) (Blank).

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

(g) With respect to licensees who solely broker residential mortgage loans as defined in subsection (o) of Section 1-4, instead of the audit required by this Section, the Commissioner may accept compilation financial statements prepared at least every 12 months, and the compilation financial statement must be submitted within 90 days after the end of the licensee's fiscal year, or with the Nationwide Multistate Mortgage Licensing System and Registry, if applicable, pursuant to Mortgage Call Report requirements. A licensee who files false

or misleading compilation financial statements is guilty of a business offense and shall be fined not less than \$5,000.

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

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

(Source: P.A. 98-463, eff. 8-16-13; 98-1081, eff. 1-1-15; 99-933, eff. 1-27-17.)

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

Sec. 4-1. Commissioner of Banks and Real Estate; functions, powers, and duties. The functions, powers, and duties of the Commissioner of Banks and Real Estate shall include the

following:

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

(b) to revoke or suspend for cause any license issued under this Act;

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

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

(e) to consider and act upon any recommendations from the Residential Mortgage Board;

(f) to prescribe the forms of and receive:

(1) applications for licenses; and

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

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

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

(h-1) to issue orders against any person, if the Commissioner has reasonable cause to believe that an

unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has violated, is violating, or is about to violate any law, rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act and any rule adopted in accordance with the Act;

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

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

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

(k) to enforce provisions of this Act;

(l) to levy fees, fines, and charges for services performed in administering this Act; the aggregate of all fees collected by the Commissioner on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the Residential Finance Regulatory Fund under Section 4-1.5 of this Act; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Office of Banks and Real Estate. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund.

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

(n) to conduct hearings for the purpose of:

(1) appeals of orders of the Commissioner;

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

(3) investigating:

(i) complaints against licensees; or

(ii) annual gross delinquency rates; and

(4) carrying out the purposes of this Act;

(o) to exercise exclusive visitorial power over a

licensee unless otherwise authorized by this Act or as vested in the courts, or upon prior consultation with the Commissioner, a foreign residential mortgage regulator with an appropriate supervisory interest in the parent or affiliate of a licensee;

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

(q) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Commissioner determines appropriate and to charge the licensee for reasonable and necessary expenses of the Commissioner, if in the opinion of the Commissioner an emergency exists or appears likely to occur;

(r) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(s) to enter into agreements in connection with the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry.

(Source: P.A. 98-1081, eff. 1-1-15.)

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

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

(a) Upon written notice to a licensee, the Commissioner may

suspend or revoke any license issued pursuant to this Act if he or she shall make a finding of one or more of the following in the notice that:

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

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

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

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

(c) The Commissioner, on good cause shown that an emergency exists, may suspend any license for a period not exceeding 180 days, pending investigation. Upon a showing that a licensee has failed to meet the experience or educational requirements of

Section 2-2 or the requirements of subsection (g) of Section 3-2, the Commissioner shall suspend, prior to hearing as provided in Section 4-12, the license until those requirements have been met.

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

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

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

(g) Whenever the Commissioner shall revoke or suspend a license issued pursuant to this Act or fine a licensee under this Act, he or she shall forthwith execute a written order to that effect. The Commissioner shall post notice of the order on an agency Internet site maintained by the Commissioner or on the Nationwide Multistate Mortgage Licensing System and Registry and shall forthwith serve a copy of such order upon

the licensee. Any such order may be reviewed in the manner provided by Section 4-12 of this Act.

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

(1) Revocation of license;

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

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

(4) Issuance of a reprimand;

(5) Imposition of a fine not to exceed \$25,000 for each count of separate offense, provided that a fine may be imposed not to exceed \$75,000 for each separate count of offense of paragraph (2) of subsection (i) of this Section; and

(6) Denial of a license.

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

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

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

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

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

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

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

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

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

(9) Having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this State or another state, territory or country for fraud, dishonest dealing or any

other act of moral turpitude;

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

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

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

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

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

(15) Refusing, obstructing, evading, or unreasonably delaying an investigation, information request, or examination authorized under this Act, or refusing, obstructing, evading, or unreasonably delaying compliance with the Director's subpoena or subpoena duces tecum;

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

(17) Failure to comply with or violation of any

provision of this Act;

(18) Failure to comply with or violation of any provision of Article 3 of the Residential Real Property Disclosure Act.

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

(k) Such licensee shall be subject to suspension or revocation for unauthorized employee actions only if there is a pattern of repeated violations by employees or the licensee has knowledge of the violations, or there is substantial harm to a consumer.

(l) Procedure for surrender of license:

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

(i) The licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation or direction of the Commissioner

lawfully made pursuant to the authority of this Act; or

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

(2) Any licensee may submit application to surrender a license, but upon the Director approving the surrender, it shall not affect the licensee's civil or criminal liability for acts committed prior to surrender or entitle the licensee to a return of any part of the license fee.

(Source: P.A. 99-15, eff. 1-1-16.)

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

Sec. 4-8. Delinquency; examination.

(a) (Blank). ~~The Commissioner shall obtain from the U.S. Department of Housing and Urban Development that Department's loan delinquency data.~~

(b) The Secretary ~~Commissioner~~ shall conduct as part of an examination of each licensee a review of the licensee's loan delinquency data.

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

(c) The purpose of the examination under subsection (b) shall be to determine whether the loan delinquency data of the licensee has resulted from practices which deviate from sound and accepted mortgage underwriting practices, including, but not limited to, credit fraud, appraisal fraud, and property inspection fraud. For the purpose of conducting this examination, the Secretary ~~Commissioner~~ may accept materials prepared for the U.S. Department of Housing and Urban Development. At the conclusion of the examination, the Secretary ~~Commissioner~~ shall make his or her findings available to the Residential Mortgage Board.

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

~~Commissioner.~~

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

(f) A licensee that is examined pursuant to subsection (b) shall submit to the Secretary ~~Commissioner~~ a plan which shall be designed to reduce that licensee's loan delinquencies. The plan shall be implemented by the licensee as approved by the Secretary ~~Commissioner~~. A licensee that is examined pursuant to subsection (b) shall report monthly, for a one year period, one, 2, and 3 month loan delinquencies.

(g) Whenever the Secretary ~~Commissioner~~ finds that a licensee's loan delinquencies on insured mortgages is unusually high within a particular geographic area, he or she shall require that licensee to submit such information as is necessary to determine whether that licensee's practices have constituted credit fraud, appraisal fraud or property inspection fraud. The Secretary ~~Commissioner~~ shall promulgate such rules as are necessary to determine whether any licensee's loan delinquencies are unusually high within a particular area. (Source: P.A. 99-15, eff. 1-1-16.)

Sec. 4-8.1A. Confidentiality.

(a) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, except as otherwise provided in federal Public Law 110-289, Section 1512, the requirements under any federal law or state law regarding the privacy or confidentiality of any information or material provided to the Nationwide Multistate Mortgage Licensing System and Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to information or material after the information or material has been disclosed to the Nationwide Multistate Mortgage Licensing System and Registry. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or state law.

(b) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, the Director is authorized to enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators or other associations representing governmental agencies as established by rule, regulation or order of the Director. The sharing of

confidential supervisory information or any information or material described in subsection (a) of this Section pursuant to an agreement or sharing arrangement shall not result in the loss of privilege or the loss of confidentiality protections provided by federal law or state law.

(c) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, information or material that is subject to a privilege or confidentiality under subsection (a) of this Section shall not be subject to the following:

(1) disclosure under any State law governing the disclosure to the public of information held by an officer or an agency of the State; or

(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Multistate Mortgage ~~Mortgage~~ Licensing System and Registry with respect to the information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of that person, that privilege.

(d) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, other law relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) of this Section that is inconsistent with subsection (a) of this Section shall be

superseded by the requirements of this Section to the extent the other law provides less confidentiality or a weaker privilege.

(e) In order to promote more effective regulation and reduce regulatory burden through supervisory information sharing, this Section shall not apply to the employment history of a mortgage loan originator, and the record of publicly adjudicated disciplinary and enforcement actions against a mortgage loan originator.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/4-8.3)

Sec. 4-8.3. Annual report ~~of mortgage brokerage and servicing activity~~. On or before March 1 of each year or the date selected for Mortgage Call Reports under Section 4-9.1 of this Act, each licensee shall file a report with the Secretary ~~Commissioner~~ that discloses ~~shall disclose~~ such information as the Secretary ~~Commissioner~~ requires. A licensee filing a Mortgage Call Report is not required to file an annual report. Exempt entities as defined in subsection (d) of Section 1-4 shall not file the annual report of mortgage and servicing activity required by this Section.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/4-9.1)

Sec. 4-9.1. Mortgage call reports. Each residential

mortgage licensee shall submit to the Nationwide Multistate Mortgage Licensing System and Registry reports of condition, which shall be in the form and shall contain the information that the Nationwide Multistate Mortgage Licensing System and Registry may require.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/5-9)

Sec. 5-9. Notice of change in loan terms.

(a) No licensee may fail to do either of the following:

(1) Provide timely notice to the borrower of any material change in the terms of the residential mortgage loan prior to the closing of the loan. For purposes of this Section, a "material change means" any of the following:

(A) A change in the type of loan being offered, such as a fixed or variable rate loan or a loan with a balloon payment.

(B) A change in the term of the loan, as reflected in the number of monthly payments due before a final payment is scheduled to be made.

(C) An increase in the interest rate of more than 0.15%, or an equivalent increase in the amount of discount points charged.

(D) An increase in the regular monthly payment of principal and interest of more than 5%.

(E) A change regarding the requirement or amount of

escrow of taxes or insurance.

(F) A change regarding the requirement or payment, or both, of private mortgage insurance.

(2) Timely inform the borrower if any fees payable by the borrower to the licensee increase by more than 10% or \$100, whichever is greater.

(b) The disclosures required by this Section shall be deemed timely if the licensee provides the borrower with the revised information not later than 3 days after learning of the change or 24 hours before the residential mortgage loan is closed, whichever is earlier. If the licensee discloses a material change more than the 3 days after learning of the change but still 24 hours before the residential mortgage loan is closed, it will not be liable for penalties or forfeitures if the licensee cures in time for the borrower to avoid any damage.

(c) If an increase in the total amount of the fee to be paid by the borrower to the broker is not disclosed in accordance with this Section, the broker shall refund to the borrower the amount by which the fee was increased. If the fee is financed into the residential mortgage loan, the broker shall also refund to the borrower the interest charged to finance the fee.

(d) The requirements of this Section do not apply to a licensee providing a notice of change in loan terms pursuant to the federal Consumer Financial Protection Bureau's Know Before

You Owe mortgage disclosure procedure pursuant to the federal Truth in Lending Act and amendments promulgated under 12 CFR 1026 and the federal Real Estate Settlement Procedures Act and amendments promulgated under 12 CFR 1024. ~~Licensees limited to soliciting residential mortgage loan applications as approved by the Director under Title 38, Section 1050.2115(c)(1) of the Illinois Administrative Code are not required to provide the disclosures under this Section as long as the solicitor does not discuss the terms and conditions with the potential borrower.~~

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

(205 ILCS 635/7-1A)

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

(a) It is unlawful for any individual to act or assume to act as a mortgage loan originator, as defined in subsection (jj) of Section 1-4 of this Act, without obtaining a license from the Director, unless the individual is exempt under subsection (c) of this Section. It is unlawful for any individual who holds a mortgage loan originator license to provide short sale facilitation services unless he or she holds a license under the Real Estate License Act of 2000. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the Nationwide Multistate Mortgage Licensing System and Registry.

(b) (Blank). ~~In order to facilitate an orderly transition~~

~~to licensing and minimize disruption in the mortgage marketplace, the operability date for subsection (a) of this Section shall be as provided in this subsection (b). For this purpose, the Director may require submission of licensing information to the Nationwide Mortgage Licensing System and Registry prior to the operability dates designated by the Director pursuant to items (1) and (2) of this subsection (b).~~

~~(1) For all individuals other than individuals described in item (2) of this subsection (b), the operability date as designated by the Director shall be no later than July 31, 2010, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under federal Public Law 110-289, Section 1508.~~

~~(2) For all individuals registered as loan originators as of the effective date of this amendatory Act of the 96th General Assembly, the operability date as designated by the Director shall be no later than January 1, 2011, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under Public Law 110-289, Section 1508.~~

~~(3) For all individuals described in item (1) or (2) of this subsection (b) who are loss mitigation specialists employed by servicers, the operability date shall be July 31, 2011, or any date approved by the Secretary of the U.S. Department of Housing and Urban Development pursuant to~~

~~authority granted under Public Law 110-289, Section 1508.~~

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

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

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

(3) Any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.

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

(5) Any individual described in paragraph (2.2) of subsection (d) of Section 1-4.

(d) A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless he or she obtains and maintains a license under subsection (a) of this Section. Each independent contractor loan processor or underwriter licensed as a mortgage loan originator must have and maintain a valid unique

identifier issued by the Nationwide Multistate Mortgage Licensing System and Registry.

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

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

(205 ILCS 635/7-2)

Sec. 7-2. State license application and issuance.

(a) Applicants for a license shall apply in a form prescribed by the Director. Each form shall contain content as set forth by rule, regulation, instruction, or procedure of the Director and may be changed or updated as necessary by the Director in order to carry out the purposes of this Act.

(b) In order to fulfill the purposes of this Act, the Director is authorized to establish relationships or contracts with the Nationwide Multistate Mortgage Licensing System and Registry or other entities designated by the Nationwide Multistate Mortgage Licensing System and Registry to collect and maintain records and process transaction fees or other fees related to licensees or other persons subject to this Act.

(c) In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum,

furnish to the Nationwide Multistate Mortgage Licensing System and Registry information concerning the applicant's identity, including the following:

(1) Fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check.

(2) Personal history and experience in a form prescribed by the Nationwide Multistate Mortgage Licensing System and Registry, including the submission of authorization for the Nationwide Multistate Mortgage Licensing System and Registry and the Director to obtain:

(A) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

(d) For the purpose of this Section, and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (c) of this Section, the Director may use the Nationwide Multistate Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(e) For the purposes of this Section and in order to reduce the points of contact which the Director may have to maintain for purposes of item (2) of subsection (c) of this Section, the Director may use the Nationwide Multistate Mortgage Licensing System and Registry as a channeling agent for requesting and distributing information to and from any source so directed by the Director.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-4)

Sec. 7-4. Pre-licensing and education of mortgage loan originators.

(a) In order to meet the pre-licensing education requirement referred to in item (4) of Section 7-3 of this Act an individual shall complete at least 20 hours of education approved in accordance with subsection (b) of this Section, which shall include at least:

- (1) 3 hours of Federal law and regulations;
- (2) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of subsection (a) of this Section, pre-licensing education courses shall be reviewed and approved by the Nationwide Multistate Mortgage Licensing System and Registry based upon reasonable standards. Review and approval

of a pre-licensing education course shall include review and approval of the course provider.

(c) Nothing in this Section shall preclude any pre-licensing education course, as approved by the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry, that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such an employer or entity.

(d) Pre-licensing education may be offered in a classroom, online, or by any other means approved by the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry.

(e) The pre-licensing education requirements approved by the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry for the subjects listed in items (1) through (3) of subsection (a) for any state shall be accepted as credit towards completion of pre-licensing education requirements in Illinois.

(f) An individual previously registered under this Act who is applying to be licensed after the effective date of this amendatory Act of the 96th General Assembly must prove that he or she has completed all of the continuing education requirements for the year in which the registration or license was last held.

(Source: P.A. 96-112, eff. 7-31-09.)

Sec. 7-5. Testing of mortgage loan originators.

(a) In order to meet the written test requirement referred to in item (5) of Section 7-3, an individual shall pass, in accordance with the standards established under this subsection (a), a qualified written test developed by the Nationwide Multistate Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Multistate Mortgage Licensing System and Registry based upon reasonable standards.

(b) A written test shall not be treated as a qualified written test for purposes of subsection (a) of this Section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

- (1) ethics;
- (2) federal law and regulation pertaining to mortgage origination;
- (3) State law and regulation pertaining to mortgage origination; and
- (4) federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(c) Nothing in this Section shall prohibit a test provider approved by the Nationwide Multistate Mortgage Licensing System and Registry from providing a test at the location of the employer of the applicant or the location of any subsidiary

or affiliate of the employer of the applicant, or the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

(d) An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75% correct answers to questions.

An individual may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again.

A licensed mortgage loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered mortgage loan originator.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-6)

Sec. 7-6. Standards for license renewal.

(a) The minimum standards for license renewal for mortgage loan originators shall include the following:

(1) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 7-3.

(2) The mortgage loan originator has satisfied the annual continuing education requirements described in

Section 7-7.

(3) The mortgage loan originator has paid all required fees for renewal of the license.

(b) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The Director may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide Multistate Mortgage Licensing System and Registry.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-7)

Sec. 7-7. Continuing education for mortgage loan originators.

(a) In order to meet the annual continuing education requirements referred to in Section 7-6, a licensed mortgage loan originator shall complete at least 8 hours of education approved in accordance with subsection (b) of this Section, which shall include at least:

- (1) 3 hours of Federal law and regulations;
- (2) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and
- (3) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(b) For purposes of this subsection (a), continuing education courses shall be reviewed and approved by the

Nationwide Multistate Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(c) Nothing in this Section shall preclude any education course, as approved by the Nationwide Multistate Mortgage Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of the employer or entity.

(d) Continuing education may be offered either in a classroom, online, or by any other means approved by the Nationwide Multistate Mortgage Licensing System and Registry.

(e) A licensed mortgage loan originator:

(1) Except as provided in Section 7-6 and subsection (i) of this Section, may only receive credit for a continuing education course in the year in which the course is taken; and

(2) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(f) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of 2 hours

credit for every one hour taught.

(g) A person having successfully completed the education requirements approved by the Nationwide Multistate Mortgage Licensing System and Registry for the subjects listed in subsection (a) of this Section for any state shall be accepted as credit towards completion of continuing education requirements in this State.

(h) A licensed mortgage loan originator who subsequently becomes unlicensed must complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

(i) A person meeting the requirements of Section 7-6 may make up any deficiency in continuing education as established by rule or regulation of the Director.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-8)

Sec. 7-8. Authority to require license. In addition to any other duties imposed upon the Director by law, the Director shall require mortgage loan originators to be licensed and registered through the Nationwide Multistate Mortgage Licensing System and Registry. In order to carry out this requirement the Director is authorized to participate in the Nationwide Multistate Mortgage Licensing System and Registry. For this purpose, the Director may establish by agreement, order or rule requirements as necessary, including, but not

limited to, the following:

(1) Background checks for:

(A) criminal history through fingerprint or other databases;

(B) civil or administrative records;

(C) credit history; or

(D) any other information as deemed necessary by the Nationwide Multistate Mortgage Licensing System and Registry.

(2) The payment of fees to apply for or renew licenses through the Nationwide Multistate Mortgage Licensing System and Registry;

(3) The setting or resetting as necessary of renewal or reporting dates; and

(4) Requirements for amending or surrendering a license or any other such activities as the Director deems necessary for participation in the Nationwide Multistate Mortgage Licensing System and Registry.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-9)

Sec. 7-9. Report to Nationwide Multistate Mortgage Licensing System and Registry. Subject to State privacy laws, the Director is required to report regularly violations of this Act, as well as enforcement actions and other relevant information, to the Nationwide Multistate Mortgage Licensing

System and Registry subject to the provisions contained in Section 4-8.1A of this Act.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-10)

Sec. 7-10. Nationwide Multistate ~~Mortgage~~ Licensing System and Registry information challenge process. The Director shall establish a process whereby mortgage loan originators may challenge information entered into the Nationwide Multistate ~~Mortgage~~ Licensing System and Registry by the Director.

(Source: P.A. 96-112, eff. 7-31-09.)

(205 ILCS 635/7-13)

Sec. 7-13. Prohibited acts and practices for mortgage loan originators. It is a violation of this Act for an individual subject to this Act to:

(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person.

(2) Engage in any unfair or deceptive practice toward any person.

(3) Obtain property by fraud or misrepresentation.

(4) Solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this Act may earn a fee or commission through "best efforts" to obtain a loan even though no loan is

actually obtained for the borrower.

(5) Solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting.

(6) Conduct any business covered by this Act without holding a valid license as required under this Act, or assist or aid and abet any person in the conduct of business under this Act without a valid license as required under this Act.

(7) Fail to make disclosures as required by this Act and any other applicable State or federal law, including regulations thereunder.

(8) Fail to comply with this Act or rules or regulations promulgated under this Act, or fail to comply with any other state or federal law, including the rules and regulations thereunder, applicable to any business authorized or conducted under this Act.

(9) Make, in any manner, any false or deceptive statement or representation of a material fact, or any omission of a material fact, required on any document or application subject to this Act.

(10) Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or report filed with a governmental agency or the Nationwide Multistate Mortgage

Licensing System and Registry or in connection with any investigation conducted by the Director or another governmental agency.

(11) Make any payment, threat or promise, directly or indirectly, to any person for the purpose of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purpose of influencing the independent judgment of the appraiser with respect to the value of the property.

(12) Collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this Act, including advance fees for loan modification.

(13) Cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.

(14) Fail to truthfully account for monies belonging to a party to a residential mortgage loan transaction.

(15) Engage in conduct that constitutes dishonest dealings.

(16) Knowingly instruct, solicit, propose, or cause a person other than the borrower to sign a borrower's signature on a mortgage related document, or solicit,

accept or execute any contract or other document related to the residential mortgage transaction that contains any blanks to be filled in after signing or initialing the contract or other document, except for forms authorizing the verification of application information.

(17) Discourage any applicant from seeking or participating in housing or financial counseling either before or after the consummation of a loan transaction, or fail to provide information on counseling resources upon request.

(18) Charge for any ancillary products or services, not essential to the basic loan transaction for which the consumer has applied, without the applicant's knowledge and written authorization, or charge for any ancillary products or services not actually provided in the transaction.

(19) Fail to give reasonable consideration to a borrower's ability to repay the debt.

(20) Interfere or obstruct an investigation or examination conducted pursuant to this Act.

(21) Structure activities or contracts to evade provisions of this Act.

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

(205 ILCS 635/7-1 rep.)

Section 15. The Residential Mortgage License Act of 1987 is

Public Act 100-1153

HB5542 Enrolled

LRB100 17500 XWW 32669 b

amended by repealing Section 7-1.

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