

1 AN ACT concerning regulation.

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

4 Section 5. The Residential Mortgage License Act of 1987 is
5 amended by changing Sections 2-2, 2-4, 4-8, 4-8.3, and 5-9 as
6 follows:

7 (205 ILCS 635/2-2)

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

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

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

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

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

20 (4) Except for a broker applying to renew a license,
21 the filing of an audited balance sheet including all
22 footnotes prepared by a certified public accountant in
23 accordance with generally accepted accounting principles

1 and generally accepted auditing standards which evidences
2 that the applicant meets the net worth requirements of
3 Section 3-5. Notwithstanding the requirements of this
4 subsection, an applicant that is a subsidiary may submit
5 audited consolidated financial statements of its parent,
6 intermediary parent, or ultimate parent as long as the
7 consolidated statements are supported by consolidating
8 statements which include the applicant's financial
9 statement. If the consolidating statements are unaudited,
10 the applicant's chief financial officer shall attest to the
11 applicant's financial statements disclosed in the
12 consolidating statements.

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

1 rules regarding proof of experience requirements and
2 educational requirements and the satisfactory completion
3 of those requirements. The Secretary ~~Commissioner~~ may
4 establish by rule a list of duly licensed professionals and
5 others who may be exempt from this requirement.

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

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

1 the period prescribed by the Secretary ~~Commissioner~~.

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

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

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

9 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

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

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

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

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

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

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

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

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

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

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

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

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

10 (l) fail to ~~will~~ disburse funds in accordance with its
11 agreements;

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

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

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

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

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

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

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

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

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

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

23 (w) fail to ~~Will~~ advise the Secretary ~~Commissioner~~ in
24 writing within 30 days of any request made to a licensee
25 under this Act to repurchase a loan in a manner that
26 completely and clearly identifies to whom the request was

1 made, the loans involved, and the reason therefor;

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

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

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

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

18 (bb) structure ~~Will not structure~~ activities or
19 contracts to evade provisions of this Act.

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

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

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

2 Sec. 4-8. Delinquency; examination.

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

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

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

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

26 (d) The Secretary ~~Commissioner~~, at his or her discretion,

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

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

22 (f) A licensee that is examined pursuant to subsection (b)
23 shall submit to the Secretary ~~Commissioner~~ a plan which shall
24 be designed to reduce that licensee's loan delinquencies. The
25 plan shall be implemented by the licensee as approved by the
26 Secretary ~~Commissioner~~. A licensee that is examined pursuant to

1 subsection (b) shall report monthly, for a one year period,
2 one, 2, and 3 month loan delinquencies.

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

13 (205 ILCS 635/4-8.3)

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

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

1 (205 ILCS 635/5-9)

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

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

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

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

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

14 (C) An increase in the interest rate of more than
15 0.15%, or an equivalent increase in the amount of
16 discount points charged.

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

19 (E) A change regarding the requirement or amount of
20 escrow of taxes or insurance.

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

23 (2) Timely inform the borrower if any fees payable by
24 the borrower to the licensee increase by more than 10% or
25 \$100, whichever is greater.

26 (b) The disclosures required by this Section shall be

1 deemed timely if the licensee provides the borrower with the
2 revised information not later than 3 days after learning of the
3 change or 24 hours before the residential mortgage loan is
4 closed, whichever is earlier. If the licensee discloses a
5 material change more than the 3 days after learning of the
6 change but still 24 hours before the residential mortgage loan
7 is closed, it will not be liable for penalties or forfeitures
8 if the licensee cures in time for the borrower to avoid any
9 damage.

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

17 (d) The requirements of this Section do not apply to a
18 licensee providing a notice of change in loan terms pursuant to
19 the federal Consumer Financial Protection Bureau's Know Before
20 You Owe mortgage disclosure procedure pursuant to the federal
21 Truth in Lending Act and amendments promulgated under 12 CFR
22 1026 and the federal Real Estate Settlement Procedures Act and
23 amendments promulgated under 12 CFR 1024. ~~Licensees limited to~~
24 ~~soliciting residential mortgage loan applications as approved~~
25 ~~by the Director under Title 38, Section 1050.2115(c)(1) of the~~
26 ~~Illinois Administrative Code are not required to provide the~~

1 ~~disclosures under this Section as long as the solicitor does~~
2 ~~not discuss the terms and conditions with the potential~~
3 ~~borrower.~~

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

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