



Sen. Chuck Weaver

Filed: 5/10/2018

10000HB5542sam001

LRB100 17500 XWW 39970 a

1 AMENDMENT TO HOUSE BILL 5542

2 AMENDMENT NO. _____. Amend House Bill 5542 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Student Loan Servicing Rights Act is
5 amended by changing Sections 15-15, 15-20, 15-25, 15-30, 15-40,
6 20-5, 20-20, and 20-30 as follows:

7 (110 ILCS 992/15-15)

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

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

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

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

16 (2) the filing with the Secretary of a listing of

1 judgments entered against, and bankruptcy petitions by,
2 the license applicant for the preceding 10 years;

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

7 (4) the filing of an audited balance sheet, including
8 all footnotes prepared by a certified public accountant in
9 accordance with generally accepted accounting principles
10 and generally accepted auditing standards; notwithstanding
11 the requirements of this subsection, an applicant that is a
12 subsidiary may submit audited consolidated financial
13 statements of its parent, intermediary parent, or ultimate
14 parent as long as the consolidated statements are supported
15 by consolidating statements that include the applicant's
16 financial statement; if the consolidating statements are
17 unaudited, the applicant's chief financial officer shall
18 attest to the applicant's financial statements disclosed
19 in the consolidating statements; and

20 (5) an investigation of the averments required by
21 Section 15-30, which investigation must allow the
22 Secretary to issue positive findings stating that the
23 financial responsibility, experience, character, and
24 general fitness of the license applicant and of the members
25 thereof if the license applicant is a partnership or
26 association, of the officers and directors thereof if the

1 license applicant is a corporation, and of the managers and
2 members that retain any authority or responsibility under
3 the operating agreement if the license applicant is a
4 limited liability company, are such as to command the
5 confidence of the community and to warrant belief that the
6 business will be operated honestly, fairly, and
7 efficiently within the purpose of this Act; if the
8 Secretary does not so find, he or she shall not issue the
9 license, and he or she shall notify the license applicant
10 of the denial.

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

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

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

23 (110 ILCS 992/15-20)

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

1 Sec. 15-20. Application form.

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

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

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

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

1 (3) information as to the character, fitness,
2 financial and business responsibility, background,
3 experience, and criminal record of any (i) person, entity,
4 or ultimate equitable owner that owns or controls, directly
5 or indirectly, 10% or more of any class of stock of the
6 license applicant; (ii) person, entity, or ultimate
7 equitable owner that is not a depository institution, as
8 defined in Section 1007.50 of the Savings Bank Act, that
9 lends, provides, or infuses, directly or indirectly, in any
10 way, funds to or into a license applicant in an amount
11 equal to or more than 10% of the license applicant's net
12 worth; (iii) person, entity, or ultimate equitable owner
13 that controls, directly or indirectly, the election of 25%
14 or more of the members of the board of directors of a
15 license applicant; or (iv) person, entity, or ultimate
16 equitable owner that the Secretary finds influences
17 management of the license applicant; the provisions of this
18 subsection shall not apply to a public official serving on
19 the board of directors of a State guaranty agency;

20 (4) upon written request by the licensee and
21 notwithstanding the provisions of paragraphs (1), (2), and
22 (3) of this subsection, the Secretary may permit the
23 licensee to omit all or part of the information required by
24 those paragraphs if, in lieu of the omitted information,
25 the licensee submits an affidavit stating that the
26 information submitted on the licensee's previous renewal

1 application is still true and accurate; the Secretary may
2 adopt rules prescribing the form and content of the
3 affidavit that are necessary to accomplish the purposes of
4 this Section; and

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

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

8 (110 ILCS 992/15-25)

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

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

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

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

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

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

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

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

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

22 (d) For the purposes of this Section, and in order to
23 reduce the points of contact that the Federal Bureau of
24 Investigation may have to maintain for purposes of subsection
25 (c) of this Section, the Secretary may use the Nationwide
26 Multistate Mortgage Licensing System and Registry as a

1 channeling agent for requesting information from and
2 distributing information to the federal Department of Justice
3 or any governmental agency.

4 (e) For the purposes of this Section, and in order to
5 reduce the points of contact that the Secretary may have to
6 maintain for purposes of paragraph (2) of subsection (c) of
7 this Section, the Secretary may use the Nationwide Multistate
8 ~~Mortgage~~ Licensing System and Registry as a channeling agent
9 for requesting and distributing information to and from any
10 source as directed by the Secretary.

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

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

15 (110 ILCS 992/15-30)

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

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

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

25 (2) has not committed a crime against the law of this

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

7 (3) has not engaged in any conduct that would be cause
8 for denial of a license;

9 (4) has not become insolvent;

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

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

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

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

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

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

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

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

9 (110 ILCS 992/15-40)

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

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

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

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

1 Secretary, shall result in the license becoming inactive.

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

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

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

- 23 (1) investigation of licensees and license applicant
24 fees;
- 25 (2) examination fees;
- 26 (3) contingent fees; and

1 (4) such other categories as may be required to
2 administer this Act.

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

4 (110 ILCS 992/20-5)

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

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

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

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

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

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

19 (5) to prescribe the forms of and receive:

20 (A) applications for licenses; and

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

25 (6) to adopt rules necessary and proper for the

1 administration of this Act;

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

6 (8) to issue orders against any person if the Secretary
7 has reasonable cause to believe that an unsafe, unsound, or
8 unlawful practice has occurred, is occurring, or is about
9 to occur; if any person has violated, is violating, or is
10 about to violate any law, rule, or written agreement with
11 the Secretary; or for the purpose of administering the
12 provisions of this Act and any rule adopted in accordance
13 with this Act;

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

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

23 (11) to enforce provisions of this Act;

24 (12) to levy fees, fines, and charges for services
25 performed in administering this Act; the aggregate of all
26 fees collected by the Secretary on and after the effective

1 date of this Act shall be paid promptly after receipt,
2 accompanied by a detailed statement thereof, into the Bank
3 and Trust Company Fund under Section 20-10; the amounts
4 deposited into that Fund shall be used for the ordinary and
5 contingent expenses of the Department; nothing in this Act
6 shall prevent the continuation of the practice of paying
7 expenses involving salaries, retirement, social security,
8 and State-paid insurance of State officers by
9 appropriation from the General Revenue Fund;

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

13 (14) to conduct hearings for the purpose of:

14 (A) appeals of orders of the Secretary;

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

17 (C) investigating:

18 (i) complaints against licensees; or

19 (ii) annual gross delinquency rates; and

20 (D) carrying out the purposes of this Act;

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

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

5 (17) to assign an examiner or examiners to monitor the
6 affairs of a licensee with whatever frequency the Secretary
7 determines appropriate and to charge the licensee for
8 reasonable and necessary expenses of the Secretary if in
9 the opinion of the Secretary an emergency exists or appears
10 likely to occur;

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

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

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

18 (110 ILCS 992/20-30)

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

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

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

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

5 (2) that any fact or condition exists that, if it had
6 existed at the time of the original application for the
7 license, would have warranted the Secretary in refusing
8 originally to issue the license; or

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

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

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

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

25 (e) No revocation, suspension, or surrender of any license
26 shall impair or affect the obligation of any pre-existing

1 lawful contract between the licensee and any person.

2 (f) Every license issued under this Act shall remain in
3 force and effect until the license expires without renewal, is
4 surrendered, is revoked, or is suspended in accordance with the
5 provisions of this Act, but the Secretary shall have authority
6 to reinstate a suspended license or to issue a new license to a
7 licensee whose license has been revoked if no fact or condition
8 then exists which would have warranted the Secretary in
9 refusing originally to issue that license under this Act.

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

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

22 (1) revocation of license;

23 (2) suspension of a license subject to reinstatement
24 upon satisfying all reasonable conditions the Secretary
25 may specify;

26 (3) placement of the licensee or applicant on probation

1 for a period of time and subject to all reasonable
2 conditions as the Secretary may specify;

3 (4) issuance of a reprimand;

4 (5) imposition of a fine not to exceed \$25,000 for each
5 count of separate offense; except that a fine may be
6 imposed not to exceed \$75,000 for each separate count of
7 offense of paragraph (2) of subsection (i) of this Section;

8 or

9 (6) denial of a license.

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

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

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

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

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

23 (5) failure to account or deliver to any person any
24 property, such as any money, fund, deposit, check, draft,
25 or other document or thing of value, that has come into his
26 or her hands and that is not his or her property or that he

1 or she is not in law or equity entitled to retain, under
2 the circumstances and at the time which has been agreed
3 upon or is required by law or, in the absence of a fixed
4 time, upon demand of the person entitled to such accounting
5 and delivery;

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

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

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

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

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

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

25 (12) refusing, obstructing, evading, or unreasonably
26 delaying an investigation, information request, or

1 examination authorized under this Act, or refusing,
2 obstructing, evading, or unreasonably delaying compliance
3 with the Secretary's subpoena or subpoena duces tecum; and

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

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

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

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

16 (1) The Secretary may, after 10 days' notice by
17 certified mail to the licensee at the address set forth on
18 the license, stating the contemplated action and in general
19 the grounds for the contemplated action and the date, time,
20 and place of a hearing thereon, and after providing the
21 licensee with a reasonable opportunity to be heard prior to
22 such action, fine such licensee an amount not exceeding
23 \$25,000 per violation, or revoke or suspend any license
24 issued under this Act if he or she finds that:

25 (i) the licensee has failed to comply with any
26 provision of this Act or any order, decision, finding,

1 rule, regulation, or direction of the Secretary
2 lawfully made pursuant to the authority of this Act; or

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

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

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

13 Section 10. The Residential Mortgage License Act of 1987 is
14 amended by changing Sections 1-3, 1-4, 2-2, 2-3, 2-3A, 2-4,
15 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,
16 7-4, 7-5, 7-6, 7-7, 7-8, 7-9, 7-10, and 7-13 as follows:

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

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

19 (a) No person, partnership, association, corporation or
20 other entity shall engage in the business of brokering,
21 funding, originating, servicing or purchasing of residential
22 mortgage loans without first obtaining a license from the
23 Secretary in accordance with the licensing procedure provided
24 in this Article I and such regulations as may be promulgated by

1 the Secretary. The licensing provisions of this Section shall
2 not apply to any entity engaged solely in commercial mortgage
3 lending or to any person, partnership association, corporation
4 or other entity exempted pursuant to Section 1-4, subsection
5 (d), of this Act or in accordance with regulations promulgated
6 by the Secretary hereunder. No provision of this Act shall
7 apply to an exempt person or entity as defined in items (1) and
8 (1.5) of subsection (d) of Section 1-4 of this Act.
9 Notwithstanding anything to the contrary in the preceding
10 sentence, an individual acting as a mortgage loan originator
11 who is not employed by and acting for an entity described in
12 item (1) of subsection (tt) of Section 1-4 of this Act shall be
13 subject to the mortgage loan originator licensing requirements
14 of Article VII of this Act.

15 Effective January 1, 2011, no provision of this Act shall
16 apply to an exempt person or entity as defined in item (1.8) of
17 subsection (d) of Section 1-4 of this Act. Notwithstanding
18 anything to the contrary in the preceding sentence, an
19 individual acting as a mortgage loan originator who is not
20 employed by and acting for an entity described in item (1) of
21 subsection (tt) of Section 1-4 of this Act shall be subject to
22 the mortgage loan originator licensing requirements of Article
23 VII of this Act, and provided that an individual acting as a
24 mortgage loan originator under item (1.8) of subsection (d) of
25 Section 1-4 of this Act shall be further subject to a
26 determination by the U.S. Department of Housing and Urban

1 Development through final rulemaking or other authorized
2 agency determination under the federal Secure and Fair
3 Enforcement for Mortgage Licensing Act of 2008.

4 (a-1) A person who is exempt from licensure pursuant to
5 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of
6 this Act as a federally chartered savings bank that is
7 registered with the Nationwide Multistate Mortgage Licensing
8 System and Registry may apply to the Secretary for an exempt
9 company registration for the purpose of sponsoring one or more
10 individuals subject to the mortgage loan originator licensing
11 requirements of Article VII of this Act. Registration with the
12 Division of Banking of the Department shall not affect the
13 exempt status of the applicant.

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

20 (2) An exempt person shall: (A) fulfill any reporting
21 requirements required by the Nationwide Multistate
22 ~~Mortgage~~ Licensing System and Registry or the Secretary;
23 (B) provide a blanket surety bond pursuant to Section 7-12
24 of this Act covering the activities of all its sponsored
25 mortgage loan originators; (C) reasonably supervise the
26 activities of all its sponsored mortgage loan originators;

1 (D) comply with all rules and orders (including the
2 averments contained in Section 2-4 of this Act as
3 applicable to a non-licensed exempt entity provided for in
4 this Section) that the Secretary deems necessary to ensure
5 compliance with the federal SAFE Act; and (E) pay an annual
6 registration fee established by the Director.

7 (3) The Secretary may deny an exempt company
8 registration to an exempt person or fine, suspend, or
9 revoke an exempt company registration if the Secretary
10 finds one of the following:

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

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

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

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

24 (E) that the exempt person had an order entered
25 against him or her involving fraud, deceit, or
26 misrepresentation by an administrative agency of this

1 State, the federal government, or any other state or
2 territory of the United States, and the facts relating
3 to the order indicate that it would be contrary to the
4 interest of the public to permit the exempt person to
5 manage a loan originator;

6 (F) that the exempt person made a material
7 misstatement or suppressed or withheld information on
8 the application for an exempt company registration or
9 any document required to be filed with the Secretary;
10 or

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

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

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

25 (d) When the Secretary has reasonable cause to believe that
26 any entity which has not submitted an application for licensure

1 is conducting any of the activities described in subsection (a)
2 hereof, the Secretary shall have the power to examine all books
3 and records of the entity and any additional documentation
4 necessary in order to determine whether such entity should
5 become licensed under this Act.

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

13 (e) Any person, partnership, association, corporation or
14 other entity who violates any provision of this Section commits
15 a business offense and shall be fined an amount not to exceed
16 \$25,000. A mortgage loan brokered, funded, originated,
17 serviced, or purchased by a party who is not licensed under
18 this Section shall not be held to be invalid solely on the
19 basis of a violation under this Section. The changes made to
20 this Section by this amendatory Act of the 99th General
21 Assembly are declarative of existing law.

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

1 pursuant to Section 2-8 of this Act.

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

6 (h) This Act applies to all entities doing business in
7 Illinois as residential mortgage bankers, as defined by "An Act
8 to provide for the regulation of mortgage bankers", approved
9 September 15, 1977, as amended, regardless of whether licensed
10 under that or any prior Act. Any existing residential mortgage
11 lender or residential mortgage broker in Illinois whether or
12 not previously licensed, must operate in accordance with this
13 Act.

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

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

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

21 (205 ILCS 635/1-4)

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

24 (a) "Residential real property" or "residential real
25 estate" shall mean any real property located in Illinois,

1 upon which is constructed or intended to be constructed a
2 dwelling. Those terms include a manufactured home as
3 defined in subdivision (53) of Section 9-102 of the Uniform
4 Commercial Code which is real property as defined in
5 Section 5-35 of the Conveyance and Encumbrance of
6 Manufactured Homes as Real Property and Severance Act.

7 (b) "Making a residential mortgage loan" or "funding a
8 residential mortgage loan" shall mean for compensation or
9 gain, either directly or indirectly, advancing funds or
10 making a commitment to advance funds to a loan applicant
11 for a residential mortgage loan.

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

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

25 (1) (i) Any banking organization or foreign
26 banking corporation licensed by the Illinois

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

1 Commissioner of Banks and Real Estate or the
2 Comptroller of the Currency, or a consumer compliance
3 examination is regularly conducted by the Federal
4 Reserve Board.

5 (1.5) Any employee of a person or entity mentioned
6 in item (1) of this subsection, when acting for such
7 person or entity, or any registered mortgage loan
8 originator when acting for an entity described in
9 subsection (tt) of this Section.

10 (1.8) Any person or entity that does not originate
11 mortgage loans in the ordinary course of business, but
12 makes or acquires residential mortgage loans with his
13 or her own funds for his or her or its own investment
14 without intent to make, acquire, or resell more than 3
15 residential mortgage loans in any one calendar year.

16 (2) (Blank).

17 (2.1) A bona fide nonprofit organization.

18 (2.2) An employee of a bona fide nonprofit
19 organization when acting on behalf of that
20 organization.

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

25 (4) (Blank).

26 (5) Any individual, corporation, partnership, or

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

9 (6) (Blank).

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

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

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

26 (h) "Ultimate equitable owner" shall mean a person who,

1 directly or indirectly, owns or controls an ownership
2 interest in a corporation, foreign corporation, alien
3 business organization, trust, or any other form of business
4 organization regardless of whether the person owns or
5 controls the ownership interest through one or more persons
6 or one or more proxies, powers of attorney, nominees,
7 corporations, associations, partnerships, trusts, joint
8 stock companies, or other entities or devices, or any
9 combination thereof.

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

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

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

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

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

26 (n) "Commissioner" shall mean the Commissioner of

1 Banks and Real Estate, except that, beginning on April 6,
2 2009 (the effective date of Public Act 95-1047), all
3 references in this Act to the Commissioner of Banks and
4 Real Estate are deemed, in appropriate contexts, to be
5 references to the Secretary of Financial and Professional
6 Regulation, or his or her designee, including the Director
7 of the Division of Banking of the Department of Financial
8 and Professional Regulation.

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

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

1 processing, placing, or negotiating residential mortgage
2 loans.

3 (p) "Loan broker" or "broker" shall mean a person,
4 partnership, association, corporation, or limited
5 liability company, other than those persons, partnerships,
6 associations, corporations, or limited liability companies
7 exempted from licensing pursuant to Section 1-4,
8 subsection (d), of this Act, who performs the activities
9 described in subsections (c), (o), and (yy) of this
10 Section.

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

1 (r) "Full service office" shall mean an office,
2 provided by the licensee and not subleased from the
3 licensee's employees, and staff in Illinois reasonably
4 adequate to handle efficiently communications, questions,
5 and other matters relating to any application for, or an
6 existing home mortgage secured by residential real estate
7 situated in Illinois with respect to which the licensee is
8 brokering, funding originating, purchasing, or servicing.
9 The management and operation of each full service office
10 must include observance of good business practices such as
11 proper signage; adequate, organized, and accurate books
12 and records; ample phone lines, hours of business, staff
13 training and supervision, and provision for a mechanism to
14 resolve consumer inquiries, complaints, and problems. The
15 Commissioner shall issue regulations with regard to these
16 requirements and shall include an evaluation of compliance
17 with this Section in his or her periodic examination of
18 each licensee.

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

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

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

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

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

7 (2) consider making a residential mortgage loan to
8 the borrower.

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

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

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

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

1 and generally accepted auditing standards.

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

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

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

15 (dd) "Affiliate" shall mean:

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

21 (2) any entity:

22 (A) that is controlled, directly or
23 indirectly, by a trust or otherwise, by or for the
24 benefit of shareholders who beneficially or
25 otherwise control, directly or indirectly, by
26 trust or otherwise, the licensee or any company

1 that controls the licensee; or

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

6 (3) any company, including a real estate
7 investment trust, that is sponsored and advised on a
8 contractual basis by the licensee or any subsidiary or
9 affiliate of the licensee.

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

14 (ff) "Gross delinquency rate" means the quotient
15 determined by dividing (1) the sum of (i) the number of
16 government-insured residential mortgage loans funded or
17 purchased by a licensee in the preceding calendar year that
18 are delinquent and (ii) the number of conventional
19 residential mortgage loans funded or purchased by the
20 licensee in the preceding calendar year that are delinquent
21 by (2) the sum of (i) the number of government-insured
22 residential mortgage loans funded or purchased by the
23 licensee in the preceding calendar year and (ii) the number
24 of conventional residential mortgage loans funded or
25 purchased by the licensee in the preceding calendar year.

26 (gg) "Delinquency rate factor" means the factor set by

1 rule of the Commissioner that is multiplied by the average
2 gross delinquency rate of licensees, determined annually
3 for the immediately preceding calendar year, for the
4 purpose of determining which licensees shall be examined by
5 the Commissioner pursuant to subsection (b) of Section 4-8
6 of this Act.

7 (hh) (Blank). ~~"Loan originator" means any natural~~
8 ~~person who, for compensation or in the expectation of~~
9 ~~compensation, either directly or indirectly makes, offers~~
10 ~~to make, solicits, places, or negotiates a residential~~
11 ~~mortgage loan. This definition applies only to Section 7-1~~
12 ~~of this Act.~~

13 (ii) "Confidential supervisory information" means any
14 report of examination, visitation, or investigation
15 prepared by the Commissioner under this Act, any report of
16 examination visitation, or investigation prepared by the
17 state regulatory authority of another state that examines a
18 licensee, any document or record prepared or obtained in
19 connection with or relating to any examination,
20 visitation, or investigation, and any record prepared or
21 obtained by the Commissioner to the extent that the record
22 summarizes or contains information derived from any
23 report, document, or record described in this subsection.
24 "Confidential supervisory information" does not include
25 any information or record routinely prepared by a licensee
26 and maintained in the ordinary course of business or any

1 information or record that is required to be made publicly
2 available pursuant to State or federal law or rule.

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

6 (i) takes a residential mortgage loan application;

7 or

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

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

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

24 "Mortgage loan originator" does not include a person or
25 entity that only performs real estate brokerage activities
26 and is licensed in accordance with the Real Estate License

1 Act of 2000, unless the person or entity is compensated by
2 a lender, a mortgage broker, or other mortgage loan
3 originator, or by any agent of that lender, mortgage
4 broker, or other mortgage loan originator.

5 "Mortgage loan originator" does not include a person or
6 entity solely involved in extensions of credit relating to
7 timeshare plans, as that term is defined in Section
8 101(53D) of Title 11, United States Code.

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

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

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

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

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

26 (i) the receipt, collection, distribution, and

1 analysis of information common for the processing or
2 underwriting of a residential mortgage loan; and

3 (ii) communicating with a consumer to obtain the
4 information necessary for the processing or
5 underwriting of a loan, to the extent that the
6 communication does not include offering or negotiating
7 loan rates or terms, or counseling consumers about
8 residential mortgage loan rates or terms. An
9 individual engaging solely in loan processor or
10 underwriter activities shall not represent to the
11 public, through advertising or other means of
12 communicating or providing information, including the
13 use of business cards, stationery, brochures, signs,
14 rate lists, or other promotional items, that the
15 individual can or will perform any of the activities of
16 a mortgage loan originator.

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

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

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

1 association.

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

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

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

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

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

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

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

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

26 (A) a depository institution;

1 (B) a subsidiary that is:

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

4 (ii) regulated by a federal banking
5 agency; or

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

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

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

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

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

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

24 (yy) "Loan modification" means, for compensation or
25 gain, either directly or indirectly offering or
26 negotiating on behalf of a borrower or homeowner to adjust

1 the terms of a residential mortgage loan in a manner not
2 provided for in the original or previously modified
3 mortgage loan.

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

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

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

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

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

1 interests of its clients.

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

5 (5) Provides to, or identifies for, the borrower
6 residential mortgage loans with terms favorable to the
7 borrower and comparable to residential mortgage loans
8 and housing assistance provided under government
9 housing assistance programs.

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

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

15 (205 ILCS 635/2-2)

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

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

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

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

25 (3) The payment, in certified funds, of investigation

1 and application fees, the total of which shall be in an
2 amount equal to \$2,700 annually.

3 (4) Except for a broker applying to renew a license,
4 the filing of an audited balance sheet including all
5 footnotes prepared by a certified public accountant in
6 accordance with generally accepted accounting principles
7 and generally accepted auditing standards which evidences
8 that the applicant meets the net worth requirements of
9 Section 3-5. Notwithstanding the requirements of this
10 subsection, an applicant that is a subsidiary may submit
11 audited consolidated financial statements of its parent,
12 intermediary parent, or ultimate parent as long as the
13 consolidated statements are supported by consolidating
14 statements which include the applicant's financial
15 statement. If the consolidating statements are unaudited,
16 the applicant's chief financial officer shall attest to the
17 applicant's financial statements disclosed in the
18 consolidating statements.

19 (5) The filing of proof satisfactory to the Secretary
20 ~~Commissioner~~ that the applicant, the members thereof if the
21 applicant is a partnership or association, the members or
22 managers thereof that retain any authority or
23 responsibility under the operating agreement if the
24 applicant is a limited liability company, or the officers
25 thereof if the applicant is a corporation have 3 years
26 experience preceding application in real estate finance.

1 Instead of this requirement, the applicant and the
2 applicant's officers or members, as applicable, may
3 satisfactorily complete a program of education in real
4 estate finance and fair lending, as approved by the
5 Secretary ~~Commissioner~~, prior to receiving the initial
6 license. The Secretary ~~Commissioner~~ shall adopt ~~promulgate~~
7 rules regarding proof of experience requirements and
8 educational requirements and the satisfactory completion
9 of those requirements. The Secretary ~~Commissioner~~ may
10 establish by rule a list of duly licensed professionals and
11 others who may be exempt from this requirement.

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

1 such license, and he or she shall notify the license
2 applicant of the denial.

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

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

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

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

15 (205 ILCS 635/2-3) (from Ch. 17, par. 2322-3)

16 Sec. 2-3. Application form.

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

25 (b) The application shall contain the name and complete

1 business and residential address or addresses of the license
2 applicant. If the license applicant is a partnership,
3 association, corporation or other form of business
4 organization, the application shall contain the names and
5 complete business and residential addresses of each member,
6 director and principal officer thereof. Such application shall
7 also include a description of the activities of the license
8 applicant, in such detail and for such periods, as the
9 Commissioner may require, including all of the following:

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

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

17 (3) Information as to the character, fitness,
18 financial and business responsibility, background,
19 experience, and criminal record of any (i) person, entity,
20 or ultimate equitable owner that owns or controls, directly
21 or indirectly, 10% or more of any class of stock of the
22 license applicant; (ii) person, entity, or ultimate
23 equitable owner that is not a depository institution, as
24 defined in Section 1007.50 of the Savings Bank Act, that
25 lends, provides, or infuses, directly or indirectly, in any
26 way, funds to or into a license applicant, in an amount

1 equal to or more than 10% of the license applicant's net
2 worth; (iii) person, entity, or ultimate equitable owner
3 that controls, directly or indirectly, the election of 25%
4 or more of the members of the board of directors of a
5 license applicant; or (iv) person, entity, or ultimate
6 equitable owner that the Commissioner finds influences
7 management of the license applicant.

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

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

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

22 (205 ILCS 635/2-3A)

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

25 (a) Applicants for a license shall apply in a form

1 prescribed by the Director. Each form shall contain content as
2 set forth by rule, regulation, instruction, or procedure of the
3 Director and may be changed or updated as necessary by the
4 Director in order to carry out the purposes of this Act.

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

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

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

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

26 (A) an independent credit report obtained from a

1 consumer reporting agency described in Section 603(p)
2 of the Fair Credit Reporting Act (15 U.S.C. 1681a(p));
3 and

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

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

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

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

23 (205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

24 Sec. 2-4. Prohibited acts and practices for licensees.
25 ~~Averments of Licensee.~~ It is a violation of this Act for a

1 licensee subject to this Act to ~~Each application for license~~
2 ~~shall be accompanied by the following averments stating that~~
3 ~~the applicant:~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (s) fail to ~~Will~~ advise the Secretary Commissioner in
23 writing, or the Nationwide Multistate Mortgage Licensing
24 System and Registry, as applicable, of any changes to the
25 information submitted on the most recent application for
26 license or averments of record within 30 days of said

1 change. The written notice must be signed in the same form
2 as the application for license being amended;

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

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

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

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

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

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

25 (z) knowingly ~~Will not knowingly~~ hire or employ a ~~loan~~
26 ~~originator who is not registered, or~~ mortgage loan

1 originator who is not licensed, with the Secretary
2 ~~Commissioner~~ as required under ~~Section 7-1 or~~ Section 7-1A,
3 ~~as applicable,~~ of this Act;

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

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

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

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

15 (205 ILCS 635/2-6)

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

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

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

6 (c) No activity regulated by this Act shall be conducted by
7 the licensee when a license becomes inactive. The Commissioner
8 may require the licensee to provide a plan for the disposition
9 of any residential mortgage loans not closed or funded when the
10 license becomes inactive. The Commissioner may allow a licensee
11 with an inactive license to conduct activities regulated by
12 this Act for the sole purpose of assisting borrowers in the
13 closing or funding of loans for which the loan application was
14 taken from a borrower while the license was active. An inactive
15 license may be reactivated by the Commissioner upon payment of
16 the renewal fee, and payment of a reactivation fee equal to the
17 renewal fee.

18 (d) (Blank).

19 (e) A licensee ceasing an activity or activities regulated
20 by this Act and desiring to no longer be licensed shall so
21 inform the Commissioner in writing and, at the same time,
22 convey any license issued and all other symbols or indicia of
23 licensure. The licensee shall include a plan for the withdrawal
24 from regulated business, including a timetable for the
25 disposition of the business, and comply with the surrender
26 guidelines or requirements of the Director. Upon receipt of

1 such written notice, the Commissioner shall post the
2 cancellation or issue a certified statement canceling the
3 license.

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

5 (205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

6 Sec. 3-2. Annual audit.

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

1 financial officer shall attest to the licensee's financial
2 statements disclosed in the consolidating statements.

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

7 (c) If a qualified or adverse opinion is expressed or if an
8 opinion is disclaimed, the reasons therefore must be fully
9 explained. An opinion, qualified as to a scope limitation,
10 shall not be acceptable.

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

19 (e) (Blank).

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

25 (g) With respect to licensees who solely broker residential
26 mortgage loans as defined in subsection (o) of Section 1-4,

1 instead of the audit required by this Section, the Commissioner
2 may accept compilation financial statements prepared at least
3 every 12 months, and the compilation financial statement must
4 be submitted within 90 days after the end of the licensee's
5 fiscal year, or with the Nationwide Multistate Mortgage
6 Licensing System and Registry, if applicable, pursuant to
7 Mortgage Call Report requirements. A licensee who files false
8 or misleading compilation financial statements is guilty of a
9 business offense and shall be fined not less than \$5,000.

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

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

1 (Source: P.A. 98-463, eff. 8-16-13; 98-1081, eff. 1-1-15;
2 99-933, eff. 1-27-17.)

3 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

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

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

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

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

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

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

19 (f) to prescribe the forms of and receive:

20 (1) applications for licenses; and

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

25 (g) to adopt rules and regulations necessary and proper

1 for the administration of this Act;

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

6 (h-1) to issue orders against any person, if the
7 Commissioner has reasonable cause to believe that an
8 unsafe, unsound, or unlawful practice has occurred, is
9 occurring, or is about to occur, if any person has
10 violated, is violating, or is about to violate any law,
11 rule, or written agreement with the Commissioner, or for
12 the purpose of administering the provisions of this Act and
13 any rule adopted in accordance with the Act;

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

21 (i) to require information with regard to any license
22 applicant as he or she may deem desirable, with due regard
23 to the paramount interests of the public as to the
24 experience, background, honesty, truthfulness, integrity,
25 and competency of the license applicant as to financial
26 transactions involving primary or subordinate mortgage

1 financing, and where the license applicant is an entity
2 other than an individual, as to the honesty, truthfulness,
3 integrity, and competency of any officer or director of the
4 corporation, association, or other entity, or the members
5 of a partnership;

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

8 (k) to enforce provisions of this Act;

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

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

25 (n) to conduct hearings for the purpose of:

26 (1) appeals of orders of the Commissioner;

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

3 (3) investigating:

4 (i) complaints against licensees; or

5 (ii) annual gross delinquency rates; and

6 (4) carrying out the purposes of this Act;

7 (o) to exercise exclusive visitorial power over a
8 licensee unless otherwise authorized by this Act or as
9 vested in the courts, or upon prior consultation with the
10 Commissioner, a foreign residential mortgage regulator
11 with an appropriate supervisory interest in the parent or
12 affiliate of a licensee;

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

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

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

26 (s) to enter into agreements in connection with the

1 Nationwide Multistate ~~Mortgage~~ Licensing System and
2 Registry.

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

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

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

6 (a) Upon written notice to a licensee, the Commissioner may
7 suspend or revoke any license issued pursuant to this Act if he
8 or she shall make a finding of one or more of the following in
9 the notice that:

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

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

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

25 (b) No license shall be suspended or revoked, except as

1 provided in this Section, nor shall any licensee be fined
2 without notice of his or her right to a hearing as provided in
3 Section 4-12 of this Act.

4 (c) The Commissioner, on good cause shown that an emergency
5 exists, may suspend any license for a period not exceeding 180
6 days, pending investigation. Upon a showing that a licensee has
7 failed to meet the experience or educational requirements of
8 Section 2-2 or the requirements of subsection (g) of Section
9 3-2, the Commissioner shall suspend, prior to hearing as
10 provided in Section 4-12, the license until those requirements
11 have been met.

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

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

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

1 (g) Whenever the Commissioner shall revoke or suspend a
2 license issued pursuant to this Act or fine a licensee under
3 this Act, he or she shall forthwith execute a written order to
4 that effect. The Commissioner shall post notice of the order on
5 an agency Internet site maintained by the Commissioner or on
6 the Nationwide Multistate Mortgage Licensing System and
7 Registry and shall forthwith serve a copy of such order upon
8 the licensee. Any such order may be reviewed in the manner
9 provided by Section 4-12 of this Act.

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

13 (1) Revocation of license;

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

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

20 (4) Issuance of a reprimand;

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

26 (6) Denial of a license.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (15) Refusing, obstructing, evading, or unreasonably

1 delaying an investigation, information request, or
2 examination authorized under this Act, or refusing,
3 obstructing, evading, or unreasonably delaying compliance
4 with the Director's subpoena or subpoena duces tecum;

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

7 (17) Failure to comply with or violation of any
8 provision of this Act;

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

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

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

21 (1) Procedure for surrender of license:

22 (1) The Commissioner may, after 10 days notice by
23 certified mail to the licensee at the address set forth on
24 the license, stating the contemplated action and in general
25 the grounds therefor and the date, time and place of a
26 hearing thereon, and after providing the licensee with a

1 reasonable opportunity to be heard prior to such action,
2 fine such licensee an amount not exceeding \$25,000 per
3 violation, or revoke or suspend any license issued
4 hereunder if he or she finds that:

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

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

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

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

19 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

20 Sec. 4-8. Delinquency; examination.

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

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

1 delinquency data.

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

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

19 (d) The Secretary ~~Commissioner~~, at his or her discretion,
20 may hold public hearings, or at the direction of the
21 Residential Mortgage Board, shall hold public hearings. Such
22 testimony shall be by a homeowner or mortgagor or his agent,
23 whose residential interest is affected by the activities of the
24 residential mortgage licensee subject to such hearing. At such
25 public hearing, a witness may present testimony on his or her
26 behalf concerning only his or her home, or home mortgage or a

1 witness may authorize a third party to appear on his or her
2 behalf. The testimony shall be restricted to information and
3 comments related to a specific residence or specific
4 residential mortgage application or applications for a
5 residential mortgage or residential loan transaction. The
6 testimony must be preceded by either a letter of complaint or a
7 completed consumer complaint form prescribed by the Secretary
8 ~~Commissioner~~.

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

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

22 (g) Whenever the Secretary ~~Commissioner~~ finds that a
23 licensee's loan delinquencies on insured mortgages is
24 unusually high within a particular geographic area, he or she
25 shall require that licensee to submit such information as is
26 necessary to determine whether that licensee's practices have

1 constituted credit fraud, appraisal fraud or property
2 inspection fraud. The Secretary ~~Commissioner~~ shall promulgate
3 such rules as are necessary to determine whether any licensee's
4 loan delinquencies are unusually high within a particular area.
5 (Source: P.A. 99-15, eff. 1-1-16.)

6 (205 ILCS 635/4-8.1A)

7 Sec. 4-8.1A. Confidentiality.

8 (a) In order to promote more effective regulation and
9 reduce regulatory burden through supervisory information
10 sharing, except as otherwise provided in federal Public Law
11 110-289, Section 1512, the requirements under any federal law
12 or state law regarding the privacy or confidentiality of any
13 information or material provided to the Nationwide Multistate
14 ~~Mortgage~~ Licensing System and Registry, and any privilege
15 arising under federal or state law, including the rules of any
16 federal or state court, with respect to such information or
17 material, shall continue to apply to information or material
18 after the information or material has been disclosed to the
19 Nationwide Multistate ~~Mortgage~~ Licensing System and Registry.
20 The information and material may be shared with all state and
21 federal regulatory officials with mortgage industry oversight
22 authority without the loss of privilege or the loss of
23 confidentiality protections provided by federal law or state
24 law.

25 (b) In order to promote more effective regulation and

1 reduce regulatory burden through supervisory information
2 sharing, the Director is authorized to enter agreements or
3 sharing arrangements with other governmental agencies, the
4 Conference of State Bank Supervisors, the American Association
5 of Residential Mortgage Regulators or other associations
6 representing governmental agencies as established by rule,
7 regulation or order of the Director. The sharing of
8 confidential supervisory information or any information or
9 material described in subsection (a) of this Section pursuant
10 to an agreement or sharing arrangement shall not result in the
11 loss of privilege or the loss of confidentiality protections
12 provided by federal law or state law.

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

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

21 (2) subpoena or discovery, or admission into evidence,
22 in any private civil action or administrative process,
23 unless with respect to any privilege held by the Nationwide
24 Multistate Mortgage Licensing System and Registry with
25 respect to the information or material, the person to whom
26 such information or material pertains waives, in whole or

1 in part, in the discretion of that person, that privilege.

2 (d) In order to promote more effective regulation and
3 reduce regulatory burden through supervisory information
4 sharing, other law relating to the disclosure of confidential
5 supervisory information or any information or material
6 described in subsection (a) of this Section that is
7 inconsistent with subsection (a) of this Section shall be
8 superseded by the requirements of this Section to the extent
9 the other law provides less confidentiality or a weaker
10 privilege.

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

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

18 (205 ILCS 635/4-8.3)

19 Sec. 4-8.3. Annual report ~~of mortgage brokerage and~~
20 ~~servicing activity~~. On or before March 1 of each year or the
21 date selected for Mortgage Call Reports under Section 4-9.1 of
22 this Act, each licensee shall file a report with the Secretary
23 ~~Commissioner~~ that discloses ~~shall disclose~~ such information as
24 the Secretary ~~Commissioner~~ requires. A licensee filing a
25 Mortgage Call Report is not required to file an annual report.

1 Exempt entities as defined in subsection (d) of Section 1-4
2 shall not file the annual report of mortgage and servicing
3 activity required by this Section.

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

5 (205 ILCS 635/4-9.1)

6 Sec. 4-9.1. Mortgage call reports. Each residential
7 mortgage licensee shall submit to the Nationwide Multistate
8 ~~Mortgage~~ Licensing System and Registry reports of condition,
9 which shall be in the form and shall contain the information
10 that the Nationwide Multistate ~~Mortgage~~ Licensing System and
11 Registry may require.

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

13 (205 ILCS 635/5-9)

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

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

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

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

23 (B) A change in the term of the loan, as reflected
24 in the number of monthly payments due before a final

1 payment is scheduled to be made.

2 (C) An increase in the interest rate of more than
3 0.15%, or an equivalent increase in the amount of
4 discount points charged.

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

7 (E) A change regarding the requirement or amount of
8 escrow of taxes or insurance.

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

11 (2) Timely inform the borrower if any fees payable by
12 the borrower to the licensee increase by more than 10% or
13 \$100, whichever is greater.

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

24 (c) If an increase in the total amount of the fee to be
25 paid by the borrower to the broker is not disclosed in
26 accordance with this Section, the broker shall refund to the

1 borrower the amount by which the fee was increased. If the fee
2 is financed into the residential mortgage loan, the broker
3 shall also refund to the borrower the interest charged to
4 finance the fee.

5 (d) The requirements of this Section do not apply to a
6 licensee providing a notice of change in loan terms pursuant to
7 the federal Consumer Financial Protection Bureau's Know Before
8 You Owe mortgage disclosure procedure pursuant to the federal
9 Truth in Lending Act and amendments promulgated under 12 CFR
10 1026 and the federal Real Estate Settlement Procedures Act and
11 amendments promulgated under 12 CFR 1024. Licensees limited to
12 soliciting residential mortgage loan applications as approved
13 by the Director under Title 38, Section 1050.2115(c)(1) of the
14 Illinois Administrative Code are not required to provide the
15 disclosures under this Section as long as the solicitor does
16 not discuss the terms and conditions with the potential
17 borrower.

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

19 (205 ILCS 635/7-1A)

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

21 (a) It is unlawful for any individual to act or assume to
22 act as a mortgage loan originator, as defined in subsection
23 (jj) of Section 1-4 of this Act, without obtaining a license
24 from the Director, unless the individual is exempt under
25 subsection (c) of this Section. It is unlawful for any

1 individual who holds a mortgage loan originator license to
2 provide short sale facilitation services unless he or she holds
3 a license under the Real Estate License Act of 2000. Each
4 licensed mortgage loan originator must register with and
5 maintain a valid unique identifier issued by the Nationwide
6 Multistate Mortgage Licensing System and Registry.

7 (b) (Blank). ~~In order to facilitate an orderly transition~~
8 ~~to licensing and minimize disruption in the mortgage~~
9 ~~marketplace, the operability date for subsection (a) of this~~
10 ~~Section shall be as provided in this subsection (b). For this~~
11 ~~purpose, the Director may require submission of licensing~~
12 ~~information to the Nationwide Mortgage Licensing System and~~
13 ~~Registry prior to the operability dates designated by the~~
14 ~~Director pursuant to items (1) and (2) of this subsection (b).~~

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

22 ~~(2) For all individuals registered as loan originators~~
23 ~~as of the effective date of this amendatory Act of the 96th~~
24 ~~General Assembly, the operability date as designated by the~~
25 ~~Director shall be no later than January 1, 2011, or any~~
26 ~~date approved by the Secretary of the U.S. Department of~~

1 ~~Housing and Urban Development, pursuant to the authority~~
2 ~~granted under Public Law 110-289, Section 1508.~~

3 ~~(3) For all individuals described in item (1) or (2) of~~
4 ~~this subsection (b) who are loss mitigation specialists~~
5 ~~employed by servicers, the operability date shall be July~~
6 ~~31, 2011, or any date approved by the Secretary of the U.S.~~
7 ~~Department of Housing and Urban Development pursuant to~~
8 ~~authority granted under Public Law 110-289, Section 1508.~~

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

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

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

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

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

26 (5) Any individual described in paragraph (2.2) of

1 subsection (d) of Section 1-4.

2 (d) A loan processor or underwriter who is an independent
3 contractor may not engage in the activities of a loan processor
4 or underwriter unless he or she obtains and maintains a license
5 under subsection (a) of this Section. Each independent
6 contractor loan processor or underwriter licensed as a mortgage
7 loan originator must have and maintain a valid unique
8 identifier issued by the Nationwide Multistate Mortgage
9 Licensing System and Registry.

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

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

17 (205 ILCS 635/7-2)

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

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

24 (b) In order to fulfill the purposes of this Act, the
25 Director is authorized to establish relationships or contracts

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

6 (c) In connection with an application for licensing as a
7 mortgage loan originator, the applicant shall, at a minimum,
8 furnish to the Nationwide Multistate Mortgage Licensing System
9 and Registry information concerning the applicant's identity,
10 including the following:

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

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

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

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

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

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

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

16 (205 ILCS 635/7-4)

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

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

24 (1) 3 hours of Federal law and regulations;

25 (2) 3 hours of ethics, which shall include instruction

1 on fraud, consumer protection, and fair lending issues; and

2 (3) 2 hours of training related to lending standards
3 for the nontraditional mortgage product marketplace.

4 (b) For purposes of subsection (a) of this Section,
5 pre-licensing education courses shall be reviewed and approved
6 by the Nationwide Multistate Mortgage Licensing System and
7 Registry based upon reasonable standards. Review and approval
8 of a pre-licensing education course shall include review and
9 approval of the course provider.

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

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

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

25 (f) An individual previously registered under this Act who
26 is applying to be licensed after the effective date of this

1 amendatory Act of the 96th General Assembly must prove that he
2 or she has completed all of the continuing education
3 requirements for the year in which the registration or license
4 was last held.

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

6 (205 ILCS 635/7-5)

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

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

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

20 (1) ethics;

21 (2) federal law and regulation pertaining to mortgage
22 origination;

23 (3) State law and regulation pertaining to mortgage
24 origination; and

25 (4) federal and State law and regulation, including

1 instruction on fraud, consumer protection, the
2 nontraditional mortgage marketplace, and fair lending
3 issues.

4 (c) Nothing in this Section shall prohibit a test provider
5 approved by the Nationwide Multistate Mortgage Licensing
6 System and Registry from providing a test at the location of
7 the employer of the applicant or the location of any subsidiary
8 or affiliate of the employer of the applicant, or the location
9 of any entity with which the applicant holds an exclusive
10 arrangement to conduct the business of a mortgage loan
11 originator.

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

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

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

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

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

25 (205 ILCS 635/7-6)

1 Sec. 7-6. Standards for license renewal.

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

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

6 (2) The mortgage loan originator has satisfied the
7 annual continuing education requirements described in
8 Section 7-7.

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

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

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

18 (205 ILCS 635/7-7)

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

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

- 1 (1) 3 hours of Federal law and regulations;
- 2 (2) 2 hours of ethics, which shall include instruction
- 3 on fraud, consumer protection, and fair lending issues; and
- 4 (3) 2 hours of training related to lending standards
- 5 for the nontraditional mortgage product marketplace.

6 (b) For purposes of this subsection (a), continuing

7 education courses shall be reviewed and approved by the

8 Nationwide Multistate Mortgage Licensing System and Registry

9 based upon reasonable standards. Review and approval of a

10 continuing education course shall include review and approval

11 of the course provider.

12 (c) Nothing in this Section shall preclude any education

13 course, as approved by the Nationwide Multistate Mortgage

14 Licensing System and Registry, that is provided by the employer

15 of the mortgage loan originator or an entity which is

16 affiliated with the mortgage loan originator by an agency

17 contract, or any subsidiary or affiliate of the employer or

18 entity.

19 (d) Continuing education may be offered either in a

20 classroom, online, or by any other means approved by the

21 Nationwide Multistate Mortgage Licensing System and Registry.

22 (e) A licensed mortgage loan originator:

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

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

4 (f) A licensed mortgage loan originator who is an approved
5 instructor of an approved continuing education course may
6 receive credit for the licensed mortgage loan originator's own
7 annual continuing education requirement at the rate of 2 hours
8 credit for every one hour taught.

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

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

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

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

23 (205 ILCS 635/7-8)

24 Sec. 7-8. Authority to require license. In addition to any
25 other duties imposed upon the Director by law, the Director

1 shall require mortgage loan originators to be licensed and
2 registered through the Nationwide Multistate Mortgage
3 Licensing System and Registry. In order to carry out this
4 requirement the Director is authorized to participate in the
5 Nationwide Multistate Mortgage Licensing System and Registry.
6 For this purpose, the Director may establish by agreement,
7 order or rule requirements as necessary, including, but not
8 limited to, the following:

9 (1) Background checks for:

10 (A) criminal history through fingerprint or other
11 databases;

12 (B) civil or administrative records;

13 (C) credit history; or

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

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

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

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

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

1 (205 ILCS 635/7-9)

2 Sec. 7-9. Report to Nationwide Multistate ~~Mortgage~~
3 Licensing System and Registry. Subject to State privacy laws,
4 the Director is required to report regularly violations of this
5 Act, as well as enforcement actions and other relevant
6 information, to the Nationwide Multistate ~~Mortgage~~ Licensing
7 System and Registry subject to the provisions contained in
8 Section 4-8.1A of this Act.

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

10 (205 ILCS 635/7-10)

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

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

17 (205 ILCS 635/7-13)

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

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

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

3 (3) Obtain property by fraud or misrepresentation.

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

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

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

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

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

26 (9) Make, in any manner, any false or deceptive

1 statement or representation of a material fact, or any
2 omission of a material fact, required on any document or
3 application subject to this Act.

4 (10) Negligently make any false statement or knowingly
5 and willfully make any omission of material fact in
6 connection with any information or report filed with a
7 governmental agency or the Nationwide Multistate Mortgage
8 Licensing System and Registry or in connection with any
9 investigation conducted by the Director or another
10 governmental agency.

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

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

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

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

3 (15) Engage in conduct that constitutes dishonest
4 dealings.

5 (16) Knowingly instruct, solicit, propose, or cause a
6 person other than the borrower to sign a borrower's
7 signature on a mortgage related document, or solicit,
8 accept or execute any contract or other document related to
9 the residential mortgage transaction that contains any
10 blanks to be filled in after signing or initialing the
11 contract or other document, except for forms authorizing
12 the verification of application information.

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

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

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

26 (20) Interfere or obstruct an investigation or

1 examination conducted pursuant to this Act.

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

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

5 (205 ILCS 635/7-1 rep.)

6 Section 15. The Residential Mortgage License Act of 1987 is
7 amended by repealing Section 7-1.

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