**Section 1050.110 Definitions**

"Act" means the Residential Mortgage License Act of 1987 [205 ILCS 635].

"Administrative decision" means an order or action of the Director, such as assessment of a fine, denial of a license, suspension, or revocation of a license.

"Approved credit counselor" means a credit counselor approved by the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Assisting" as used in Section 1-4(o) of the Act shall not include the following activities or services when undertaken by a person in an otherwise licensed profession or occupation provided such activities or services are undertaken by such person in pursuit of such persons licensed profession or occupation including, but not limited to insurance producer, attorney at law, certified public accountant, land surveyor, or professional engineer:

Activities or services of, or incidental to, the licensed occupation or profession;

Delivery of surveys, abstracts of title, title commitments, opinions of title, draft deeds, mortgage forms or lender sales material;

Coordinating the activities associated with the borrower's completion or submission of a loan application;

Contracting or conferring with a licensed attorney, title insurance company, insurance producer, or lender as to the status of the loan application, loan commitment, title commitment, fire or extended coverage insurance, or closing requirements.

"Control" means the power to, directly or indirectly, whether acting through one or more persons, effect the voting interest of 10 percent or more of any class of the outstanding voting shares, or partnership interest, of an entity subject to the Act.

"Conviction" or "convicted" means, with respect to a criminal charge, the final judgment, or the act of receiving final judgment, on a verdict or finding of guilty, a plea of guilty, or a plea of nolo contendere.

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

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Banking.

"Division" means the Department of Financial and Professional Regulation-Division of Banking, with the authority delegated by the Secretary.

"Document", for purposes of Section 6-2(2) of the Act, shall include all business and financial documents and all books and records, such as, but not limited to in either type, characteristics, or function, tax returns, signature cards, writings that engage or provide information to accountants, consultants, or other agents, applications, authorizations to do business, licenses or certificates, and submissions for insurance endorsements.

"Employee" and "person employed":

As used in Section 1-4(d)(1.5) of the Act, "employee" means:

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the exempt entity:

expressly, in a writing submitted to and approved by the Director, assumes full and direct legal responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

submits to the Director for approval a written opinion of counsel stating that the relationship between the exempt entity and the natural person is one in which the exempt entity assumes full and direct responsibility for the activity of the natural person that is performed on behalf of or in the name of the exempt entity or that benefits or is intended to benefit the exempt entity; or

any natural person who performs activity subject to licensure or registration under the Act for an exempt entity under Section 1-4(d)(1) of the Act, provided that the natural person's performance of the activity is otherwise under statute or administrative rule, subject to comprehensive regulation and supervision, regular examination of books and records and activities and administrative agency sanctions for violation of regulatory, supervisory, or examination requirements by the State of Illinois or by a federal depository institution regulator.

As used in Section 1-4(d)(3) of the Act, "person employed" means any natural person who performs activity licensable under the Act exclusively for one licensee under the Act, provided that the licensee, expressly in writing on a form approved by the Director, assumes full and direct legal responsibility for the licensable activity performed on behalf of or in the name of the licensee or that benefits or is intended to benefit the licensee.

"First tier subsidiary", as used in Section 1-4 of the Act, means a subsidiary the stock of which is directly owned by the parent corporation, without any intervening layer of ownership by another corporation.

"Hearing Officer" means an attorney licensed in the State of Illinois, other than an attorney who is a regular employee of the Division, who is the presiding official appointed by the Director to conduct a hearing.

"High risk home loan" means a home equity loan on residential real property in which:

at the time of origination, the APR exceeds by more than 6 percentage points in the case of a first lien mortgage, or by more than 8 percentage points in the case of a junior mortgage, the yield on U.S. Treasury securities having comparable periods of maturity to the loan maturity as of the 15th day of the month immediately preceding the month in which the application for the loan is received by the lender; or

the total points and fees payable by the consumer at or before closing will exceed the greater of 5% of the total loan amount or $800. The $800 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index.

However, this Part shall not apply to a loan that is made primarily for a business purpose unrelated to the residential real property securing the loan or to an open-end credit plan subject to 12 CFR 226 (2000, no subsequent amendments or editions are included).

"Home equity loan" means any loan secured by the borrower's primary residence when the proceeds are not used as purchase money for the residence.

"Independent loan processing entity" means an entity engaged solely in providing loan processing services through the sponsoring of individuals acting pursuant to Section 7-1A(d) of the Act.

"Licensee" means a person or entity licensed under the Act.

"Material", as used in Section 6-2(2) of the Act, shall include, but not be limited to, a misstatement or omission of fact that, if it had not been misstated or omitted, would have altered the decision, approval, determination, or finding made by the Director or his or her agent in reliance upon the misstatement or omission. "Material" shall also include a misstatement or omission of fact that, if it had not been misstated or omitted, would have caused the Director or his or her agent to act or consider acting pursuant to any of the powers vested in the Director or his or her agents or in the Department or the Division by the Act or the rules promulgated under the Act.

"NMLS" means the Nationwide Multistate Licensing System and Registry.

"Other regulatory agencies", as used in Section 4-2(e) of the Act, shall include the United States Department of Housing and Urban Development, state insurance commissions, any state or Federal agency having jurisdiction over the licensee, state and federal securities regulators, and the United States Department of Labor.

"Party" means any person, including the Director, named on a pleading or affected by an administrative decision.

"Petitioner" means a person affected by an administrative decision of the Division or the Department who files a request for hearing, or the Director when he or she initiates a notice for hearing to a named respondent.

"Principal place of business", as used in Section 1-4(d)(1)(ix) of the Act, shall mean the principal place of business of the subsidiary's parent bank, which must be chartered by the Comptroller of the Currency of the United States.

"Repurchase a loan":

As used in Section 2-4(w) of the Act, means those instances in which:

the licensee has demanded that another licensee repurchase a loan and the first scheduled loan payment has not been received by the licensee making the demand; or

the licensee has demanded that another licensee repurchase a loan as a result of the determination, after reasonable investigation, by the licensee making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

As used in Section 2-4(x) of the Act, means those instances in which:

the licensee has received a demand that it repurchase a loan and the first scheduled loan payment has not been received by the person making the demand; or

the licensee has received a demand that it repurchase a loan as a result of the determination, after reasonable investigation, by the person making the demand, that materially false representations, documentation or information may have been provided to any person in connection with the origination or transfer of the loan.

"Points and fees" means:

all items required to be disclosed as points and fees under 12 CFR 226.32 (2000, no subsequent amendments or editions included);

the premium of any single premium credit life, credit disability, credit unemployment, or any other life or health insurance that is financed directly or indirectly into the loan;

all compensation paid directly or indirectly to a mortgage broker, including a broker that originates a loan in its own name in a table funded transaction, not otherwise included in the points and fees disclosed under 12 CFR 226.32.

"Respondent" means a person who is named in the notice of hearing when the notice is initiated by the Director, or the Director when a petitioner files a request for hearing.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Servicer" means any entity licensed under the Act who is responsible for the collection or remittance for, or the right or obligation to collect or remit for, any lender, noteowner, or noteholder, or for a licensee's own account, of payments, interest, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing.

"State" means the State of Illinois.

"Total loan amount" is the same as the term used in 12 CFR 226.32, and shall be calculated in accordance with the Federal Reserve Board's Official Staff Commentary to that regulation.

(Source: Amended at 43 Ill. Reg. 5272, effective May 10, 2019)