



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB0748

Introduced 1/30/2017, by Sen. Jason A. Barickman

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/78	from Ch. 17, par. 390
205 ILCS 5/79	from Ch. 17, par. 391
205 ILCS 205/12104 rep.	
205 ILCS 205/Art. 12.2 rep.	
205 ILCS 635/1-4	
205 ILCS 635/4-1	from Ch. 17, par. 2324-1
205 ILCS 635/4-8	from Ch. 17, par. 2324-8
205 ILCS 635/1-5 rep.	

Amends the Illinois Banking Act. Changes the number of additional members of the State Banking Board of Illinois from 11 to 12. Provides that one member of the Board shall be from a savings bank, and there shall also be an alternate member from a savings bank to attend meetings if and only if the sitting member from a savings bank is unable to attend the meeting. Changes the requirements for the 2 public members. Amends the Savings Bank Act. Repeals provisions relating to the Board of Savings Banks. Amends the Residential Mortgage License Act of 1987. Removes provisions relating to the Residential Mortgage Board. Effective immediately.

LRB100 05748 SMS 15771 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Illinois Banking Act is amended by changing  
5 Sections 78 and 79 as follows:

6 (205 ILCS 5/78) (from Ch. 17, par. 390)

7 Sec. 78. Board of banks and trust companies; creation,  
8 members, appointment. There is created a Board which shall be  
9 known as the State Banking Board of Illinois which shall  
10 consist of the Director of Banking, who shall be its chairman,  
11 and 12 ~~11~~ additional members. The Board shall be comprised of  
12 individuals interested in the banking industry. Two members  
13 shall be from State banks having total assets of not more than  
14 \$75,000,000 at the time of their appointment; 2 members shall  
15 be from State banks having total assets of more than  
16 \$75,000,000, but not more than \$150,000,000 at the time of  
17 their appointment; 2 members shall be from State banks having  
18 total assets of more than \$150,000,000, but not more than  
19 \$500,000,000 at the time of their appointment; 2 members shall  
20 be from State banks having total assets of more than  
21 \$500,000,000, but not more than \$2,000,000,000 at the time of  
22 their appointment; ~~and~~ 7 and one member shall be from a State bank  
23 having total assets of more than \$2,000,000,000 at the time of

1 his or her appointment; and one member shall be from a savings  
2 bank organized under the Savings Bank Act. There shall be one  
3 alternate member from a savings bank organized under the  
4 Savings Bank Act whose role shall be to attend a meeting of the  
5 State Banking Board if and only if the sitting member from a  
6 savings bank is unable to attend the meeting. There shall be 2  
7 public members, neither of whom shall be an officer or director  
8 of or owner, whether directly or indirectly, of more than 5% of  
9 the outstanding capital stock of any bank or savings bank.  
10 Members of the State Banking Board of Illinois cease to be  
11 eligible to serve on the Board once they no longer meet the  
12 requirements of their original appointment; however, a member  
13 from a State bank shall not be disqualified solely due to a  
14 change in the bank's asset size.

15 (Source: P.A. 99-39, eff. 1-1-16.)

16 (205 ILCS 5/79) (from Ch. 17, par. 391)

17 Sec. 79. Board, terms of office. The terms of office of the  
18 State Banking Board of Illinois shall be 4 years, except that  
19 the initial Board appointments shall be staggered with the  
20 Governor initially appointing, with advice and consent of the  
21 Senate, 3 members to serve 2-year terms, 4 members to serve  
22 3-year terms, and 4 members to serve 4-year terms. The sitting  
23 member from a savings bank organized under the Savings Bank Act  
24 and the alternate member from a savings bank organized under  
25 the Savings Bank Act shall be appointed for the same terms of

1 office. Members shall continue to serve on the Board until  
2 their replacement is appointed and qualified. Vacancies shall  
3 be filled by appointment by the Governor with advice and  
4 consent of the Senate.

5 No State Banking Board member shall serve more than 2 full  
6 4-year terms of office.

7 (Source: P.A. 96-1163, eff. 1-1-11; 97-813, eff. 7-13-12.)

8 (205 ILCS 205/12104 rep.)

9 (205 ILCS 205/Art. 12.2 rep.)

10 Section 10. The Savings Bank Act is amended by repealing  
11 Section 12104 and Article 12.2.

12 Section 15. The Residential Mortgage License Act of 1987 is  
13 amended by changing Sections 1-4, 4-1, and 4-8 as follows:

14 (205 ILCS 635/1-4)

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

17 (a) "Residential real property" or "residential real  
18 estate" shall mean any real property located in Illinois,  
19 upon which is constructed or intended to be constructed a  
20 dwelling. Those terms include a manufactured home as  
21 defined in subdivision (53) of Section 9-102 of the Uniform  
22 Commercial Code which is real property as defined in  
23 Section 5-35 of the Conveyance and Encumbrance of

1           Manufactured Homes as Real Property and Severance Act.

2           (b) "Making a residential mortgage loan" or "funding a  
3           residential mortgage loan" shall mean for compensation or  
4           gain, either directly or indirectly, advancing funds or  
5           making a commitment to advance funds to a loan applicant  
6           for a residential mortgage loan.

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

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

20                 (1) (i) Any banking organization or foreign  
21                 banking corporation licensed by the Illinois  
22                 Commissioner of Banks and Real Estate or the United  
23                 States Comptroller of the Currency to transact  
24                 business in this State; (ii) any national bank,  
25                 federally chartered savings and loan association,  
26                 federal savings bank, federal credit union; (iii)

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

26 (1.5) Any employee of a person or entity mentioned

1 in item (1) of this subsection, when acting for such  
2 person or entity, or any registered mortgage loan  
3 originator when acting for an entity described in  
4 subsection (tt) of this Section.

5 (1.8) Any person or entity that does not originate  
6 mortgage loans in the ordinary course of business, but  
7 makes or acquires residential mortgage loans with his  
8 or her own funds for his or her or its own investment  
9 without intent to make, acquire, or resell more than 3  
10 residential mortgage loans in any one calendar year.

11 (2) (Blank).

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

16 (4) (Blank).

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

26 (6) (Blank).

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

6           (f) "Mortgage loan" "residential mortgage loan" or  
7 "home mortgage loan" shall mean any loan primarily for  
8 personal, family, or household use that is secured by a  
9 mortgage, deed of trust, or other equivalent consensual  
10 security interest on a dwelling as defined in Section  
11 103(v) of the federal Truth in Lending Act, or residential  
12 real estate upon which is constructed or intended to be  
13 constructed a dwelling.

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

17           (h) "Ultimate equitable owner" shall mean a person who,  
18 directly or indirectly, owns or controls an ownership  
19 interest in a corporation, foreign corporation, alien  
20 business organization, trust, or any other form of business  
21 organization regardless of whether the person owns or  
22 controls the ownership interest through one or more persons  
23 or one or more proxies, powers of attorney, nominees,  
24 corporations, associations, partnerships, trusts, joint  
25 stock companies, or other entities or devices, or any  
26 combination thereof.



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

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

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

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

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

17          (n) "Commissioner" shall mean the Commissioner of  
18 Banks and Real Estate, except that, beginning on April 6,  
19 2009 (the effective date of Public Act 95-1047), all  
20 references in this Act to the Commissioner of Banks and  
21 Real Estate are deemed, in appropriate contexts, to be  
22 references to the Secretary of Financial and Professional  
23 Regulation, or his or her designee, including the Director  
24 of the Division of Banking of the Department of Financial  
25 and Professional Regulation.

26          (n-1) "Director" shall mean the Director of the

1 Division of Banking of the Department of Financial and  
2 Professional Regulation, except that, beginning on July  
3 31, 2009 (the effective date of Public Act 96-112), all  
4 references in this Act to the Director are deemed, in  
5 appropriate contexts, to be the Secretary of Financial and  
6 Professional Regulation, or his or her designee, including  
7 the Director of the Division of Banking of the Department  
8 of Financial and Professional Regulation.

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

20 (p) "Loan broker" or "broker" shall mean a person,  
21 partnership, association, corporation, or limited  
22 liability company, other than those persons, partnerships,  
23 associations, corporations, or limited liability companies  
24 exempted from licensing pursuant to Section 1-4,  
25 subsection (d), of this Act, who performs the activities  
26 described in subsections (c), (o), and (yy) of this

1 Section.

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

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

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

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

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

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

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

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

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

26 (w) "Advertisement" shall mean the attempt by

1 publication, dissemination, or circulation to induce,  
2 directly or indirectly, any person to enter into a  
3 residential mortgage loan agreement or residential  
4 mortgage loan brokerage agreement relative to a mortgage  
5 secured by residential real estate situated in Illinois.

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

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

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

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

25 (bb) "Escrow agent" shall mean a third party,  
26 individual or entity charged with the fiduciary obligation

1 for holding escrow funds on a residential mortgage loan  
2 pending final payout of those funds in accordance with the  
3 terms of the residential mortgage loan.

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

6 (dd) "Affiliate" shall mean:

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

12 (2) any entity:

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

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

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

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

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

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

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

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

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

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

23                      (i) takes a residential mortgage loan application;  
24                      or  
25                      (ii) offers or negotiates terms of a residential  
26                      mortgage loan.



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

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

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

22 "Mortgage loan originator" does not include a person or  
23 entity solely involved in extensions of credit relating to  
24 timeshare plans, as that term is defined in Section  
25 101(53D) of Title 11, United States Code.

26 (kk) "Depository institution" has the same meaning as

1 in Section 3 of the Federal Deposit Insurance Act, and  
2 includes any credit union.

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

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

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

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

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

20 (ii) communicating with a consumer to obtain the  
21 information necessary for the processing or  
22 underwriting of a loan, to the extent that the  
23 communication does not include offering or negotiating  
24 loan rates or terms, or counseling consumers about  
25 residential mortgage loan rates or terms. An  
26 individual engaging solely in loan processor or

1 underwriter activities shall not represent to the  
2 public, through advertising or other means of  
3 communicating or providing information, including the  
4 use of business cards, stationery, brochures, signs,  
5 rate lists, or other promotional items, that the  
6 individual can or will perform any of the activities of  
7 a mortgage loan originator.

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

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

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

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

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

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

1 property;

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

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

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

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

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

17 (A) a depository institution;

18 (B) a subsidiary that is:

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

21 (ii) regulated by a federal banking  
22 agency; or

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

25 (2) is registered with, and maintains a unique  
26 identifier through, the Nationwide Mortgage Licensing

1 System and Registry.

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

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

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

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

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

20 (zz) "Short sale facilitation" means, for compensation  
21 or gain, either directly or indirectly offering or  
22 negotiating on behalf of a borrower or homeowner to  
23 facilitate the sale of residential real estate subject to  
24 one or more residential mortgage loans or debts  
25 constituting liens on the property in which the proceeds  
26 from selling the residential real estate will fall short of

1 the amount owed and the lien holders are contacted to agree  
2 to release their lien on the residential real estate and  
3 accept less than the full amount owed on the debt.

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

7 (Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15;  
8 99-78, eff. 7-20-15.)

9 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

10 Sec. 4-1. Commissioner of Banks and Real Estate; functions,  
11 powers, and duties. The functions, powers, and duties of the  
12 Commissioner of Banks and Real Estate shall include the  
13 following:

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

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

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

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

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

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

1 (1) applications for licenses; and

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

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

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

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

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

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

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

14          (k) to enforce provisions of this Act;

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



1 appropriation from the General Revenue Fund.

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

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

6 (1) appeals of orders of the Commissioner;

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

9 (3) investigating:

10 (i) complaints against licensees; or

11 (ii) annual gross delinquency rates; and

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

13 (o) to exercise exclusive visitorial power over a  
14 licensee unless otherwise authorized by this Act or as  
15 vested in the courts, or upon prior consultation with the  
16 Commissioner, a foreign residential mortgage regulator  
17 with an appropriate supervisory interest in the parent or  
18 affiliate of a licensee;

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

23 (q) to assign an examiner or examiners to monitor the  
24 affairs of a licensee with whatever frequency the  
25 Commissioner determines appropriate and to charge the  
26 licensee for reasonable and necessary expenses of the

1 Commissioner, if in the opinion of the Commissioner an  
2 emergency exists or appears likely to occur;

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

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

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

9 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

10 Sec. 4-8. Delinquency; examination.

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

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

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

23 (c) The purpose of the examination under subsection (b)  
24 shall be to determine whether the loan delinquency data of the  
25 licensee has resulted from practices which deviate from sound

1 and accepted mortgage underwriting practices, including but  
2 not limited to credit fraud, appraisal fraud and property  
3 inspection fraud. For the purpose of conducting this  
4 examination, the Commissioner may accept materials prepared  
5 for the U.S. Department of Housing and Urban Development. ~~At~~  
6 ~~the conclusion of the examination, the Commissioner shall make~~  
7 ~~his or her findings available to the Residential Mortgage~~  
8 ~~Board.~~

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

25 (e) The Commissioner shall, at the conclusion of the public  
26 hearings, release his or her findings and shall also make

1 public any action taken with respect to the licensee. The  
2 Commissioner shall also give full consideration to the findings  
3 of this examination whenever reapplication is made by the  
4 licensee for a new license under this Act.

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

12 (g) Whenever the Commissioner finds that a licensee's loan  
13 delinquencies on insured mortgages is unusually high within a  
14 particular geographic area, he or she shall require that  
15 licensee to submit such information as is necessary to  
16 determine whether that licensee's practices have constituted  
17 credit fraud, appraisal fraud or property inspection fraud. The  
18 Commissioner shall promulgate such rules as are necessary to  
19 determine whether any licensee's loan delinquencies are  
20 unusually high within a particular area.

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

22 (205 ILCS 635/1-5 rep.)

23 Section 20. The Residential Mortgage License Act of 1987 is  
24 amended by repealing Section 1-5.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.