

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.