

HB5416



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5416

Introduced 1/31/2022, by Rep. Sandra Hamilton

SYNOPSIS AS INTRODUCED:

815 ILCS 505/2AAA

Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that any marketing materials from a mortgage company not connected to the consumer's mortgage company must comply with specified requirements.

LRB102 24800 SPS 34044 b

A BILL FOR

1 AN ACT concerning business.

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

4 Section 1. Findings. The General Assembly finds that given
5 the recent low interest rates for home mortgages leading to an
6 increase in home purchases and mortgage refinancing, the need
7 to protect homeowners from unscrupulous actors seeking to take
8 advantage of this increase by soliciting mortgage refinancing
9 through deceptive practices is warranted, especially following
10 the unethical practices that led to the 2008 subprime mortgage
11 crisis. These protections will especially serve new homeowners
12 not familiar with the process and elderly homeowners who may
13 be more susceptible to deceptive mortgage marketing materials.
14 In addition, they will serve to protect the homeowners' actual
15 mortgage companies that have no affiliation with the
16 solicitors and have had no part in helping the solicitors
17 obtain the homeowners' mortgage information.

18 Section 5. The Consumer Fraud and Deceptive Business
19 Practices Act is amended by changing Section 2AAA as follows:

20 (815 ILCS 505/2AAA)

21 Sec. 2AAA. Mortgage marketing materials.

22 (a) No person may send marketing materials to a consumer

1 indicating that the person is connected to the consumer's
2 mortgage company, indicating that there is a problem with the
3 consumer's mortgage, or stating that the marketing materials
4 contain information concerning the consumer's mortgage, unless
5 that person sending the marketing materials is actually
6 employed by the consumer's mortgage company or an affiliate of
7 the consumer's mortgage company.

8 (a-5) Any marketing materials from a mortgage company not
9 connected to the consumer's mortgage company must comply with
10 the following requirements:

11 (1) no language may be used to state or imply that any
12 response is necessary or imminent, including, but not
13 limited to, the use of the terms "urgent", "action
14 required", "materials inspected", "time sensitive", or
15 "important account information enclosed";

16 (2) the name of the solicitor's mortgage company must
17 be prominently stated:

18 (A) in the body of the text;

19 (B) at the head of the letter or message in a font
20 bigger than the body of the text; and

21 (C) on any envelope;

22 (3) the name of the consumer's mortgage company may
23 not be used to state or insinuate in any way that the
24 marketing material is from the consumer's mortgage company
25 rather than the solicitor's mortgage company, and can only
26 be used in the body of the text and when accompanied by

1 clear language explaining that the solicitation is not
2 from or affiliated with the consumer's mortgage company,
3 and is merely a solicitation. The name of the consumer's
4 mortgage company shall not be visible through an envelope
5 window, used in an email subject line, or appear on the
6 envelope itself; and

7 (4) the text must clearly state if the consumer's
8 mortgage company had no part in helping the solicitor
9 obtain the homeowner's mortgage information.

10 (b) Any person who violates this Section commits an
11 unlawful practice within the meaning of this Act.

12 (Source: P.A. 95-508, eff. 1-1-08; 95-876, eff. 8-21-08;
13 96-328, eff. 8-11-09.)