



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2325

Introduced 2/14/2023, by Rep. Margaret Croke

SYNOPSIS AS INTRODUCED:

205 ILCS 635/1-3 from Ch. 17, par. 2321-3
205 ILCS 635/1-4
205 ILCS 635/3-11 new

Amends the Residential Mortgage License Act of 1987. Provides that each full service office (rather than office, place of business, or location) at which a residential mortgage licensee conducts any part of his or her business must be recorded with the Secretary of Financial and Professional Regulation. Provides that licensees may allow mortgage loan originators to work from a remote location if specified conditions are met. Provides that "full service office" does not include a remote location. Defines "remote location".

LRB103 26311 BMS 52672 b

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 Residential Mortgage License Act of 1987 is
5 amended by changing Sections 1-3 and 1-4 and by adding Section
6 3-11 as follows:

7 (205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

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

9 (a) No person, partnership, association, corporation or
10 other entity shall engage in the business of brokering,
11 funding, originating, servicing or purchasing of residential
12 mortgage loans without first obtaining a license from the
13 Secretary in accordance with the licensing procedure provided
14 in this Article I and such regulations as may be promulgated by
15 the Secretary. The licensing provisions of this Section shall
16 not apply to any entity engaged solely in commercial mortgage
17 lending or to any person, partnership association, corporation
18 or other entity exempted pursuant to Section 1-4, subsection
19 (d), of this Act or in accordance with regulations promulgated
20 by the Secretary hereunder. No provision of this Act shall
21 apply to an exempt person or entity as defined in items (1) and
22 (1.5) of subsection (d) of Section 1-4 of this Act.
23 Notwithstanding anything to the contrary in the preceding

1 sentence, an individual acting as a mortgage loan originator
2 who is not employed by and acting for an entity described in
3 item (1) of subsection (tt) of Section 1-4 of this Act shall be
4 subject to the mortgage loan originator licensing requirements
5 of Article VII of this Act.

6 Effective January 1, 2011, no provision of this Act shall
7 apply to an exempt person or entity as defined in item (1.8) of
8 subsection (d) of Section 1-4 of this Act. Notwithstanding
9 anything to the contrary in the preceding sentence, an
10 individual acting as a mortgage loan originator who is not
11 employed by and acting for an entity described in item (1) of
12 subsection (tt) of Section 1-4 of this Act shall be subject to
13 the mortgage loan originator licensing requirements of Article
14 VII of this Act, and provided that an individual acting as a
15 mortgage loan originator under item (1.8) of subsection (d) of
16 Section 1-4 of this Act shall be further subject to a
17 determination by the U.S. Department of Housing and Urban
18 Development through final rulemaking or other authorized
19 agency determination under the federal Secure and Fair
20 Enforcement for Mortgage Licensing Act of 2008.

21 (a-1) A person who is exempt from licensure pursuant to
22 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of
23 this Act as a federally chartered savings bank that is
24 registered with the Nationwide Multistate Licensing System and
25 Registry may apply to the Secretary for an exempt company
26 registration for the purpose of sponsoring one or more

1 individuals subject to the mortgage loan originator licensing
2 requirements of Article VII of this Act. Registration with the
3 Division of Banking of the Department shall not affect the
4 exempt status of the applicant.

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

11 (2) An exempt person shall: (A) fulfill any reporting
12 requirements required by the Nationwide Multistate
13 Licensing System and Registry or the Secretary; (B)
14 provide a blanket surety bond pursuant to Section 7-12 of
15 this Act covering the activities of all its sponsored
16 mortgage loan originators; (C) reasonably supervise the
17 activities of all its sponsored mortgage loan originators;
18 (D) comply with all rules and orders (including the
19 averments contained in Section 2-4 of this Act as
20 applicable to a non-licensed exempt entity provided for in
21 this Section) that the Secretary deems necessary to ensure
22 compliance with the federal SAFE Act; and (E) pay an
23 annual registration fee established by the Director.

24 (3) The Secretary may deny an exempt company
25 registration to an exempt person or fine, suspend, or
26 revoke an exempt company registration if the Secretary

1 finds one of the following:

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

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

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

9 (D) that the exempt person had a final judgment
10 entered against him or her in a civil action on grounds
11 of fraud, deceit, or misrepresentation, and the
12 conduct on which the judgment is based indicates that
13 it would be contrary to the interest of the public to
14 permit the exempt person to manage a loan originator;

15 (E) that the exempt person had an order entered
16 against him or her involving fraud, deceit, or
17 misrepresentation by an administrative agency of this
18 State, the federal government, or any other state or
19 territory of the United States, and the facts relating
20 to the order indicate that it would be contrary to the
21 interest of the public to permit the exempt person to
22 manage a loan originator;

23 (F) that the exempt person made a material
24 misstatement or suppressed or withheld information on
25 the application for an exempt company registration or
26 any document required to be filed with the Secretary;

1 or

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

4 (a-5) An entity that is exempt from licensure pursuant to
5 item (7) of subsection (d) of Section 1-4 of this Act as an
6 independent loan processing entity shall annually apply to the
7 Secretary through the Nationwide Multistate Licensing System
8 and Registry for an exempt company registration for the
9 purpose of sponsoring one or more individuals subject to the
10 mortgage loan originator licensing requirements of Article VII
11 of this Act. A loan processor who performs clerical or support
12 duties at the direction of and subject to the supervision and
13 instruction of a licensed mortgage loan originator sponsored
14 by an independent loan processing entity shall be exempt from
15 his or her own licensing as a mortgage loan originator. An
16 independent loan processing entity shall not be subject to
17 examination by the Secretary. The Secretary may adopt rules to
18 implement any provisions necessary for the administration of
19 this subsection.

20 (b) No person, partnership, association, corporation, or
21 other entity except a licensee under this Act or an entity
22 exempt from licensing pursuant to Section 1-4, subsection (d),
23 of this Act shall do any business under any name or title, or
24 circulate or use any advertising or make any representation or
25 give any information to any person, which indicates or
26 reasonably implies activity within the scope of this Act.

1 (c) The Secretary may, through the Attorney General,
2 request the circuit court of either Cook or Sangamon County to
3 issue an injunction to restrain any person from violating or
4 continuing to violate any of the foregoing provisions of this
5 Section.

6 (d) When the Secretary has reasonable cause to believe
7 that any entity which has not submitted an application for
8 licensure is conducting any of the activities described in
9 subsection (a) hereof, the Secretary shall have the power to
10 examine all books and records of the entity and any additional
11 documentation necessary in order to determine whether such
12 entity should become licensed under this Act.

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

21 (e) Any person, partnership, association, corporation or
22 other entity who violates any provision of this Section
23 commits a business offense and shall be fined an amount not to
24 exceed \$25,000. A mortgage loan brokered, funded, originated,
25 serviced, or purchased by a party who is not licensed under
26 this Section shall not be held to be invalid solely on the

1 basis of a violation under this Section. The changes made to
2 this Section by Public Act 99-113 are declarative of existing
3 law.

4 (f) Each person, partnership, association, corporation or
5 other entity conducting activities regulated by this Act shall
6 be issued one license. Each full service office, ~~place of~~
7 ~~business or location~~ at which a residential mortgage licensee
8 conducts any part of his or her business must be recorded with
9 the Secretary pursuant to Section 2-8 of this Act.

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

14 (h) This Act applies to all entities doing business in
15 Illinois as residential mortgage bankers, as defined by "An
16 Act to provide for the regulation of mortgage bankers",
17 approved September 15, 1977, as amended, regardless of whether
18 licensed under that or any prior Act. Any existing residential
19 mortgage lender or residential mortgage broker in Illinois
20 whether or not previously licensed, must operate in accordance
21 with this Act.

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

26 Entities and persons subject to the predecessor Act shall

1 be subject to this Act from and after its effective date.

2 (Source: P.A. 100-851, eff. 8-14-18; 100-1153, eff. 12-19-18;
3 101-81, eff. 7-12-19.)

4 (205 ILCS 635/1-4)

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

7 (a) "Residential real property" or "residential real
8 estate" shall mean any real property located in Illinois,
9 upon which is constructed or intended to be constructed a
10 dwelling. Those terms include a manufactured home as
11 defined in subdivision (53) of Section 9-102 of the
12 Uniform Commercial Code which is real property as defined
13 in Section 5-35 of the Conveyance and Encumbrance of
14 Manufactured Homes as Real Property and Severance Act.

15 (b) "Making a residential mortgage loan" or "funding a
16 residential mortgage loan" shall mean for compensation or
17 gain, either directly or indirectly, advancing funds or
18 making a commitment to advance funds to a loan applicant
19 for a residential mortgage loan.

20 (c) "Soliciting, processing, placing, or negotiating a
21 residential mortgage loan" shall mean for compensation or
22 gain, either directly or indirectly, accepting or offering
23 to accept an application for a residential mortgage loan,
24 assisting or offering to assist in the processing of an
25 application for a residential mortgage loan on behalf of a

1 borrower, or negotiating or offering to negotiate the
2 terms or conditions of a residential mortgage loan with a
3 lender on behalf of a borrower including, but not limited
4 to, the submission of credit packages for the approval of
5 lenders, the preparation of residential mortgage loan
6 closing documents, including a closing in the name of a
7 broker.

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

10 (1) (i) Any banking organization or foreign
11 banking corporation licensed by the Illinois
12 Commissioner of Banks and Real Estate or the United
13 States Comptroller of the Currency to transact
14 business in this State; (ii) any national bank,
15 federally chartered savings and loan association,
16 federal savings bank, federal credit union; (iii)
17 (blank); (iv) any bank, savings and loan association,
18 savings bank, or credit union organized under the laws
19 of this or any other state; (v) any Illinois Consumer
20 Installment Loan Act licensee; (vi) any insurance
21 company authorized to transact business in this State;
22 (vii) any entity engaged solely in commercial mortgage
23 lending; (viii) any service corporation of a savings
24 and loan association or savings bank organized under
25 the laws of this State or the service corporation of a
26 federally chartered savings and loan association or

1 savings bank having its principal place of business in
2 this State, other than a service corporation licensed
3 or entitled to reciprocity under the Real Estate
4 License Act of 2000; or (ix) any first tier subsidiary
5 of a bank, the charter of which is issued under the
6 Illinois Banking Act by the Illinois Commissioner of
7 Banks and Real Estate, or the first tier subsidiary of
8 a bank chartered by the United States Comptroller of
9 the Currency and that has its principal place of
10 business in this State, provided that the first tier
11 subsidiary is regularly examined by the Illinois
12 Commissioner of Banks and Real Estate or the
13 Comptroller of the Currency, or a consumer compliance
14 examination is regularly conducted by the Federal
15 Reserve Board.

16 (1.5) Any employee of a person or entity mentioned
17 in item (1) of this subsection, when acting for such
18 person or entity, or any registered mortgage loan
19 originator when acting for an entity described in
20 subsection (tt) of this Section.

21 (1.8) Any person or entity that does not originate
22 mortgage loans in the ordinary course of business, but
23 makes or acquires residential mortgage loans with his
24 or her own funds for his or her or its own investment
25 without intent to make, acquire, or resell more than 3
26 residential mortgage loans in any one calendar year.

1 (2) (Blank).

2 (2.1) A bona fide nonprofit organization.

3 (2.2) An employee of a bona fide nonprofit
4 organization when acting on behalf of that
5 organization.

6 (3) Any person employed by a licensee to assist in
7 the performance of the residential mortgage licensee's
8 activities regulated by this Act who is compensated in
9 any manner by only one licensee.

10 (4) (Blank).

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

20 (6) (Blank).

21 (7) Any entity engaged solely in providing loan
22 processing services through the sponsoring of
23 individuals acting pursuant to subsection (d) of
24 Section 7-1A of this Act.

25 (e) "Licensee" or "residential mortgage licensee"
26 shall mean a person, partnership, association,

1 corporation, or any other entity who or which is licensed
2 pursuant to this Act to engage in the activities regulated
3 by this Act.

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

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

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

25 (i) "Residential mortgage financing transaction" shall
26 mean the negotiation, acquisition, sale, or arrangement

1 for or the offer to negotiate, acquire, sell, or arrange
2 for, a residential mortgage loan or residential mortgage
3 loan commitment.

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

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

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

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

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

24 (n-1) "Director" shall mean the Director of the
25 Division of Banking of the Department of Financial and
26 Professional Regulation, except that, beginning on July

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

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

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

26 (q) "Servicing" shall mean the collection or

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

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

1 signage; adequate, organized, and accurate books and
2 records; ample phone lines, hours of business, staff
3 training and supervision, and provision for a mechanism to
4 resolve consumer inquiries, complaints, and problems. The
5 Commissioner shall issue regulations with regard to these
6 requirements and shall include an evaluation of compliance
7 with this Section in his or her periodic examination of
8 each licensee. "Full service office" does not include a
9 remote location.

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
13 either 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).

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

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

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

23 (bb) "Escrow agent" shall mean a third party,
24 individual or entity charged with the fiduciary obligation
25 for holding escrow funds on a residential mortgage loan
26 pending final payout of those funds in accordance with the

1 terms of the residential mortgage loan.

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

4 (dd) "Affiliate" shall mean:

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

10 (2) any entity:

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

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

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

25 (ee) "First tier subsidiary" shall be defined by
26 regulation incorporating the comparable definitions used

1 by the Office of the Comptroller of the Currency and the
2 Illinois Commissioner of Banks and Real Estate.

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

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

23 (hh) (Blank).

24 (ii) "Confidential supervisory information" means any
25 report of examination, visitation, or investigation
26 prepared by the Commissioner under this Act, any report of

1 examination visitation, or investigation prepared by the
2 state regulatory authority of another state that examines
3 a licensee, any document or record prepared or obtained in
4 connection with or relating to any examination,
5 visitation, or investigation, and any record prepared or
6 obtained by the Commissioner to the extent that the record
7 summarizes or contains information derived from any
8 report, document, or record described in this subsection.

9 "Confidential supervisory information" does not include
10 any information or record routinely prepared by a licensee
11 and maintained in the ordinary course of business or any
12 information or record that is required to be made publicly
13 available pursuant to State or federal law or rule.

14 (jj) "Mortgage loan originator" means an individual
15 who for compensation or gain or in the expectation of
16 compensation or gain:

17 (i) takes a residential mortgage loan application;

18 or

19 (ii) offers or negotiates terms of a residential
20 mortgage loan.

21 "Mortgage loan originator" includes an individual
22 engaged in loan modification activities as defined in
23 subsection (yy) of this Section. A mortgage loan
24 originator engaged in loan modification activities shall
25 report those activities to the Department of Financial and
26 Professional Regulation in the manner provided by the

1 Department; however, the Department shall not impose a fee
2 for reporting, nor require any additional qualifications
3 to engage in those activities beyond those provided
4 pursuant to this Act for mortgage loan originators.

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

9 "Mortgage loan originator" does not include a person
10 or entity that only performs real estate brokerage
11 activities and is licensed in accordance with the Real
12 Estate License Act of 2000, unless the person or entity is
13 compensated by a lender, a mortgage broker, or other
14 mortgage loan originator, or by any agent of that lender,
15 mortgage broker, or other mortgage loan originator.

16 "Mortgage loan originator" does not include a person
17 or entity solely involved in extensions of credit relating
18 to timeshare plans, as that term is defined in Section
19 101(53D) of Title 11, United States Code.

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

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

26 (mm) "Immediate family member" means a spouse, child,

1 sibling, parent, grandparent, or grandchild, and includes
2 step-parents, step-children, step-siblings, or adoptive
3 relationships.

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

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

12 (i) the receipt, collection, distribution, and
13 analysis of information common for the processing or
14 underwriting of a residential mortgage loan; and

15 (ii) communicating with a consumer to obtain the
16 information necessary for the processing or
17 underwriting of a loan, to the extent that the
18 communication does not include offering or negotiating
19 loan rates or terms, or counseling consumers about
20 residential mortgage loan rates or terms. An
21 individual engaging solely in loan processor or
22 underwriter activities shall not represent to the
23 public, through advertising or other means of
24 communicating or providing information, including the
25 use of business cards, stationery, brochures, signs,
26 rate lists, or other promotional items, that the

1 individual can or will perform any of the activities
2 of a mortgage loan originator.

3 (pp) "Nationwide Multistate Licensing System and
4 Registry" means a mortgage licensing system developed and
5 maintained by the Conference of State Bank Supervisors and
6 the American Association of Residential Mortgage
7 Regulators for the licensing and registration of licensed
8 mortgage loan originators.

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

11 (rr) "Person" means a natural person, corporation,
12 company, limited liability company, partnership, or
13 association.

14 (ss) "Real estate brokerage activity" means any
15 activity that involves offering or providing real estate
16 brokerage services to the public, including:

17 (1) acting as a real estate agent or real estate
18 broker for a buyer, seller, lessor, or lessee of real
19 property;

20 (2) bringing together parties interested in the
21 sale, purchase, lease, rental, or exchange of real
22 property;

23 (3) negotiating, on behalf of any party, any
24 portion of a contract relating to the sale, purchase,
25 lease, rental, or exchange of real property, other
26 than in connection with providing financing with

1 respect to any such transaction;

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

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

8 (tt) "Registered mortgage loan originator" means any
9 individual that:

10 (1) meets the definition of mortgage loan
11 originator and is an employee of:

12 (A) a depository institution;

13 (B) a subsidiary that is:

14 (i) owned and controlled by a depository
15 institution; and

16 (ii) regulated by a federal banking
17 agency; or

18 (C) an institution regulated by the Farm
19 Credit Administration; and

20 (2) is registered with, and maintains a unique
21 identifier through, the Nationwide Multistate
22 Licensing System and Registry.

23 (uu) "Unique identifier" means a number or other
24 identifier assigned by protocols established by the
25 Nationwide Multistate Licensing System and Registry.

26 (vv) "Residential mortgage license" means a license

1 issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

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

5 (xx) "Secretary" means the Secretary of the Department
6 of Financial and Professional Regulation, or a person
7 authorized by the Secretary or by this Act to act in the
8 Secretary's stead.

9 (yy) "Loan modification" means, for compensation or
10 gain, either directly or indirectly offering or
11 negotiating on behalf of a borrower or homeowner to adjust
12 the terms of a residential mortgage loan in a manner not
13 provided for in the original or previously modified
14 mortgage loan.

15 (zz) "Short sale facilitation" means, for compensation
16 or gain, either directly or indirectly offering or
17 negotiating on behalf of a borrower or homeowner to
18 facilitate the sale of residential real estate subject to
19 one or more residential mortgage loans or debts
20 constituting liens on the property in which the proceeds
21 from selling the residential real estate will fall short
22 of the amount owed and the lien holders are contacted to
23 agree to release their lien on the residential real estate
24 and accept less than the full amount owed on the debt.

25 (aaa) "Bona fide nonprofit organization" means an
26 organization that is described in Section 501(c)(3) of the

1 Internal Revenue Code, is exempt from federal income tax
2 under Section 501(a) of the Internal Revenue Code, does
3 not operate in a commercial context, and does all of the
4 following:

5 (1) Promotes affordable housing or provides home
6 ownership education or similar services.

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

9 (3) Receives funding and revenue and charges fees
10 in a manner that does not create an incentive for
11 itself or its employees to act other than in the best
12 interests of its clients.

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

16 (5) Provides to, or identifies for, the borrower
17 residential mortgage loans with terms favorable to the
18 borrower and comparable to residential mortgage loans
19 and housing assistance provided under government
20 housing assistance programs.

21 (bbb) "Remote location" means a location other than a
22 principal place of business or a full service office at
23 which a mortgage loan originator of a licensee may conduct
24 business.

25 The Commissioner may define by rule and regulation any
26 terms used in this Act for the efficient and clear

1 administration of this Act.

2 (Source: P.A. 100-783, eff. 8-10-18; 100-851, eff. 8-14-18;
3 100-1153, eff. 12-19-18; 101-81, eff. 7-12-19.)

4 (205 ILCS 635/3-11 new)

5 Sec. 3-11. Remote location operations. Licensees may allow
6 mortgage loan originators to work from a remote location if:

7 (1) the licensee has written policies and procedures
8 for the supervision of mortgage loan originators working
9 from a remote location;

10 (2) access to company platforms and customer
11 information is in accordance with the licensee's
12 comprehensive written information security plan;

13 (3) no in-person customer interaction occurs at a
14 mortgage originator's residence unless that residence is a
15 licensed location;

16 (4) physical records are not maintained at a remote
17 location;

18 (5) customer interactions and conversations about
19 consumers will be in compliance with federal and State
20 information security requirements, including applicable
21 provisions under the federal Gramm-Leach-Bliley Act and
22 the Safeguards Rule established by the Federal Trade
23 Commission and set forth in 16 CFR Part 314, as such
24 requirements may be amended from time to time;

25 (6) mortgage loan originators working at a remote

1 location access the company's secure systems, including a
2 cloud-based system, directly from any out-of-office device
3 the mortgage loan originator uses, including, but not
4 limited to, a laptop, phone, desktop computer, or tablet,
5 via a virtual private network or comparable system that
6 ensures secure connectivity and requires passwords or
7 other forms of authentication to access;

8 (7) the licensee ensures that appropriate security
9 updates, patches, or other alterations to the security of
10 all devices used at remote locations are installed and
11 maintained;

12 (8) the licensee has an ability to remotely lock or
13 erase company-related contents of any device or otherwise
14 remotely limit all access to a company's secure systems;
15 and

16 (9) the Nationwide Multistate Licensing System and
17 Registry record of a loan originator that works from a
18 remote location designates the principal place of business
19 as the loan originator's registered location unless the
20 loan originator elects another licensed branch office as a
21 registered location.