



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1061

Introduced 2/4/2005, by Rep. JoAnn D. Osmond

SYNOPSIS AS INTRODUCED:

205 ILCS 635/3-11 new
815 ILCS 505/2VV new

Amends the Residential Mortgage License Act of 1987. Provides that: the soliciting and sale of mortgages by a home builder shall be conducted only by persons who have been licensed under the Act and shall be subject to the Act; a home builder transacting mortgage business in this State shall be licensed under the Act and shall be subject to the Act; and a licensee may not pay, directly or indirectly, any commission, service fee, brokerage fee, or other valuable consideration to any person for services as a home builder. Amends the Consumer Fraud and Deceptive Business Practices Act. Provides that a home builder may not: (1) offer any incentives to a consumer for the purpose of influencing his or her selection of a mortgage lender; (2) offer his or her products or services on the condition or requirement that the consumer obtain a mortgage from a particular mortgage lender; (3) require a consumer to negotiate or purchase a mortgage from a particular mortgage lender as a condition to purchasing the home, or renewing any contract between the home builder and the consumer; (4) require a consumer to pay a separate charge or fee if he or she does not select a mortgage lender suggested by the home builder; or (5) use any advertisement that would mislead or suggest that the consumer is required to use a particular mortgage lender. Requires a home builder to clearly and conspicuously disclose, on any written advertisement or promotional or informational material, the nature of any relationship he or she has with a mortgage lender.

LRB094 04316 RXD 34345 b

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 5. The Residential Mortgage License Act of 1987 is
5 amended by adding Section 3-11 as follows:

6 (205 ILCS 635/3-11 new)

7 Sec. 3-11. Home builders.

8 (a) The soliciting and sale of mortgages by a home builder
9 shall be conducted only by persons who have been licensed under
10 this Act and shall be subject to this Act.

11 (b) A home builder transacting mortgage business in this
12 State shall be licensed under this Act and shall be subject to
13 this Act.

14 (c) A licensee may not pay, directly or indirectly, any
15 commission, service fee, brokerage fee, or other valuable
16 consideration to any person for services as a home builder.

17 (d) As used in this Section:

18 "Home builder" means a building contractor engaged in
19 the construction of new homes.

20 "Home" includes single-family residences and
21 townhouses, but does not include apartment buildings or
22 condominiums.

23 Section 10. The Consumer Fraud and Deceptive Business
24 Practices Act is amended by adding Section 2VV as follows:

25 (815 ILCS 505/2VV new)

26 Sec. 2VV. Home builders; mortgages.

27 (a) A home builder may not:

28 (1) offer any incentives to a consumer for the purpose
29 of influencing the consumer's selection of a mortgage
30 lender, including, but not limited to, offering home

1 improvement upgrades, and closing cost rebates or
2 discounts;

3 (2) offer products or services or fix or vary the
4 consideration for an offer, on the condition or requirement
5 that the consumer obtain a mortgage from a particular
6 mortgage lender, including, but not limited to, a mortgage
7 lender that is an affiliate or partner of the home builder;

8 (3) require a consumer to negotiate or purchase a
9 mortgage from a particular mortgage lender as a condition
10 to purchasing the home or renewing any contract between the
11 home builder and the consumer;

12 (4) require a consumer to pay a separate charge or fee
13 if he or she does not select a mortgage lender suggested by
14 the home builder;

15 (5) pay, directly or indirectly, any commission,
16 service fee, brokerage fee, or other valuable
17 consideration to any person for services as a mortgage
18 broker or mortgage company;

19 (6) use any advertisement that would mislead or suggest
20 that the consumer is required to use a particular mortgage
21 lender, or that the State or federal government is
22 responsible for selecting a mortgage lender; or

23 (7) release any information to a mortgage company,
24 except information essential to finalize a mortgage
25 entered into freely by a consumer.

26 (b) A home builder shall clearly and conspicuously
27 disclose, on any written advertisement or promotional or
28 informational material, the nature of any relationship the home
29 builder has with a mortgage lender. If a home builder has an
30 existing relationship with a mortgage lender, directly or
31 indirectly, and sells or suggests the mortgage lender's
32 products or services, he or she shall clearly and conspicuously
33 disclose to the consumer in writing at the time the application
34 is completed or at the time of closing, the following
35 information: "You may obtain a mortgage in connection with your
36 home purchase from any mortgage lender or financial institution

1 that offers mortgages. Your choice of a mortgage lender will
2 not affect the purchase of your home."

3 (c) An employee or agent of a home builder may not solicit
4 or sell a mortgage within a building or structure at which
5 other business transactions associated with the purchase or
6 sale of a home take place.

7 (d) As used in this Section:

8 "Home builder" means a building contractor engaged in
9 the construction of new homes.

10 "Home" includes single-family residences and
11 townhouses, but does not include apartment buildings or
12 condominiums.