



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB5353

Introduced 01/26/06, by Rep. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7 from Ch. 116, par. 207
765 ILCS 77/Art. 3 heading
765 ILCS 77/70
765 ILCS 77/72
765 ILCS 77/74
765 ILCS 77/76

Amends the Predatory Lending Database Article of the Residential Real Property Disclosure Act. Changes certain references in the Article from "predatory lending database" to "anti-predatory lending database" and from "broker" and "originator" to "licensee". Changes time limits for taking various actions under the Act. Changes the conditions under which a licensee must resubmit information to the the Department of Financial and Professional Regulation because of changes in the terms or other aspects of a loan. Provides that the licensee shall electronically transfer to the anti-predatory lending database all disclosure documents provided to the borrower. Makes changes regarding: information a licensee must submit for inclusion in the anti-predatory lending database for each loan for which the licensee takes an application; information a credit counselor must submit for inclusion in the anti-predatory lending database and other duties relating to review of the data entered the anti-predatory lending database by the licensee and comparison of the data to the application information and materials provided by the borrower; and information a title insurance company or closing agent must submit for inclusion in the anti-predatory lending database. Makes other changes. Amends the Freedom of Information Act to make a conforming change. Effective immediately.

LRB094 19255 WGH 55056 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning lending practices.

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

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and regulations
12 adopted under federal or State law.

13 (b) Information that, if disclosed, would constitute a
14 clearly unwarranted invasion of personal privacy, unless
15 the disclosure is consented to in writing by the individual
16 subjects of the information. The disclosure of information
17 that bears on the public duties of public employees and
18 officials shall not be considered an invasion of personal
19 privacy. Information exempted under this subsection (b)
20 shall include but is not limited to:

21 (i) files and personal information maintained with
22 respect to clients, patients, residents, students or
23 other individuals receiving social, medical,
24 educational, vocational, financial, supervisory or
25 custodial care or services directly or indirectly from
26 federal agencies or public bodies;

27 (ii) personnel files and personal information
28 maintained with respect to employees, appointees or
29 elected officials of any public body or applicants for
30 those positions;

31 (iii) files and personal information maintained
32 with respect to any applicant, registrant or licensee

1 by any public body cooperating with or engaged in
2 professional or occupational registration, licensure
3 or discipline;

4 (iv) information required of any taxpayer in
5 connection with the assessment or collection of any tax
6 unless disclosure is otherwise required by State
7 statute;

8 (v) information revealing the identity of persons
9 who file complaints with or provide information to
10 administrative, investigative, law enforcement or
11 penal agencies; provided, however, that identification
12 of witnesses to traffic accidents, traffic accident
13 reports, and rescue reports may be provided by agencies
14 of local government, except in a case for which a
15 criminal investigation is ongoing, without
16 constituting a clearly unwarranted per se invasion of
17 personal privacy under this subsection; and

18 (vi) the names, addresses, or other personal
19 information of participants and registrants in park
20 district, forest preserve district, and conservation
21 district programs.

22 (c) Records compiled by any public body for
23 administrative enforcement proceedings and any law
24 enforcement or correctional agency for law enforcement
25 purposes or for internal matters of a public body, but only
26 to the extent that disclosure would:

27 (i) interfere with pending or actually and
28 reasonably contemplated law enforcement proceedings
29 conducted by any law enforcement or correctional
30 agency;

31 (ii) interfere with pending administrative
32 enforcement proceedings conducted by any public body;

33 (iii) deprive a person of a fair trial or an
34 impartial hearing;

35 (iv) unavoidably disclose the identity of a
36 confidential source or confidential information

1 furnished only by the confidential source;

2 (v) disclose unique or specialized investigative
3 techniques other than those generally used and known or
4 disclose internal documents of correctional agencies
5 related to detection, observation or investigation of
6 incidents of crime or misconduct;

7 (vi) constitute an invasion of personal privacy
8 under subsection (b) of this Section;

9 (vii) endanger the life or physical safety of law
10 enforcement personnel or any other person; or

11 (viii) obstruct an ongoing criminal investigation.

12 (d) Criminal history record information maintained by
13 State or local criminal justice agencies, except the
14 following which shall be open for public inspection and
15 copying:

16 (i) chronologically maintained arrest information,
17 such as traditional arrest logs or blotters;

18 (ii) the name of a person in the custody of a law
19 enforcement agency and the charges for which that
20 person is being held;

21 (iii) court records that are public;

22 (iv) records that are otherwise available under
23 State or local law; or

24 (v) records in which the requesting party is the
25 individual identified, except as provided under part
26 (vii) of paragraph (c) of subsection (1) of this
27 Section.

28 "Criminal history record information" means data
29 identifiable to an individual and consisting of
30 descriptions or notations of arrests, detentions,
31 indictments, informations, pre-trial proceedings, trials,
32 or other formal events in the criminal justice system or
33 descriptions or notations of criminal charges (including
34 criminal violations of local municipal ordinances) and the
35 nature of any disposition arising therefrom, including
36 sentencing, court or correctional supervision,

1 rehabilitation and release. The term does not apply to
2 statistical records and reports in which individuals are
3 not identified and from which their identities are not
4 ascertainable, or to information that is for criminal
5 investigative or intelligence purposes.

6 (e) Records that relate to or affect the security of
7 correctional institutions and detention facilities.

8 (f) Preliminary drafts, notes, recommendations,
9 memoranda and other records in which opinions are
10 expressed, or policies or actions are formulated, except
11 that a specific record or relevant portion of a record
12 shall not be exempt when the record is publicly cited and
13 identified by the head of the public body. The exemption
14 provided in this paragraph (f) extends to all those records
15 of officers and agencies of the General Assembly that
16 pertain to the preparation of legislative documents.

17 (g) Trade secrets and commercial or financial
18 information obtained from a person or business where the
19 trade secrets or information are proprietary, privileged
20 or confidential, or where disclosure of the trade secrets
21 or information may cause competitive harm, including:

22 (i) All information determined to be confidential
23 under Section 4002 of the Technology Advancement and
24 Development Act.

25 (ii) All trade secrets and commercial or financial
26 information obtained by a public body, including a
27 public pension fund, from a private equity fund or a
28 privately held company within the investment portfolio
29 of a private equity fund as a result of either
30 investing or evaluating a potential investment of
31 public funds in a private equity fund. The exemption
32 contained in this item does not apply to the aggregate
33 financial performance information of a private equity
34 fund, nor to the identity of the fund's managers or
35 general partners. The exemption contained in this item
36 does not apply to the identity of a privately held

1 company within the investment portfolio of a private
2 equity fund, unless the disclosure of the identity of a
3 privately held company may cause competitive harm.

4 Nothing contained in this paragraph (g) shall be construed
5 to prevent a person or business from consenting to disclosure.

6 (h) Proposals and bids for any contract, grant, or
7 agreement, including information which if it were
8 disclosed would frustrate procurement or give an advantage
9 to any person proposing to enter into a contractor
10 agreement with the body, until an award or final selection
11 is made. Information prepared by or for the body in
12 preparation of a bid solicitation shall be exempt until an
13 award or final selection is made.

14 (i) Valuable formulae, computer geographic systems,
15 designs, drawings and research data obtained or produced by
16 any public body when disclosure could reasonably be
17 expected to produce private gain or public loss. The
18 exemption for "computer geographic systems" provided in
19 this paragraph (i) does not extend to requests made by news
20 media as defined in Section 2 of this Act when the
21 requested information is not otherwise exempt and the only
22 purpose of the request is to access and disseminate
23 information regarding the health, safety, welfare, or
24 legal rights of the general public.

25 (j) Test questions, scoring keys and other examination
26 data used to administer an academic examination or
27 determined the qualifications of an applicant for a license
28 or employment.

29 (k) Architects' plans, engineers' technical
30 submissions, and other construction related technical
31 documents for projects not constructed or developed in
32 whole or in part with public funds and the same for
33 projects constructed or developed with public funds, but
34 only to the extent that disclosure would compromise
35 security, including but not limited to water treatment
36 facilities, airport facilities, sport stadiums, convention

1 centers, and all government owned, operated, or occupied
2 buildings.

3 (l) Library circulation and order records identifying
4 library users with specific materials.

5 (m) Minutes of meetings of public bodies closed to the
6 public as provided in the Open Meetings Act until the
7 public body makes the minutes available to the public under
8 Section 2.06 of the Open Meetings Act.

9 (n) Communications between a public body and an
10 attorney or auditor representing the public body that would
11 not be subject to discovery in litigation, and materials
12 prepared or compiled by or for a public body in
13 anticipation of a criminal, civil or administrative
14 proceeding upon the request of an attorney advising the
15 public body, and materials prepared or compiled with
16 respect to internal audits of public bodies.

17 (o) Information received by a primary or secondary
18 school, college or university under its procedures for the
19 evaluation of faculty members by their academic peers.

20 (p) Administrative or technical information associated
21 with automated data processing operations, including but
22 not limited to software, operating protocols, computer
23 program abstracts, file layouts, source listings, object
24 modules, load modules, user guides, documentation
25 pertaining to all logical and physical design of
26 computerized systems, employee manuals, and any other
27 information that, if disclosed, would jeopardize the
28 security of the system or its data or the security of
29 materials exempt under this Section.

30 (q) Documents or materials relating to collective
31 negotiating matters between public bodies and their
32 employees or representatives, except that any final
33 contract or agreement shall be subject to inspection and
34 copying.

35 (r) Drafts, notes, recommendations and memoranda
36 pertaining to the financing and marketing transactions of

1 the public body. The records of ownership, registration,
2 transfer, and exchange of municipal debt obligations, and
3 of persons to whom payment with respect to these
4 obligations is made.

5 (s) The records, documents and information relating to
6 real estate purchase negotiations until those negotiations
7 have been completed or otherwise terminated. With regard to
8 a parcel involved in a pending or actually and reasonably
9 contemplated eminent domain proceeding under Article VII
10 of the Code of Civil Procedure, records, documents and
11 information relating to that parcel shall be exempt except
12 as may be allowed under discovery rules adopted by the
13 Illinois Supreme Court. The records, documents and
14 information relating to a real estate sale shall be exempt
15 until a sale is consummated.

16 (t) Any and all proprietary information and records
17 related to the operation of an intergovernmental risk
18 management association or self-insurance pool or jointly
19 self-administered health and accident cooperative or pool.

20 (u) Information concerning a university's adjudication
21 of student or employee grievance or disciplinary cases, to
22 the extent that disclosure would reveal the identity of the
23 student or employee and information concerning any public
24 body's adjudication of student or employee grievances or
25 disciplinary cases, except for the final outcome of the
26 cases.

27 (v) Course materials or research materials used by
28 faculty members.

29 (w) Information related solely to the internal
30 personnel rules and practices of a public body.

31 (x) Information contained in or related to
32 examination, operating, or condition reports prepared by,
33 on behalf of, or for the use of a public body responsible
34 for the regulation or supervision of financial
35 institutions or insurance companies, unless disclosure is
36 otherwise required by State law.

1 (y) Information the disclosure of which is restricted
2 under Section 5-108 of the Public Utilities Act.

3 (z) Manuals or instruction to staff that relate to
4 establishment or collection of liability for any State tax
5 or that relate to investigations by a public body to
6 determine violation of any criminal law.

7 (aa) Applications, related documents, and medical
8 records received by the Experimental Organ Transplantation
9 Procedures Board and any and all documents or other records
10 prepared by the Experimental Organ Transplantation
11 Procedures Board or its staff relating to applications it
12 has received.

13 (bb) Insurance or self insurance (including any
14 intergovernmental risk management association or self
15 insurance pool) claims, loss or risk management
16 information, records, data, advice or communications.

17 (cc) Information and records held by the Department of
18 Public Health and its authorized representatives relating
19 to known or suspected cases of sexually transmissible
20 disease or any information the disclosure of which is
21 restricted under the Illinois Sexually Transmissible
22 Disease Control Act.

23 (dd) Information the disclosure of which is exempted
24 under Section 30 of the Radon Industry Licensing Act.

25 (ee) Firm performance evaluations under Section 55 of
26 the Architectural, Engineering, and Land Surveying
27 Qualifications Based Selection Act.

28 (ff) Security portions of system safety program plans,
29 investigation reports, surveys, schedules, lists, data, or
30 information compiled, collected, or prepared by or for the
31 Regional Transportation Authority under Section 2.11 of
32 the Regional Transportation Authority Act or the St. Clair
33 County Transit District under the Bi-State Transit Safety
34 Act.

35 (gg) Information the disclosure of which is restricted
36 and exempted under Section 50 of the Illinois Prepaid

1 Tuition Act.

2 (hh) Information the disclosure of which is exempted
3 under the State Officials and Employees Ethics Act.

4 (ii) Beginning July 1, 1999, information that would
5 disclose or might lead to the disclosure of secret or
6 confidential information, codes, algorithms, programs, or
7 private keys intended to be used to create electronic or
8 digital signatures under the Electronic Commerce Security
9 Act.

10 (jj) Information contained in a local emergency energy
11 plan submitted to a municipality in accordance with a local
12 emergency energy plan ordinance that is adopted under
13 Section 11-21.5-5 of the Illinois Municipal Code.

14 (kk) Information and data concerning the distribution
15 of surcharge moneys collected and remitted by wireless
16 carriers under the Wireless Emergency Telephone Safety
17 Act.

18 (ll) Vulnerability assessments, security measures, and
19 response policies or plans that are designed to identify,
20 prevent, or respond to potential attacks upon a community's
21 population or systems, facilities, or installations, the
22 destruction or contamination of which would constitute a
23 clear and present danger to the health or safety of the
24 community, but only to the extent that disclosure could
25 reasonably be expected to jeopardize the effectiveness of
26 the measures or the safety of the personnel who implement
27 them or the public. Information exempt under this item may
28 include such things as details pertaining to the
29 mobilization or deployment of personnel or equipment, to
30 the operation of communication systems or protocols, or to
31 tactical operations.

32 (mm) Maps and other records regarding the location or
33 security of a utility's generation, transmission,
34 distribution, storage, gathering, treatment, or switching
35 facilities.

36 (nn) Law enforcement officer identification

1 information or driver identification information compiled
2 by a law enforcement agency or the Department of
3 Transportation under Section 11-212 of the Illinois
4 Vehicle Code.

5 (oo) Records and information provided to a residential
6 health care facility resident sexual assault and death
7 review team or the Residential Health Care Facility
8 Resident Sexual Assault and Death Review Teams Executive
9 Council under the Residential Health Care Facility
10 Resident Sexual Assault and Death Review Team Act.

11 (pp) Information provided to the anti-predatory
12 ~~predatory~~ lending database created pursuant to Article 3 of
13 the Residential Real Property Disclosure Act, except to the
14 extent authorized under that Article.

15 (qq) ~~(pp)~~ Defense budgets and petitions for
16 certification of compensation and expenses for court
17 appointed trial counsel as provided under Sections 10 and
18 15 of the Capital Crimes Litigation Act. This subsection
19 (qq) ~~(pp)~~ shall apply until the conclusion of the trial and
20 appeal of the case, even if the prosecution chooses not to
21 pursue the death penalty prior to trial or sentencing.

22 (2) This Section does not authorize withholding of
23 information or limit the availability of records to the public,
24 except as stated in this Section or otherwise provided in this
25 Act.

26 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
27 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
28 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
29 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; revised
30 8-29-05.)

31 Section 10. The Residential Real Property Disclosure Act is
32 amended by amending the caption of Article 3 and by changing
33 Sections 70, 72, 74, and 76 as follows:

34 (765 ILCS 77/Art. 3 heading)

1 ARTICLE 3

2 ANTI-PREDATORY ~~PREDATORY~~ LENDING DATABASE

3 (Source: P.A. 94-280, eff. 1-1-06.)

4 (765 ILCS 77/70)

5 Sec. 70. Anti-predatory ~~Predatory~~ lending database pilot
6 program.

7 (a) As used in this Article:

8 "Borrower" means a person seeking a mortgage loan.

9 ~~"Broker" means a "broker" or "loan broker", as defined in~~
10 ~~subsection (p) of Section 1-4 of the Residential Mortgage~~
11 ~~License Act of 1987.~~12 "Closing agent" means an individual assigned by a title
13 insurance company or a licensee ~~broker or originator~~ to ensure
14 that the execution of documents related to the closing of a
15 real estate sale or the refinancing of a real estate loan and
16 the disbursement of closing funds are in conformity with the
17 instructions of the entity financing the transaction.18 "Department" means the Department of Financial and
19 Professional Regulation.20 "Exempt person" means that term as it is defined in
21 subsections (d)(1) and (d)(1.5) of Section 1-4 of the
22 Residential Mortgage License Act of 1987.23 "Lender" means that term as it is defined in subsection (g)
24 of Section 1-4 of the Residential Mortgage License Act.25 "Licensee" means that term as it is defined in subsection
26 (e) of Section 1-4 of the Residential Mortgage License Act of
27 1987.28 "Mortgage loan" means that term as it is defined in
29 subsection (f) of Section 1-4 of the Residential Mortgage
30 License Act of 1987.31 "Originator" means a "loan originator" as defined in
32 subsection (hh) of Section 1-4 of the Residential Mortgage
33 License Act of 1987, except an exempt person.34 "Pilot program area" means all areas within Cook County
35 designated as such by the Department due to the high rate of

1 foreclosure on residential home mortgages that is primarily the
2 result of predatory lending practices. The Department shall
3 designate the pilot program area within 30 days after the
4 effective date of this amendatory Act of the 94th General
5 Assembly.

6 "Title insurance company" means any domestic company
7 organized under the laws of this State for the purpose of
8 conducting the business of guaranteeing or insuring titles to
9 real estate and any title insurance company organized under the
10 laws of another State, the District of Columbia, or a foreign
11 government and authorized to transact the business of
12 guaranteeing or insuring titles to real estate in this State.

13 (b) An anti-predatory ~~A predatory~~ lending database pilot
14 program is established within the pilot program area. The pilot
15 program shall continue for 4 years after its creation and shall
16 be administered in accordance with Article 3 of this Act. The
17 anti-predatory lending database created under this program
18 shall be maintained and administered by the Department. The
19 anti-predatory lending database shall be designed to allow
20 brokers, originators, credit counselors, title insurance
21 companies, and closing agents to submit information to the
22 anti-predatory lending database online. The anti-predatory
23 lending database shall not be designed to allow those entities
24 to retrieve information from the anti-predatory lending
25 database, except as otherwise provided in this Article.
26 Information submitted by the licensee ~~broker or originator~~ to
27 the Department may be used to populate the online form
28 submitted by a credit counselor, title insurance company, or
29 closing agent.

30 (c) Within 5 business ~~10~~ days after taking a mortgage
31 application, ~~the broker or originator~~ for any mortgage on
32 residential property within the pilot program area, the
33 licensee must submit to the anti-predatory ~~predatory~~ lending
34 database all of the information required under Section 72 and
35 any other information required by the Department by rule.
36 Within 2 business ~~7~~ days after receipt of the information, the

1 Department shall compare that information to credit counseling
2 standards developed by the Department by rule and issue to the
3 borrower and the licensee ~~broker or originator~~ a determination
4 of whether credit counseling is recommended for the borrower.
5 The borrower may not waive credit counseling. If at any time
6 after submitting the information required under Section 72 the
7 licensee materially changes the terms of the loan by (i)
8 increasing the "annual percentage rate" (as defined for
9 purposes of the federal Truth in Lending Act) by one-quarter of
10 one percentage point or more, (ii) increasing the total costs
11 charged to the borrower by an amount equal to or greater than
12 one percent of the loan amount, (iii) issuing a new commitment
13 to the borrower, or (iv) adding any of the following features
14 to the loan:

15 (A) the potential for negative amortization;

16 (B) interest-only payments;

17 (C) the potential for payment or interest rate
18 adjustments during the loan term; or

19 (D) a prepayment penalty; ~~broker or originator (i)~~
20 ~~changes the terms of the loan or (ii) issues a new~~
21 ~~commitment to the borrower, then, within 5 days thereafter,~~
22 the licensee ~~broker or originator~~ shall re-submit all of the
23 information required under Section 72 to the extent the
24 information requires modification to conform to the changes in
25 loan terms and, within 2 business ~~4~~ days after receipt of the
26 information re-submitted by the licensee ~~broker or originator~~,
27 the Department shall compare that information to credit
28 counseling standards developed by the Department by rule and
29 shall issue to the borrower and the licensee ~~broker or~~
30 ~~originator~~ a new determination of whether credit counseling is
31 recommended for the borrower based on the information
32 re-submitted by the licensee ~~broker or originator~~.

33 (d) If the Department recommends credit counseling for the
34 borrower under subsection (c), then the Department shall notify
35 the borrower of all HUD-certified counseling agencies located
36 within the State and direct the borrower to interview with a

1 counselor associated with one of those agencies. Within 7
2 business ~~10~~ days after receipt of the notice of HUD-certified
3 counseling agencies, the borrower shall select one of those
4 agencies and shall engage in an interview with a counselor
5 associated with that agency. Within 2 business ~~7~~ days after
6 interviewing the borrower, the credit counselor must submit to
7 the anti-predatory ~~predatory~~ lending database all of the
8 information required under Section 74 and any other information
9 required by the Department by rule. Any costs associated with
10 credit counseling provided under the pilot program shall be
11 paid by the licensee ~~broker or originator~~.

12 (e) The borrower shall not be obligated to pay any fees in
13 connection with the proposed transaction, other than
14 legitimate third party expenses incurred by the licensee to
15 process the requested financing, until ~~broker or originator and~~
16 ~~the borrower may not take any legally binding action concerning~~
17 ~~the loan transaction until~~ the later of the following:

18 (1) the Department issues a determination not to
19 recommend credit counseling for the borrower in accordance
20 with subsection (c); or

21 (2) the Department issues a determination that credit
22 counseling is recommended for the borrower and the credit
23 counselor submits all required information to the
24 anti-predatory lending database in accordance with
25 subsection (d).

26 (f) Prior to closing, the licensee shall access the
27 anti-predatory lending database and verify the final loan
28 terms, either by confirming that each last-submitted value
29 remains unchanged, or by entering revised data as applicable.
30 The licensee shall obtain a certificate of compliance as
31 generated by the anti-predatory lending database and deliver it
32 to the title insurance company or closing agent prior to
33 closing ~~Within 10 days after closing, the title insurance~~
34 ~~company or closing agent must submit to the predatory lending~~
35 ~~database all of the information required under Section 76 and~~
36 ~~any other information required by the Department by rule.~~

1 (g) Upon receipt of the closing package from the licensee,
2 the title insurance company or closing agent shall access the
3 anti-predatory lending database and confirm that the
4 certificate of compliance was generated. The title insurance
5 company or closing agent may not close any loan secured by a
6 property in the pilot area without a certificate of compliance
7 generated by the anti-predatory lending database.

8 ~~(g-5) If Upon recording the mortgage, the title insurance~~
9 ~~company or closing agent must simultaneously file with the~~
10 ~~recorder a certificate of its compliance with the requirements~~
11 ~~of this Article, as generated by the database. If the title~~
12 ~~insurance company or closing agent fails to file the~~
13 ~~certificate of compliance, then the mortgage is not recordable.~~
14 ~~In addition, if~~ any lis pendens for a residential mortgage
15 foreclosure is recorded on the property within the pilot
16 program area, a certificate of service must be simultaneously
17 recorded that affirms that a copy of the lis pendens was filed
18 with the Department. If the certificate of service is not
19 recorded, then the lis pendens pertaining to the residential
20 mortgage foreclosure in question is not recordable and is of no
21 force and effect.

22 (h) All information provided to the anti-predatory
23 ~~predatory~~ lending database under the program is confidential
24 and is not subject to disclosure under the Freedom of
25 Information Act, except as otherwise provided in this Article.
26 Any borrower may authorize in writing the release of
27 anti-predatory lending database information. The Department
28 may use the information in the anti-predatory lending database
29 without the consent of the borrower: (i) for the purposes of
30 administering and enforcing the pilot program; (ii) to provide
31 relevant information to a credit counselor providing credit
32 counseling to a borrower under the pilot program; or (iii) to
33 the appropriate law enforcement agency or the applicable
34 administrative agency if the anti-predatory lending database
35 information demonstrates criminal, fraudulent, or otherwise
36 illegal activity.

1 (i) Nothing in this Article is intended to prevent a
2 borrower from making his or her own decision as to whether to
3 proceed with a transaction.

4 (j) Any person who violates any provision of this Article
5 commits an unlawful practice within the meaning of the Consumer
6 Fraud and Deceptive Business Practices Act.

7 (k) Not later than one year after the Department designates
8 the pilot program area and annually thereafter during the
9 existence of the pilot program, the Department shall report to
10 the Governor and to the General Assembly concerning its
11 administration and the effectiveness of the pilot program.

12 (Source: P.A. 94-280, eff. 1-1-06.)

13 (765 ILCS 77/72)

14 Sec. 72. Licensee Originator; required information. As
15 part of the anti-predatory ~~predatory~~ lending database pilot
16 program, the licensee ~~broker or originator~~ must submit all of
17 the following information for inclusion in the anti-predatory
18 ~~predatory~~ lending database for each loan for which the licensee
19 ~~originator~~ takes an application:

20 (1) borrower information:

21 (a) name of borrower;

22 (b) current address of borrower;

23 (c) whether borrower currently rents or owns his or
24 her residence;

25 (d) total gross monthly income of borrower;

26 (e) total current monthly housing expense of
27 borrower;

28 (f) total current monthly expenses of borrower;

29 (g) proposed total monthly housing expense of
30 borrower;

31 (h) proposed total monthly expenses of borrower;

32 (i) total liquid assets of borrower;

33 (j) credit scores for borrower at time of
34 application; and

35 (k) whether alternative sources were used to

1 establish a credit history for borrower.

2 ~~The borrower's name, address, social security number or~~
3 ~~taxpayer identification number, date of birth, and income~~
4 ~~and expense information contained in the mortgage~~
5 ~~application.~~

6 (2) subject property information:

7 (a) address;

8 (b) property type (detached single family home,
9 attached single family home, 2-4 family home,
10 condominium unit, or co-operative unit);

11 (c) proposed occupancy (primary residence, second
12 home, or investment property);

13 (d) annual real estate tax based on the most recent
14 assessment; and

15 (e) monthly homeowners association assessment (if
16 applicable).

17 ~~The address, permanent index number, and a description of the~~
18 ~~collateral and information about the loan or loans being~~
19 ~~applied for and the loan terms, including the amount of the~~
20 ~~loan, the rate and whether the rate is fixed or adjustable,~~
21 ~~amortization or loan period terms, and any other material~~
22 ~~terms.~~

23 (3) loan information:

24 (a) loan amount;

25 (b) loan term;

26 (c) initial interest rate;

27 (d) fixed or adjustable rate mortgage (if
28 applicable);

29 (e) initial fixed interest rate period (if
30 applicable);

31 (f) index (if applicable);

32 (g) margin (if applicable);

33 (h) first interest rate adjustment cap (if
34 applicable);

35 (i) subsequent interest rate adjustment cap (if
36 applicable);

1 (j) lifetime interest rate adjustment cap (if
2 applicable);

3 (k) payment cap (if applicable);

4 (l) whether the loan has the potential for negative
5 amortization;

6 (m) whether the loan has an interest-only period;

7 (n) length of interest-only period (if
8 applicable);

9 (o) whether the loan has a balloon;

10 (p) balloon period (if applicable);

11 (q) whether the loan has a prepayment penalty;

12 (r) prepayment penalty period and amount (if
13 applicable); and

14 (s) amount of total points and fees (as defined in
15 the High Risk Home Loan Act).

16 ~~The borrower's credit score at the time of application.~~

17 (4) Licensee and originator information:

18 (a) company name;

19 (b) company address;

20 (c) license number of licensee;

21 (d) originator name;

22 (e) originator registration number; and

23 (f) application date.

24 ~~Information about the originator and the company the~~
25 ~~originator works for, including the originator's license~~
26 ~~number and address, fees being charged, whether the fees~~
27 ~~are being charged as points up front, the yield spread~~
28 ~~premium payable outside closing, and other charges made or~~
29 ~~remuneration required by the broker or originator or its~~
30 ~~affiliates or the broker's or originator's employer or its~~
31 ~~affiliates for the mortgage loans.~~

32 (5) Names, addresses, and license numbers (if
33 applicable) for the following parties connected with the
34 transaction: appraiser, applicant's attorney, listing
35 agent, selling agent, and referral source ~~Information~~
36 ~~about affiliated or third party service providers,~~

1 ~~including the names and addresses of appraisers, title~~
2 ~~insurance companies, closing agents, attorneys, and~~
3 ~~realtors who are involved with the transaction and the~~
4 ~~broker or originator and any moneys received from the~~
5 ~~broker or originator in connection with the transaction.~~

6 (6) The licensee shall scan and submit to the
7 anti-predatory lending database electronic representations
8 of all disclosure documents provided to the borrower as
9 required by applicable federal and State law All
10 ~~information indicated on the Good Faith Estimate and Truth~~
11 ~~in Lending statement disclosures given to the borrower by~~
12 ~~the broker or originator.~~

13 (7) (Blank). ~~Annual real estate taxes for the property,~~
14 ~~together with any assessments payable in connection with~~
15 ~~the property to be secured by the collateral and the~~
16 ~~proposed monthly principal and interest charge of all loans~~
17 ~~to be taken by the borrower and secured by the property of~~
18 ~~the borrower.~~

19 (8) (Blank). ~~Information concerning how the broker or~~
20 ~~originator obtained the client and the name of its referral~~
21 ~~source, if any.~~

22 (9) (Blank). ~~Information concerning the notices~~
23 ~~provided by the broker or originator to the borrower as~~
24 ~~required by law and the date those notices were given.~~

25 (10) Information concerning whether a sale and
26 leaseback is contemplated and the names of the lessor and
27 lessee, seller, and purchaser, if known to the licensee.

28 (Source: P.A. 94-280, eff. 1-1-06.)

29 (765 ILCS 77/74)

30 Sec. 74. Credit counselor; required information. As part of
31 the anti-predatory predatory lending database pilot program, a
32 credit counselor must (i) access the anti-predatory lending
33 database and review the data entered therein by the licensee,
34 (ii) compare the data to the application information and
35 materials provided by the borrower, and (iii) submit all of the

1 following information for inclusion in the anti-predatory
2 lending database ~~submit all of the following information for~~
3 ~~inclusion in the predatory lending database:~~

4 (1) The credit counselor's statement that the loan
5 information was verified through access to the
6 anti-predatory lending database ~~The information called for~~
7 ~~in Section 72.~~

8 (2) The credit counselor's statement describing any
9 discrepancies between the data in the anti-predatory
10 lending database and the information or materials provided
11 by the borrower ~~Any information from the borrower that~~
12 ~~confirms or contradicts the information called for under~~
13 ~~item (1) of this Section.~~

14 (3) The name and address of the credit counselor.

15 (4) A description of any additional information
16 pertaining to the borrower's financial circumstances that
17 influenced the credit counselor's judgment as to the
18 appropriateness of the proposed transaction ~~Information~~
19 ~~pertaining to the borrower's monthly expenses that assists~~
20 ~~the credit counselor in determining whether the borrower~~
21 ~~can afford the loans or loans for which the borrower is~~
22 ~~applying.~~

23 (5) The credit counselor shall scan and submit to the
24 anti-predatory lending database electronic representations
25 of all federal and State disclosure documents provided to
26 the borrower by the licensee and made available by the
27 borrower to the credit counselor ~~A list of the disclosures~~
28 ~~furnished to the borrower, as seen and reviewed by the~~
29 ~~credit counselor, and a comparison of that list to all~~
30 ~~disclosures required by law.~~

31 (5.1) The credit counselor's statement describing any
32 discrepancies between the disclosure documents provided to
33 the borrower by the licensee and those required by
34 applicable federal and State law.

35 (6) Whether the borrower indicated that the borrower
36 provided tax returns to the licensee ~~broker or originator~~

1 or to the credit counselor, and, if so, who prepared the
2 tax returns.

3 (7) A statement as to whether a written loan commitment
4 was issued to the borrower and, if so, the expiration date
5 of the commitment and the proposed closing date ~~The date~~
6 ~~the loan commitment expires and whether a written~~
7 ~~commitment has been given, together with the proposed date~~
8 ~~of closing.~~

9 (8) A statement indicating the credit counselor's
10 response to each of the following questions:

11 (A-1) Are any indications of fraud evident in the
12 proposed transaction?

13 (B-1) Are any indications of violations of
14 applicable statutes or regulations evident in the
15 proposed transaction?

16 (C-1) Does the applicant have the ability to
17 satisfy the proposed obligation?

18 (D-1) Does the applicant have an understanding of
19 the terms and features of the proposed transaction and
20 the implications of those terms and features?

21 (E-1) Does the applicant have an understanding of
22 the principles of budgeting and debt management?

23 (F-1) Based on credit score and other financial
24 characteristics, would the applicant be eligible for
25 materially less costly financing?

26 (G-1) Is the proposed transaction reasonable and
27 appropriate for the applicant's situation? ~~A statement~~
28 ~~of the recommendations of the credit counselor that~~
29 ~~indicates the counselor's response to each of the~~
30 ~~following statements:~~

31 (A) (Blank). ~~The loan should not be approved due to~~
32 ~~indicia of fraud.~~

33 (B) (Blank). ~~The loan should be approved; no~~
34 ~~material problems noted.~~

35 (C) (Blank). ~~The borrower cannot afford the loan.~~

36 (D) (Blank). ~~The borrower does not understand the~~

1 ~~transaction.~~

2 (E) (Blank). ~~The borrower does not understand the~~
3 ~~costs associated with the transaction.~~

4 (F) (Blank). ~~The borrower's monthly income and~~
5 ~~expenses have been reviewed and disclosed.~~

6 (G) (Blank). ~~The rate of the loan is above market~~
7 ~~rate.~~

8 (H) (Blank). ~~The borrower should seek a~~
9 ~~competitive bid from another broker or originator.~~

10 (I) (Blank). ~~There are discrepancies between the~~
11 ~~borrower's verbal understanding and the originator's~~
12 ~~completed form.~~

13 (J) (Blank). ~~The borrower is precipitously close~~
14 ~~to not being able to afford the loan.~~

15 (K) (Blank). ~~The borrower understands the true~~
16 ~~cost of debt consolidation and the need for credit card~~
17 ~~discipline.~~

18 (L) (Blank). ~~The information that the borrower~~
19 ~~provided the originator has been amended by the~~
20 ~~originator.~~

21 (Source: P.A. 94-280, eff. 1-1-06.)

22 (765 ILCS 77/76)

23 Sec. 76. Title insurance company or closing agent; required
24 information. As part of the anti-predatory ~~predatory~~ lending
25 database pilot program, a title insurance company or closing
26 agent must submit all of the following information for
27 inclusion in the anti-predatory ~~predatory~~ lending database:

28 (1) The name, address and license number of the title
29 insurance company or closing agent, together with the name
30 of the agent actually conducting the closing ~~The borrower's~~
31 ~~name, address, social security number or taxpayer~~
32 ~~identification number, date of birth, and income and~~
33 ~~expense information contained in the mortgage application.~~

34 (2) The date of closing ~~The address, permanent index~~
35 ~~number, and a description of the collateral and information~~

1 ~~about the loan or loans being applied for and the loan~~
2 ~~terms, including the amount of the loan, the rate and~~
3 ~~whether the rate is fixed or adjustable, amortization or~~
4 ~~loan period terms, and any other material terms.~~

5 (3) A statement confirming that the certificate of
6 compliance was generated by the anti-predatory lending
7 database ~~Annual real estate taxes for the property,~~
8 ~~together with any assessments payable in connection with~~
9 ~~the property to be secured by the collateral and the~~
10 ~~proposed monthly principal and interest charge of all loans~~
11 ~~to be taken by the borrower and secured by the property of~~
12 ~~the borrower as well as any required escrows and the~~
13 ~~amounts paid monthly for those escrows.~~

14 (4) Electronic representations of all final federal
15 and State disclosure documents provided to the borrower by
16 the licensee ~~All itemizations and descriptions set forth in~~
17 ~~the RESPA settlement statement including items to be~~
18 ~~disbursed, payable outside closing "POC" items noted on the~~
19 ~~statement, and a list of payees and the amounts of their~~
20 ~~checks.~~

21 (5) The name and license number of the title insurance
22 company or closing agent together with the name of the
23 agent actually conducting the closing.

24 (6) (Blank). ~~The names and addresses of all~~
25 ~~originators, brokers, appraisers, sales persons,~~
26 ~~attorneys, and surveyors that are present at the closing.~~

27 (7) The date of closing, a detailed list of all notices
28 provided to the borrower at closing and the date of those
29 notices, and all information indicated on the Truth in
30 Lending statement and Good Faith Estimate disclosures.

31 (Source: P.A. 94-280, eff. 1-1-06.)

32 Section 99. Effective date. This Act takes effect upon
33 becoming law.