



Sen. William R. Haine

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LRB094 06374 RXD 44872 a

1 AMENDMENT TO SENATE BILL 278

2 AMENDMENT NO. _____. Amend Senate Bill 278 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The High Risk Home Loan Act is amended by
5 changing Section 10 as follows:

6 (815 ILCS 137/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Approved credit counselor" means a credit counselor
9 approved by the Director of Financial Institutions.

10 "Borrower" means a natural person who seeks or obtains a
11 high risk home loan.

12 "Commissioner" means the Commissioner of the Office of
13 Banks and Real Estate.

14 "Department" means the Department of Financial
15 Institutions.

16 "Director" means the Director of Financial Institutions.

17 "Good faith" means honesty in fact in the conduct or
18 transaction concerned.

19 "High risk home loan" means a home equity loan in which (i)
20 at the time of origination, the annual percentage rate exceeds
21 by more than 6 percentage points in the case of a first lien
22 mortgage, or by more than 8 percentage points in the case of a
23 junior mortgage, the yield on U.S. Treasury securities having
24 comparable periods of maturity to the loan maturity as of the

1 fifteenth day of the month immediately preceding the month in
2 which the application for the loan is received by the lender or
3 (ii) the total points and fees payable by the consumer at or
4 before closing will exceed the greater of 5% of the total loan
5 amount or \$800. The \$800 figure shall be adjusted annually on
6 January 1 by the annual percentage change in the Consumer Price
7 Index for All Urban Consumers for all items published by the
8 United States Department of Labor. "High risk home loan" does
9 not include a loan that is made primarily for a business
10 purpose unrelated to the residential real property securing the
11 loan or to an open-end credit plan subject to 12 CFR 226 (2000,
12 no subsequent amendments or editions are included).

13 "Home equity loan" means any loan secured by the borrower's
14 primary residence where the proceeds are not used as purchase
15 money for the residence.

16 "Lender" means a natural or artificial person who
17 transfers, deals in, offers, or makes a high risk home loan.
18 "Lender" includes, but is not limited to, creditors and brokers
19 who transfer, deal in, offer, or make high risk home loans.
20 "Lender" does not include purchasers, assignees, or subsequent
21 holders of high risk home loans.

22 "Office" means the Office of Banks and Real Estate.

23 "Points and fees" means all items required to be disclosed
24 as points and fees under 12 CFR 226.32 (2000, no subsequent
25 amendments or editions included); the premium of any single
26 premium credit life, credit disability, credit unemployment,
27 or any other life or health insurance that is financed directly
28 or indirectly into the loan; and compensation paid directly or
29 indirectly to a mortgage broker, including a broker that
30 originates a loan in its own name in a table-funded
31 transaction, not otherwise included in 12 CFR 226.4. "Points
32 and fees" does not include: (i) fees paid to the Veterans
33 Administration required by law; or (ii) fees paid to the
34 Federal Housing Administration required by law.

1 "Reasonable" means fair, proper, just, or prudent under the
2 circumstances.

3 "Servicer" means any entity chartered under the Illinois
4 Banking Act, the Savings Bank Act, the Illinois Credit Union
5 Act, or the Illinois Savings and Loan Act of 1985 and any
6 person or entity licensed under the Residential Mortgage
7 License Act of 1987, the Consumer Installment Loan Act, or the
8 Sales Finance Agency Act who is responsible for the collection
9 or remittance for, or has the right or obligation to collect or
10 remit for, any lender, note owner, or note holder or for a
11 licensee's own account, of payments, interest, principal, and
12 trust items (such as hazard insurance and taxes on a
13 residential mortgage loan) in accordance with the terms of the
14 residential mortgage loan, including loan payment follow-up,
15 delinquency loan follow-up, loan analysis, and any
16 notifications to the borrower that are necessary to enable the
17 borrower to keep the loan current and in good standing.

18 "Total loan amount" has the same meaning as that term is
19 given in 12 CFR 226.32 and shall be calculated in accordance
20 with the Federal Reserve Board's Official Staff Commentary to
21 that regulation.

22 (Source: P.A. 93-561, eff. 1-1-04.)".