



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5788

by Rep. Esther Golar

SYNOPSIS AS INTRODUCED:

20 ILCS 3805/7.30 new
30 ILCS 105/5.708 new
30 ILCS 105/6z-80 new
205 ILCS 635/2-2

from Ch. 17, par. 2322-2

Amends the Illinois Housing Development Act. Provides that the Illinois Housing Development Authority shall establish and administer a foreclosure prevention counseling program and shall use moneys in the Foreclosure Prevention Counseling Fund and funds appropriated for that purpose to make grants to HUD-certified counseling agencies for home-ownership education and foreclosure prevention counseling. Amends the State Finance Act. Creates the Foreclosure Prevention Counseling Fund and provides for allocation of moneys in the Fund. Provides for the payment of license fees of \$3,700 annually, including the foreclosure prevention surcharge (instead of \$2,700 annually). Amends the Residential Mortgage License Act of 1987. Provides that an application for a license or a license renewal on or after July 1, 2008, shall include payment of a foreclosure prevention surcharge of \$1,000. Provides that the surcharge proceeds shall be deposited into the Foreclosure Prevention Counseling Fund. Effective immediately.

LRB095 17007 AJO 43055 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning foreclosure.

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

4 Section 5. The Illinois Housing Development Act is amended
5 by adding Section 7.30 as follows:

6 (20 ILCS 3805/7.30 new)

7 Sec. 7.30. Foreclosure prevention counseling program. The
8 Authority shall establish and administer a foreclosure
9 prevention counseling program. The Authority shall use moneys
10 in the Foreclosure Prevention Counseling Fund, and any other
11 funds appropriated for this purpose, to make grants to
12 HUD-certified housing counseling agencies to support
13 pre-purchase and post-purchase home-ownership education and
14 foreclosure prevention counseling activities under the
15 program.

16 Section 10. The State Finance Act is amended by adding
17 Sections 5.708 and 6z-80 as follows:

18 (30 ILCS 105/5.708 new)

19 Sec. 5.708. The Foreclosure Prevention Counseling Fund.

20 (30 ILCS 105/6z-80 new)

1 Sec. 6z-80. The Foreclosure Prevention Counseling Fund.

2 (a) There is created in the State treasury a special fund
3 to be known as the Foreclosure Prevention Counseling Fund. All
4 moneys received by the Commissioner of Banks and Real Estate
5 from the foreclosure prevention surcharge collected under
6 subsection (c) of Section 2-2 of the Residential Mortgage
7 License Act of 1987 shall be deposited into the Fund.

8 (b) Moneys in the Fund shall be used as follows:

9 (1) 25% of the moneys in the Fund on the first day of
10 each calendar month shall be distributed as grants by the
11 Illinois Housing Development Authority to the City of
12 Chicago to provide grants to HUD-certified housing
13 counseling agencies to support pre-purchase and
14 post-purchase home-ownership education and foreclosure
15 prevention counseling activities under programs
16 administered by that city.

17 (2) The remaining moneys shall, subject to
18 appropriation, be used by the Illinois Housing Development
19 Authority as provided in Section 7.30 of the Illinois
20 Housing Development Act.

21 Section 15. The Residential Mortgage License Act of 1987 is
22 amended by changing Section 2-2 as follows:

23 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

24 Sec. 2-2. Application process; investigation; fee.

1 (a) The Commissioner shall issue a license upon completion
2 of all of the following:

3 (1) The filing of an application for license.

4 (2) The filing with the Commissioner of a listing of
5 judgments entered against, and bankruptcy petitions by,
6 the license applicant for the preceding 10 years.

7 (3) The payment, in certified funds, of investigation
8 and application fees, the total of which shall be in an
9 amount equal to \$3,700 ~~\$2,700~~ annually, including the
10 foreclosure prevention surcharge provided for in
11 subsection (c) of this Section; however, the Commissioner
12 may increase the investigation and application fees by rule
13 as provided in Section 4-11.

14 (4) Except for a broker applying to renew a license,
15 the filing of an audited balance sheet including all
16 footnotes prepared by a certified public accountant in
17 accordance with generally accepted accounting principles
18 and generally accepted auditing principles which evidences
19 that the applicant meets the net worth requirements of
20 Section 3-5.

21 (5) The filing of proof satisfactory to the
22 Commissioner that the applicant, the members thereof if the
23 applicant is a partnership or association, the members or
24 managers thereof that retain any authority or
25 responsibility under the operating agreement if the
26 applicant is a limited liability company, or the officers

1 thereof if the applicant is a corporation have 3 years
2 experience preceding application in real estate finance.
3 Instead of this requirement, the applicant and the
4 applicant's officers or members, as applicable, may
5 satisfactorily complete a program of education in real
6 estate finance and fair lending, as approved by the
7 Commissioner, prior to receiving the initial license. The
8 Commissioner shall promulgate rules regarding proof of
9 experience requirements and educational requirements and
10 the satisfactory completion of those requirements. The
11 Commissioner may establish by rule a list of duly licensed
12 professionals and others who may be exempt from this
13 requirement.

14 (6) An investigation of the averments required by
15 Section 2-4, which investigation must allow the
16 Commissioner to issue positive findings stating that the
17 financial responsibility, experience, character, and
18 general fitness of the license applicant and of the members
19 thereof if the license applicant is a partnership or
20 association, of the officers and directors thereof if the
21 license applicant is a corporation, and of the managers and
22 members that retain any authority or responsibility under
23 the operating agreement if the license applicant is a
24 limited liability company are such as to command the
25 confidence of the community and to warrant belief that the
26 business will be operated honestly, fairly and efficiently

1 within the purpose of this Act. If the Commissioner shall
2 not so find, he or she shall not issue such license, and he
3 or she shall notify the license applicant of the denial.

4 The Commissioner may impose conditions on a license if the
5 Commissioner determines that the conditions are necessary or
6 appropriate. These conditions shall be imposed in writing and
7 shall continue in effect for the period prescribed by the
8 Commissioner.

9 (b) All licenses shall be issued in duplicate with one copy
10 being transmitted to the license applicant and the second being
11 retained with the Commissioner.

12 Upon receipt of such license, a residential mortgage
13 licensee shall be authorized to engage in the business
14 regulated by this Act. Such license shall remain in full force
15 and effect until it expires without renewal, is surrendered by
16 the licensee or revoked or suspended as hereinafter provided.

17 (c) Any application for issuance or renewal of a license
18 for a period beginning on or after July 1, 2008, shall include
19 payment of a foreclosure prevention surcharge in the amount of
20 \$1,000. All proceeds from the surcharge shall be deposited into
21 the Foreclosure Prevention Counseling Fund.

22 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.