

SB0252



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0252

Introduced 2/4/2009, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

815 ILCS 137/10

Amends the High Risk Home Loan Act. Provides that the term "points and fees" does not include fees paid to the United States Department of Veterans Affairs required by law, fees paid to the Federal Housing Administration required by law, or fees paid to the United States Department of Agriculture's Rural Development Loan Program required by law.

LRB096 03548 KTG 13573 b

A BILL FOR

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 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

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

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

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

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

24 "Points and fees" means all items required to be disclosed
25 as points and fees under 12 CFR 226.32 (2000, no subsequent
26 amendments or editions included); the premium of any single

1 premium credit life, credit disability, credit unemployment,
2 or any other life or health insurance that is financed directly
3 or indirectly into the loan; and compensation paid directly or
4 indirectly to a mortgage broker, including a broker that
5 originates a loan in its own name in a table-funded
6 transaction, not otherwise included in 12 CFR 226.4. "Points
7 and fees" does not include: (i) fees paid to the United States
8 Department of Veterans Affairs required by law; (ii) fees paid
9 to the Federal Housing Administration required by law; or (iii)
10 fees paid to the United States Department of Agriculture's
11 Rural Development Loan Program required by law.

12 "Reasonable" means fair, proper, just, or prudent under the
13 circumstances.

14 "Servicer" means any entity chartered under the Illinois
15 Banking Act, the Savings Bank Act, the Illinois Credit Union
16 Act, or the Illinois Savings and Loan Act of 1985 and any
17 person or entity licensed under the Residential Mortgage
18 License Act of 1987, the Consumer Installment Loan Act, or the
19 Sales Finance Agency Act who is responsible for the collection
20 or remittance for, or has the right or obligation to collect or
21 remit for, any lender, note owner, or note holder or for a
22 licensee's own account, of payments, interest, principal, and
23 trust items (such as hazard insurance and taxes on a
24 residential mortgage loan) in accordance with the terms of the
25 residential mortgage loan, including loan payment follow-up,
26 delinquency loan follow-up, loan analysis, and any

1 notifications to the borrower that are necessary to enable the
2 borrower to keep the loan current and in good standing.

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

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