

SB1667



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1667

Introduced 2/13/2013, by Sen. Jacqueline Y. Collins

SYNOPSIS AS INTRODUCED:

205 ILCS 635/1-3

from Ch. 17, par. 2321-3

Amends the Residential Mortgage License Act of 1987. Provides that persons exempt from licensure as a federally chartered savings bank registered with the Nationwide Mortgage Licensing System and Registry may apply for an exempt company registration for the purpose of sponsoring one or more individuals subject to the mortgage loan originator licensing requirements of the Act. Establishes requirements for exempt company registration and denial, suspension, or revocation of the registration. Effective immediately.

LRB098 09990 MGM 40148 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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 changing Section 1-3 as follows:

6 (205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

7 Sec. 1-3. Necessity for License; Scope of Act.

8 (a) No person, partnership, association, corporation or
9 other entity shall engage in the business of brokering,
10 funding, originating, servicing or purchasing of residential
11 mortgage loans without first obtaining a license from the
12 Commissioner in accordance with the licensing procedure
13 provided in this Article I and such regulations as may be
14 promulgated by the Commissioner. The licensing provisions of
15 this Section shall not apply to any entity engaged solely in
16 commercial mortgage lending or to any person, partnership
17 association, corporation or other entity exempted pursuant to
18 Section 1-4, subsection (d), of this Act or in accordance with
19 regulations promulgated by the Commissioner hereunder. No
20 provision of this Act shall apply to an exempt person or entity
21 as defined in items (1) and (1.5) of subsection (d) of Section
22 1-4 of this Act. Notwithstanding anything to the contrary in
23 the preceding sentence, an individual acting as a mortgage loan

1 originator who is not employed by and acting for an entity
2 described in item (1) of subsection (tt) of Section 1-4 of this
3 Act shall be subject to the mortgage loan originator licensing
4 requirements of Article VII of this Act.

5 Effective January 1, 2011, no provision of this Act shall
6 apply to an exempt person or entity as defined in item (1.8) of
7 subsection (d) of Section 1-4 of this Act. Notwithstanding
8 anything to the contrary in the preceding sentence, an
9 individual acting as a mortgage loan originator who is not
10 employed by and acting for an entity described in item (1) of
11 subsection (tt) of Section 1-4 of this Act shall be subject to
12 the mortgage loan originator licensing requirements of Article
13 VII of this Act, and provided that an individual acting as a
14 mortgage loan originator under item (1.8) of subsection (d) of
15 Section 1-4 of this Act shall be further subject to a
16 determination by the U.S. Department of Housing and Urban
17 Development through final rulemaking or other authorized
18 agency determination under the federal Secure and Fair
19 Enforcement for Mortgage Licensing Act of 2008.

20 (a-1) A person who is exempt from licensure pursuant to
21 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of
22 this Act as a federally chartered savings bank that is
23 registered with the Nationwide Mortgage Licensing System and
24 Registry may apply to the Director for an exempt company
25 registration for the purpose of sponsoring one or more
26 individuals subject to the mortgage loan originator licensing

1 requirements of Article VII of this Act. Registration with the
2 Division of Banking of the Department shall not affect the
3 exempt status of the applicant.

4 (1) A mortgage loan originator eligible for licensure
5 under this subsection shall (A) be covered under an
6 exclusive written contract with, and originate residential
7 mortgage loans solely on behalf of, that exempt person; and
8 (B) hold a current, valid insurance producer license under
9 Article XXXI of the Illinois Insurance Code.

10 (2) An exempt person shall: (A) fulfill any reporting
11 requirements required by the Nationwide Mortgage Licensing
12 System and Registry or the Director; (B) provide a blanket
13 surety bond pursuant to Section 7-12 of this Act covering
14 the activities of all its sponsored mortgage loan
15 originators; (C) reasonably supervise the activities of
16 all its sponsored mortgage loan originators; (D) comply
17 with all rules and orders (including the averments
18 contained in Section 2-4 of this Act) that the Director
19 deems necessary to ensure compliance with the federal SAFE
20 Act; and (E) pay an annual registration fee established by
21 the Director.

22 (3) The Director may deny an exempt company
23 registration to an exempt person or suspend or revoke an
24 exempt company registration if the Director finds that the
25 exempt person has:

26 (A) shown that the exempt person is not a person of

1 honesty, truthfulness, or good character;

2 (B) violated any applicable law, rule, or order;

3 (C) refused or failed to furnish, within a
4 reasonable time, any information or make any report
5 that may be required by the Director;

6 (D) had a final judgment entered against him or her
7 in a civil action on grounds of fraud, deceit, or
8 misrepresentation, and the conduct on which the
9 judgment is based indicates that it would be contrary
10 to the interest of the public to permit the exempt
11 person to manage a loan originator;

12 (E) had an order entered against him or her
13 involving fraud, deceit, or misrepresentation by an
14 administrative agency of this State, the federal
15 government, or any other state or territory of the
16 United States, and the facts relating to the order
17 indicate that it would be contrary to the interest of
18 the public to permit the exempt person to manage a loan
19 originator; or

20 (F) made a material misstatement or suppressed or
21 withheld information on the application for an exempt
22 company registration or any document required to be
23 filed with the superintendent.

24 (b) No person, partnership, association, corporation, or
25 other entity except a licensee under this Act or an entity
26 exempt from licensing pursuant to Section 1-4, subsection (d),

1 of this Act shall do any business under any name or title, or
2 circulate or use any advertising or make any representation or
3 give any information to any person, which indicates or
4 reasonably implies activity within the scope of this Act.

5 (c) The Commissioner may, through the Attorney General,
6 request the circuit court of either Cook or Sangamon County to
7 issue an injunction to restrain any person from violating or
8 continuing to violate any of the foregoing provisions of this
9 Section.

10 (d) When the Commissioner has reasonable cause to believe
11 that any entity which has not submitted an application for
12 licensure is conducting any of the activities described in
13 subsection (a) hereof, the Commissioner shall have the power to
14 examine all books and records of the entity and any additional
15 documentation necessary in order to determine whether such
16 entity should become licensed under this Act.

17 (d-1) The Commissioner may issue orders against any person
18 if the Commissioner has reasonable cause to believe that an
19 unsafe, unsound, or unlawful practice has occurred, is
20 occurring, or is about to occur, if any person has violated, is
21 violating, or is about to violate any law, rule, or written
22 agreement with the Commissioner, or for the purposes of
23 administering the provisions of this Act and any rule adopted
24 in accordance with this Act.

25 (e) Any person, partnership, association, corporation or
26 other entity who violates any provision of this Section commits

1 a business offense and shall be fined an amount not to exceed
2 \$25,000.

3 (f) Each person, partnership, association, corporation or
4 other entity conducting activities regulated by this Act shall
5 be issued one license. Each office, place of business or
6 location at which a residential mortgage licensee conducts any
7 part of his or her business must be recorded with the
8 Commissioner pursuant to Section 2-8 of this Act.

9 (g) Licensees under this Act shall solicit, broker, fund,
10 originate, service and purchase residential mortgage loans
11 only in conformity with the provisions of this Act and such
12 rules and regulations as may be promulgated by the
13 Commissioner.

14 (h) This Act applies to all entities doing business in
15 Illinois as residential mortgage bankers, as defined by "An Act
16 to provide for the regulation of mortgage bankers", approved
17 September 15, 1977, as amended, regardless of whether licensed
18 under that or any prior Act. Any existing residential mortgage
19 lender or residential mortgage broker in Illinois whether or
20 not previously licensed, must operate in accordance with this
21 Act.

22 (i) This Act is a successor Act to and a continuance of the
23 regulation of residential mortgage bankers provided in, "An Act
24 to provide for the regulation of mortgage bankers", approved
25 September 15, 1977, as amended.

26 Entities and persons subject to the predecessor Act shall

1 be subject to this Act from and after its effective date.

2 (Source: P.A. 96-112, eff. 7-31-09; 96-1216, eff. 1-1-11;

3 97-143, eff. 7-14-11.)

4 Section 99. Effective date. This Act takes effect upon

5 becoming law.