

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 Sections 2-1, 2-2, 2-6, 4-5, and 4-8 as
6 follows:

7 (205 ILCS 635/2-1) (from Ch. 17, par. 2322-1)

8 Sec. 2-1. Licensee Name.

9 (a) No person, partnership, association, corporation,
10 limited liability company, or other entity engaged in the
11 business regulated by this Act shall operate such business
12 under a name other than the real names of the entity and
13 individuals conducting such business. Such business may in
14 addition operate under~~7~~ an assumed corporate name pursuant to
15 the Business Corporation Act of 1983, an assumed limited
16 liability company name pursuant to the Limited Liability
17 Company Act, or an assumed business name pursuant to the
18 Assumed Business Name Act.

19 (b) A knowing violation of this Section constitutes an
20 unlawful practice within the meaning of this Act, and in
21 addition to the administrative relief available under this Act,
22 may be prosecuted for the commission of a Class A misdemeanor.
23 A person who is convicted of a second or subsequent violation

1 of this Section is guilty of a Class 4 felony.

2 (Source: P.A. 89-355, eff. 8-17-95.)

3 (205 ILCS 635/2-2)

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

5 (a) The Secretary shall issue a license upon completion of
6 all of the following:

7 (1) The filing of an application for license with the
8 Director or the Nationwide Mortgage Licensing System and
9 Registry as approved by the Director.

10 (2) The filing with the Secretary of a listing of
11 judgments entered against, and bankruptcy petitions by,
12 the license applicant for the preceding 10 years.

13 (3) The payment, in certified funds, of investigation
14 and application fees, the total of which shall be in an
15 amount equal to \$2,700 annually. ~~To comply with the common
16 renewal date and requirements of the Nationwide Mortgage
17 Licensing System and Registry, the term of initial licenses
18 may be extended or shortened with applicable fees prorated
19 or combined accordingly.~~

20 (4) Except for a broker applying to renew a license,
21 the filing of an audited balance sheet including all
22 footnotes prepared by a certified public accountant in
23 accordance with generally accepted accounting principles
24 and generally accepted auditing standards which evidences
25 that the applicant meets the net worth requirements of

1 Section 3-5. Notwithstanding the requirements of this
2 subsection, an applicant that is a subsidiary may submit
3 audited consolidated financial statements of its parent,
4 intermediary parent, or ultimate parent as long as the
5 consolidated statements are supported by consolidating
6 statements which include the applicant's financial
7 statement. If the consolidating statements are unaudited,
8 the applicant's chief financial officer shall attest to the
9 applicant's financial statements disclosed in the
10 consolidating statements.

11 (5) The filing of proof satisfactory to the
12 Commissioner that the applicant, the members thereof if the
13 applicant is a partnership or association, the members or
14 managers thereof that retain any authority or
15 responsibility under the operating agreement if the
16 applicant is a limited liability company, or the officers
17 thereof if the applicant is a corporation have 3 years
18 experience preceding application in real estate finance.
19 Instead of this requirement, the applicant and the
20 applicant's officers or members, as applicable, may
21 satisfactorily complete a program of education in real
22 estate finance and fair lending, as approved by the
23 Commissioner, prior to receiving the initial license. The
24 Commissioner shall promulgate rules regarding proof of
25 experience requirements and educational requirements and
26 the satisfactory completion of those requirements. The

1 Commissioner may establish by rule a list of duly licensed
2 professionals and others who may be exempt from this
3 requirement.

4 (6) An investigation of the averments required by
5 Section 2-4, which investigation must allow the
6 Commissioner to issue positive findings stating that the
7 financial responsibility, experience, character, and
8 general fitness of the license applicant and of the members
9 thereof if the license applicant is a partnership or
10 association, of the officers and directors thereof if the
11 license applicant is a corporation, and of the managers and
12 members that retain any authority or responsibility under
13 the operating agreement if the license applicant is a
14 limited liability company are such as to command the
15 confidence of the community and to warrant belief that the
16 business will be operated honestly, fairly and efficiently
17 within the purpose of this Act. If the Commissioner shall
18 not so find, he or she shall not issue such license, and he
19 or she shall notify the license applicant of the denial.

20 The Commissioner may impose conditions on a license if the
21 Commissioner determines that the conditions are necessary or
22 appropriate. These conditions shall be imposed in writing and
23 shall continue in effect for the period prescribed by the
24 Commissioner.

25 (b) All licenses shall be issued to the license applicant.

26 Upon receipt of such license, a residential mortgage

1 licensee shall be authorized to engage in the business
2 regulated by this Act. Such license shall remain in full force
3 and effect until it expires without renewal, is surrendered by
4 the licensee or revoked or suspended as hereinafter provided.

5 (Source: P.A. 97-891, eff. 8-3-12; 98-1081, eff. 1-1-15.)

6 (205 ILCS 635/2-6)

7 Sec. 2-6. License issuance and renewal; fee.

8 (a) Licenses ~~Beginning July 1, 2003, licenses~~ shall be
9 renewed every year using ~~on the anniversary of the date of~~
10 ~~issuance of the original license, or the common renewal date of~~
11 the Nationwide Mortgage Licensing System and Registry as
12 adopted by the Director. ~~To comply with the common renewal date~~
13 ~~of the Nationwide Mortgage Licensing System and Registry, the~~
14 ~~term of existing licenses may be extended or shortened with~~
15 ~~applicable fees prorated accordingly.~~ Properly completed
16 renewal application forms and filing fees may ~~must~~ be received
17 by the Secretary 60 days prior to the license expiration
18 ~~renewal date, but, to be deemed timely, the completed renewal~~
19 application forms and filing fees must be received by the
20 Secretary no later than 30 days prior to the license expiration
21 date.

22 (b) It shall be the responsibility of each licensee to
23 accomplish renewal of its license; ~~failure of the licensee to~~
24 ~~receive renewal forms absent a request sent by certified mail~~
25 ~~for such forms will not waive said responsibility.~~ Failure by a

1 licensee to submit a properly completed renewal application
2 form and fees in a timely fashion, absent a written extension
3 from the Secretary, will result in the license becoming
4 inactive. ~~in the assessment of additional fees, as follows:~~

5 ~~(1) A fee of \$567.50 will be assessed to the licensee~~
6 ~~30 days after the proper renewal date and \$1,135 each month~~
7 ~~thereafter, until the license is either renewed or expires~~
8 ~~pursuant to Section 2-6, subsections (c) and (d), of this~~
9 ~~Act.~~

10 ~~(2) Such fee will be assessed without prior notice to~~
11 ~~the licensee, but will be assessed only in cases wherein~~
12 ~~the Secretary has in his or her possession documentation of~~
13 ~~the licensee's continuing activity for which the unrenewed~~
14 ~~license was issued.~~

15 (c) ~~A license which is not renewed by the date required in~~
16 ~~this Section shall automatically become inactive.~~ No activity
17 regulated by this Act shall be conducted by the licensee when a
18 license becomes inactive. The Commissioner may require the
19 licensee to provide a plan for the disposition of any
20 residential mortgage loans not closed or funded when the
21 license becomes inactive. The Commissioner may allow a licensee
22 with an inactive license to conduct activities regulated by
23 this Act for the sole purpose of assisting borrowers in the
24 closing or funding of loans for which the loan application was
25 taken from a borrower while the license was active. An inactive
26 license may be reactivated by the Commissioner upon payment of

1 the renewal fee, and payment of a reactivation fee equal to the
2 renewal fee.

3 (d) (Blank) ~~A license which is not renewed within one year~~
4 ~~of becoming inactive shall expire.~~

5 (e) A licensee ceasing an activity or activities regulated
6 by this Act and desiring to no longer be licensed shall so
7 inform the Commissioner in writing and, at the same time,
8 convey any ~~the~~ license issued and all other symbols or indicia
9 of licensure. The licensee shall include a plan for the
10 withdrawal from regulated business, including a timetable for
11 the disposition of the business, and comply with the surrender
12 guidelines or requirements of the Director. Upon receipt of
13 such written notice, the Commissioner shall post the
14 cancellation or issue a certified statement canceling the
15 license.

16 (Source: P.A. 95-1047, eff. 4-6-09; 96-112, eff. 7-31-09;
17 96-1000, eff. 7-2-10.)

18 (205 ILCS 635/4-5) (from Ch. 17, par. 2324-5)

19 Sec. 4-5. Suspension, revocation of licenses; fines.

20 (a) Upon written notice to a licensee, the Commissioner may
21 suspend or revoke any license issued pursuant to this Act if he
22 or she shall make a finding of one or more of the following in
23 the notice that:

24 (1) Through separate acts or an act or a course of
25 conduct, the licensee has violated any provisions of this

1 Act, any rule or regulation promulgated by the Commissioner
2 or of any other law, rule or regulation of this State or
3 the United States.

4 (2) Any fact or condition exists which, if it had
5 existed at the time of the original application for such
6 license would have warranted the Commissioner in refusing
7 originally to issue such license.

8 (3) If a licensee is other than an individual, any
9 ultimate equitable owner, officer, director, or member of
10 the licensed partnership, association, corporation, or
11 other entity has so acted or failed to act as would be
12 cause for suspending or revoking a license to that party as
13 an individual.

14 (b) No license shall be suspended or revoked, except as
15 provided in this Section, nor shall any licensee be fined
16 without notice of his or her right to a hearing as provided in
17 Section 4-12 of this Act.

18 (c) The Commissioner, on good cause shown that an emergency
19 exists, may suspend any license for a period not exceeding 180
20 days, pending investigation. Upon a showing that a licensee has
21 failed to meet the experience or educational requirements of
22 Section 2-2 or the requirements of subsection (g) of Section
23 3-2, the Commissioner shall suspend, prior to hearing as
24 provided in Section 4-12, the license until those requirements
25 have been met.

26 (d) The provisions of subsection (e) of Section 2-6 of this

1 Act shall not affect a licensee's civil or criminal liability
2 for acts committed prior to surrender of a license.

3 (e) No revocation, suspension or surrender of any license
4 shall impair or affect the obligation of any pre-existing
5 lawful contract between the licensee and any person.

6 (f) Every license issued under this Act shall remain in
7 force and effect until the same shall have expired without
8 renewal, have been surrendered, revoked or suspended in
9 accordance with the provisions of this Act, but the
10 Commissioner shall have authority to reinstate a suspended
11 license or to issue a new license to a licensee whose license
12 shall have been revoked if no fact or condition then exists
13 which would have warranted the Commissioner in refusing
14 originally to issue such license under this Act.

15 (g) Whenever the Commissioner shall revoke or suspend a
16 license issued pursuant to this Act or fine a licensee under
17 this Act, he or she shall forthwith execute a written order to
18 that effect. The Commissioner shall ~~publish notice of such~~
19 ~~order in the Illinois Register and~~ post notice of the order on
20 an agency Internet site maintained by the Commissioner or on
21 the Nationwide Mortgage Licensing System and Registry and shall
22 forthwith serve a copy of such order upon the licensee. Any
23 such order may be reviewed in the manner provided by Section
24 4-12 of this Act.

25 (h) When the Commissioner finds any person in violation of
26 the grounds set forth in subsection (i), he or she may enter an

1 order imposing one or more of the following penalties:

2 (1) Revocation of license;

3 (2) Suspension of a license subject to reinstatement
4 upon satisfying all reasonable conditions the Commissioner
5 may specify;

6 (3) Placement of the licensee or applicant on probation
7 for a period of time and subject to all reasonable
8 conditions as the Commissioner may specify;

9 (4) Issuance of a reprimand;

10 (5) Imposition of a fine not to exceed \$25,000 for each
11 count of separate offense, provided that a fine may be
12 imposed not to exceed \$75,000 for each separate count of
13 offense of paragraph (2) of subsection (i) of this Section;
14 and

15 (6) Denial of a license.

16 (i) The following acts shall constitute grounds for which
17 the disciplinary actions specified in subsection (h) above may
18 be taken:

19 (1) Being convicted or found guilty, regardless of
20 pendency of an appeal, of a crime in any jurisdiction which
21 involves fraud, dishonest dealing, or any other act of
22 moral turpitude;

23 (2) Fraud, misrepresentation, deceit or negligence in
24 any mortgage financing transaction;

25 (3) A material or intentional misstatement of fact on
26 an initial or renewal application;

1 (4) Failure to follow the Commissioner's regulations
2 with respect to placement of funds in escrow accounts;

3 (5) Insolvency or filing under any provision of the
4 Bankruptcy Code as a debtor;

5 (6) Failure to account or deliver to any person any
6 property such as any money, fund, deposit, check, draft,
7 mortgage, or other document or thing of value, which has
8 come into his or her hands and which is not his or her
9 property or which he or she is not in law or equity
10 entitled to retain, under the circumstances and at the time
11 which has been agreed upon or is required by law or, in the
12 absence of a fixed time, upon demand of the person entitled
13 to such accounting and delivery;

14 (7) Failure to disburse funds in accordance with
15 agreements;

16 (8) Any misuse, misapplication, or misappropriation of
17 trust funds or escrow funds;

18 (9) Having a license, or the equivalent, to practice
19 any profession or occupation revoked, suspended, or
20 otherwise acted against, including the denial of licensure
21 by a licensing authority of this State or another state,
22 territory or country for fraud, dishonest dealing or any
23 other act of moral turpitude;

24 (10) Failure to issue a satisfaction of mortgage when
25 the residential mortgage has been executed and proceeds
26 were not disbursed to the benefit of the mortgagor and when

1 the mortgagor has fully paid licensee's costs and
2 commission;

3 (11) Failure to comply with any order of the
4 Commissioner or rule made or issued under the provisions of
5 this Act;

6 (12) Engaging in activities regulated by this Act
7 without a current, active license unless specifically
8 exempted by this Act;

9 (13) Failure to pay in a timely manner any fee, charge
10 or fine under this Act;

11 (14) Failure to maintain, preserve, and keep available
12 for examination, all books, accounts or other documents
13 required by the provisions of this Act and the rules of the
14 Commissioner;

15 (15) Refusing, obstructing, evading, or unreasonably
16 delaying an investigation, information request, or
17 examination authorized under this Act, or refusing,
18 obstructing, evading, or unreasonably delaying compliance
19 with the Director's subpoena or subpoena duces tecum;

20 (16) A pattern of substantially underestimating the
21 maximum closing costs;

22 (17) Failure to comply with or violation of any
23 provision of this Act;

24 (18) Failure to comply with or violation of any
25 provision of Article 3 of the Residential Real Property
26 Disclosure Act.

1 (j) A licensee shall be subject to the disciplinary actions
2 specified in this Act for violations of subsection (i) by any
3 officer, director, shareholder, joint venture, partner,
4 ultimate equitable owner, or employee of the licensee.

5 (k) Such licensee shall be subject to suspension or
6 revocation for unauthorized employee actions only if there is a
7 pattern of repeated violations by employees or the licensee has
8 knowledge of the violations, or there is substantial harm to a
9 consumer.

10 (1) Procedure for surrender of license:

11 (1) The Commissioner may, after 10 days notice by
12 certified mail to the licensee at the address set forth on
13 the license, stating the contemplated action and in general
14 the grounds therefor and the date, time and place of a
15 hearing thereon, and after providing the licensee with a
16 reasonable opportunity to be heard prior to such action,
17 fine such licensee an amount not exceeding \$25,000 per
18 violation, or revoke or suspend any license issued
19 hereunder if he or she finds that:

20 (i) The licensee has failed to comply with any
21 provision of this Act or any order, decision, finding,
22 rule, regulation or direction of the Commissioner
23 lawfully made pursuant to the authority of this Act; or

24 (ii) Any fact or condition exists which, if it had
25 existed at the time of the original application for the
26 license, clearly would have warranted the Commissioner

1 in refusing to issue the license.

2 (2) Any licensee may submit application to surrender a
3 license, but upon the Director approving the surrender, it
4 shall not affect the licensee's civil or criminal liability
5 for acts committed prior to surrender or entitle the
6 licensee to a return of any part of the license fee.

7 (Source: P.A. 96-112, eff. 7-31-09; 97-891, eff. 8-3-12.)

8 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

9 Sec. 4-8. Delinquency ~~Default rate~~; examination.

10 (a) The Commissioner shall obtain from the U.S. Department
11 of Housing and Urban Development ~~on a semi-annual basis~~ that
12 Department's loan delinquency data ~~default claim rates for~~
13 ~~endorsements issued by that Department.~~

14 (b) The Commissioner shall conduct as part of an
15 examination of each licensee a review of the licensee's loan
16 delinquency data ~~having a default rate equal to or greater than~~
17 ~~5%.~~

18 This subsection shall not be construed as a limitation of
19 the Commissioner's examination authority under Section 4-2 of
20 this Act or as otherwise provided in this Act. The Commissioner
21 may require a licensee to provide loan delinquency ~~default~~ data
22 as the Commissioner deems necessary for the proper enforcement
23 of the Act.

24 (c) The purpose of the examination under subsection (b)
25 shall be to determine whether the loan delinquency data ~~default~~

1 ~~rate~~ of the licensee has resulted from practices which deviate
2 from sound and accepted mortgage underwriting practices,
3 including but not limited to credit fraud, appraisal fraud and
4 property inspection fraud. For the purpose of conducting this
5 examination, the Commissioner may accept materials prepared
6 for the U.S. Department of Housing and Urban Development. At
7 the conclusion of the examination, the Commissioner shall make
8 his or her findings available to the Residential Mortgage
9 Board.

10 (d) The Commissioner, at his or her discretion, may hold
11 public hearings, or at the direction of the Residential
12 Mortgage Board, shall hold public hearings. Such testimony
13 shall be by a homeowner or mortgagor or his agent, whose
14 residential interest is affected by the activities of the
15 residential mortgage licensee subject to such hearing. At such
16 public hearing, a witness may present testimony on his or her
17 behalf concerning only his or her home, or home mortgage or a
18 witness may authorize a third party to appear on his or her
19 behalf. The testimony shall be restricted to information and
20 comments related to a specific residence or specific
21 residential mortgage application or applications for a
22 residential mortgage or residential loan transaction. The
23 testimony must be preceded by either a letter of complaint or a
24 completed consumer complaint form prescribed by the
25 Commissioner.

26 (e) The Commissioner shall, at the conclusion of the public

1 hearings, release his or her findings and shall also make
2 public any action taken with respect to the licensee. The
3 Commissioner shall also give full consideration to the findings
4 of this examination whenever reapplication is made by the
5 licensee for a new license under this Act.

6 (f) A licensee that is examined pursuant to subsection (b)
7 shall submit to the Commissioner a plan which shall be designed
8 to reduce that licensee's loan delinquencies ~~default rate to a~~
9 ~~figure that is less than 5%~~. The plan shall be implemented by
10 the licensee as approved by the Commissioner. A licensee that
11 is examined pursuant to subsection (b) shall report monthly,
12 for a one year period, one, 2, and 3 month loan delinquencies
13 ~~defaults~~.

14 (g) Whenever the Commissioner finds that a licensee's loan
15 delinquencies ~~default rate~~ on insured mortgages is unusually
16 high within a particular geographic area, he or she shall
17 require that licensee to submit such information as is
18 necessary to determine whether that licensee's practices have
19 constituted credit fraud, appraisal fraud or property
20 inspection fraud. The Commissioner shall promulgate such rules
21 as are necessary to determine whether any licensee's loan
22 delinquencies are ~~default rate is~~ unusually high within a
23 particular area.

24 (Source: P.A. 89-355, eff. 1-1-96; 89-626, eff. 8-9-96; 90-301,
25 eff. 8-1-97.)