



Rep. Patricia R. Bellock

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1 AMENDMENT TO HOUSE BILL 3369

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3369 by replacing  
3 everything after the enacting clause with the following:

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, 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

1 Company Act, or an assumed business name pursuant to the  
2 Assumed Business Name Act.

3 (b) A knowing violation of this Section constitutes an  
4 unlawful practice within the meaning of this Act, and in  
5 addition to the administrative relief available under this Act,  
6 may be prosecuted for the commission of a Class A misdemeanor.  
7 A person who is convicted of a second or subsequent violation  
8 of this Section is guilty of a Class 4 felony.

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

10 (205 ILCS 635/2-2)

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

12 (a) The Secretary shall issue a license upon completion of  
13 all of the following:

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

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

20 (3) The payment, in certified funds, of investigation  
21 and application fees, the total of which shall be in an  
22 amount equal to \$2,700 annually. ~~To comply with the common~~  
23 ~~renewal date and requirements of the Nationwide Mortgage~~  
24 ~~Licensing System and Registry, the term of initial licenses~~  
25 ~~may be extended or shortened with applicable fees prorated~~

1 ~~or combined accordingly.~~

2 (4) Except for a broker applying to renew a license,  
3 the filing of an audited balance sheet including all  
4 footnotes prepared by a certified public accountant in  
5 accordance with generally accepted accounting principles  
6 and generally accepted auditing standards which evidences  
7 that the applicant meets the net worth requirements of  
8 Section 3-5. Notwithstanding the requirements of this  
9 subsection, an applicant that is a subsidiary may submit  
10 audited consolidated financial statements of its parent,  
11 intermediary parent, or ultimate parent as long as the  
12 consolidated statements are supported by consolidating  
13 statements which include the applicant's financial  
14 statement. If the consolidating statements are unaudited,  
15 the applicant's chief financial officer shall attest to the  
16 applicant's financial statements disclosed in the  
17 consolidating statements.

18 (5) The filing of proof satisfactory to the  
19 Commissioner that the applicant, the members thereof if the  
20 applicant is a partnership or association, the members or  
21 managers thereof that retain any authority or  
22 responsibility under the operating agreement if the  
23 applicant is a limited liability company, or the officers  
24 thereof if the applicant is a corporation have 3 years  
25 experience preceding application in real estate finance.  
26 Instead of this requirement, the applicant and the

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

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

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

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

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

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

13           (205 ILCS 635/2-6)

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

15           (a) Licenses ~~Beginning July 1, 2003, licenses~~ shall be  
16 renewed every year using ~~on the anniversary of the date of~~  
17 ~~issuance of the original license, or~~ the common renewal date of  
18 the Nationwide Mortgage Licensing System and Registry as  
19 adopted by the Director. ~~To comply with the common renewal date~~  
20 ~~of the Nationwide Mortgage Licensing System and Registry, the~~  
21 ~~term of existing licenses may be extended or shortened with~~  
22 ~~applicable fees prorated accordingly.~~ Properly completed  
23 renewal application forms and filing fees may ~~must~~ be received  
24 by the Secretary 60 days prior to the license expiration  
25 ~~renewal date, but, to be deemed timely, the completed renewal~~

1 application forms and filing fees must be received by the  
2 Secretary no later than 30 days prior to the license expiration  
3 date.

4 (b) It shall be the responsibility of each licensee to  
5 accomplish renewal of its license; ~~failure of the licensee to~~  
6 ~~receive renewal forms absent a request sent by certified mail~~  
7 ~~for such forms will not waive said responsibility.~~ Failure by a  
8 licensee to submit a properly completed renewal application  
9 form and fees in a timely fashion, absent a written extension  
10 from the Secretary, will result in the license becoming  
11 inactive. ~~in the assessment of additional fees, as follows:~~

12 ~~(1) A fee of \$567.50 will be assessed to the licensee~~  
13 ~~30 days after the proper renewal date and \$1,135 each month~~  
14 ~~thereafter, until the license is either renewed or expires~~  
15 ~~pursuant to Section 2-6, subsections (c) and (d), of this~~  
16 ~~Act.~~

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

22 (c) ~~A license which is not renewed by the date required in~~  
23 ~~this Section shall automatically become inactive.~~ No activity  
24 regulated by this Act shall be conducted by the licensee when a  
25 license becomes inactive. The Commissioner may require the  
26 licensee to provide a plan for the disposition of any

1 residential mortgage loans not closed or funded when the  
2 license becomes inactive. The Commissioner may allow a licensee  
3 with an inactive license to conduct activities regulated by  
4 this Act for the sole purpose of assisting borrowers in the  
5 closing or funding of loans for which the loan application was  
6 taken from a borrower while the license was active. An inactive  
7 license may be reactivated by the Commissioner upon payment of  
8 the renewal fee, and payment of a reactivation fee equal to the  
9 renewal fee.

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

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

23 (Source: P.A. 95-1047, eff. 4-6-09; 96-112, eff. 7-31-09;  
24 96-1000, eff. 7-2-10.)

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

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

6           (1) Through separate acts or an act or a course of  
7 conduct, the licensee has violated any provisions of this  
8 Act, any rule or regulation promulgated by the Commissioner  
9 or of any other law, rule or regulation of this State or  
10 the United States.

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

15           (3) If a licensee is other than an individual, any  
16 ultimate equitable owner, officer, director, or member of  
17 the licensed partnership, association, corporation, or  
18 other entity has so acted or failed to act as would be  
19 cause for suspending or revoking a license to that party as  
20 an individual.

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

25           (c) The Commissioner, on good cause shown that an emergency  
26 exists, may suspend any license for a period not exceeding 180



1 days, pending investigation. Upon a showing that a licensee has  
2 failed to meet the experience or educational requirements of  
3 Section 2-2 or the requirements of subsection (g) of Section  
4 3-2, the Commissioner shall suspend, prior to hearing as  
5 provided in Section 4-12, the license until those requirements  
6 have been met.

7 (d) The provisions of subsection (e) of Section 2-6 of this  
8 Act shall not affect a licensee's civil or criminal liability  
9 for acts committed prior to surrender of a license.

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

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

22 (g) Whenever the Commissioner shall revoke or suspend a  
23 license issued pursuant to this Act or fine a licensee under  
24 this Act, he or she shall forthwith execute a written order to  
25 that effect. The Commissioner shall ~~publish notice of such~~  
26 ~~order in the Illinois Register and~~ post notice of the order on

1 an agency Internet site maintained by the Commissioner or on  
2 the Nationwide Mortgage Licensing System and Registry and shall  
3 forthwith serve a copy of such order upon the licensee. Any  
4 such order may be reviewed in the manner provided by Section  
5 4-12 of this Act.

6 (h) When the Commissioner finds any person in violation of  
7 the grounds set forth in subsection (i), he or she may enter an  
8 order imposing one or more of the following penalties:

9 (1) Revocation of license;

10 (2) Suspension of a license subject to reinstatement  
11 upon satisfying all reasonable conditions the Commissioner  
12 may specify;

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

16 (4) Issuance of a reprimand;

17 (5) Imposition of a fine not to exceed \$25,000 for each  
18 count of separate offense, provided that a fine may be  
19 imposed not to exceed \$75,000 for each separate count of  
20 offense of paragraph (2) of subsection (i) of this Section;  
21 and

22 (6) Denial of a license.

23 (i) The following acts shall constitute grounds for which  
24 the disciplinary actions specified in subsection (h) above may  
25 be taken:

26 (1) Being convicted or found guilty, regardless of

1 pendency of an appeal, of a crime in any jurisdiction which  
2 involves fraud, dishonest dealing, or any other act of  
3 moral turpitude;

4 (2) Fraud, misrepresentation, deceit or negligence in  
5 any mortgage financing transaction;

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

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

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

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

21 (7) Failure to disburse funds in accordance with  
22 agreements;

23 (8) Any misuse, misapplication, or misappropriation of  
24 trust funds or escrow funds;

25 (9) Having a license, or the equivalent, to practice  
26 any profession or occupation revoked, suspended, or

1 otherwise acted against, including the denial of licensure  
2 by a licensing authority of this State or another state,  
3 territory or country for fraud, dishonest dealing or any  
4 other act of moral turpitude;

5 (10) Failure to issue a satisfaction of mortgage when  
6 the residential mortgage has been executed and proceeds  
7 were not disbursed to the benefit of the mortgagor and when  
8 the mortgagor has fully paid licensee's costs and  
9 commission;

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

13 (12) Engaging in activities regulated by this Act  
14 without a current, active license unless specifically  
15 exempted by this Act;

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

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

22 (15) Refusing, obstructing, evading, or unreasonably  
23 delaying an investigation, information request, or  
24 examination authorized under this Act, or refusing,  
25 obstructing, evading, or unreasonably delaying compliance  
26 with the Director's subpoena or subpoena duces tecum;

1           (16) A pattern of substantially underestimating the  
2 maximum closing costs;

3           (17) Failure to comply with or violation of any  
4 provision of this Act;

5           (18) Failure to comply with or violation of any  
6 provision of Article 3 of the Residential Real Property  
7 Disclosure Act.

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

12           (k) Such licensee shall be subject to suspension or  
13 revocation for unauthorized employee actions only if there is a  
14 pattern of repeated violations by employees or the licensee has  
15 knowledge of the violations, or there is substantial harm to a  
16 consumer.

17           (l) Procedure for surrender of license:

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

1 (i) The licensee has failed to comply with any  
2 provision of this Act or any order, decision, finding,  
3 rule, regulation or direction of the Commissioner  
4 lawfully made pursuant to the authority of this Act; or

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

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

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

15 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

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

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

21 (b) The Commissioner shall conduct as part of an  
22 examination of each licensee a review of the licensee's loan  
23 delinquency data ~~having a default rate equal to or greater than~~  
24 ~~5%.~~

25 This subsection shall not be construed as a limitation of

1 the Commissioner's examination authority under Section 4-2 of  
2 this Act or as otherwise provided in this Act. The Commissioner  
3 may require a licensee to provide loan delinquency ~~default~~ data  
4 as the Commissioner deems necessary for the proper enforcement  
5 of the Act.

6 (c) The purpose of the examination under subsection (b)  
7 shall be to determine whether the loan delinquency data ~~default~~  
8 ~~rate~~ of the licensee has resulted from practices which deviate  
9 from sound and accepted mortgage underwriting practices,  
10 including but not limited to credit fraud, appraisal fraud and  
11 property inspection fraud. For the purpose of conducting this  
12 examination, the Commissioner may accept materials prepared  
13 for the U.S. Department of Housing and Urban Development. At  
14 the conclusion of the examination, the Commissioner shall make  
15 his or her findings available to the Residential Mortgage  
16 Board.

17 (d) The Commissioner, at his or her discretion, may hold  
18 public hearings, or at the direction of the Residential  
19 Mortgage Board, shall hold public hearings. Such testimony  
20 shall be by a homeowner or mortgagor or his agent, whose  
21 residential interest is affected by the activities of the  
22 residential mortgage licensee subject to such hearing. At such  
23 public hearing, a witness may present testimony on his or her  
24 behalf concerning only his or her home, or home mortgage or a  
25 witness may authorize a third party to appear on his or her  
26 behalf. The testimony shall be restricted to information and

1 comments related to a specific residence or specific  
2 residential mortgage application or applications for a  
3 residential mortgage or residential loan transaction. The  
4 testimony must be preceded by either a letter of complaint or a  
5 completed consumer complaint form prescribed by the  
6 Commissioner.

7 (e) The Commissioner shall, at the conclusion of the public  
8 hearings, release his or her findings and shall also make  
9 public any action taken with respect to the licensee. The  
10 Commissioner shall also give full consideration to the findings  
11 of this examination whenever reapplication is made by the  
12 licensee for a new license under this Act.

13 (f) A licensee that is examined pursuant to subsection (b)  
14 shall submit to the Commissioner a plan which shall be designed  
15 to reduce that licensee's loan delinquencies ~~default rate to a~~  
16 ~~figure that is less than 5%~~. The plan shall be implemented by  
17 the licensee as approved by the Commissioner. A licensee that  
18 is examined pursuant to subsection (b) shall report monthly,  
19 for a one year period, one, 2, and 3 month loan delinquencies  
20 ~~defaults~~.

21 (g) Whenever the Commissioner finds that a licensee's loan  
22 delinquencies ~~default rate~~ on insured mortgages is unusually  
23 high within a particular geographic area, he or she shall  
24 require that licensee to submit such information as is  
25 necessary to determine whether that licensee's practices have  
26 constituted credit fraud, appraisal fraud or property



1 inspection fraud. The Commissioner shall promulgate such rules  
2 as are necessary to determine whether any licensee's loan  
3 delinquencies are ~~default rate is~~ unusually high within a  
4 particular area.

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