



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4657

by Rep. Daniel J. Burke

#### SYNOPSIS AS INTRODUCED:

205 ILCS 5/78	from Ch. 17, par. 390
205 ILCS 5/79	from Ch. 17, par. 391
205 ILCS 205/12104 rep.	
205 ILCS 205/Art. 12.2 rep.	
205 ILCS 635/1-4	
205 ILCS 635/4-1	from Ch. 17, par. 2324-1
205 ILCS 635/4-8	from Ch. 17, par. 2324-8
205 ILCS 635/1-5 rep.	

Amends the Illinois Banking Act. Changes the number of additional members of the State Banking Board of Illinois from 11 to 12. Provides that one member of the Board shall be from a savings bank. Changes the requirements for the 2 public members. Removes the requirement that the Senate advise and consent to initial appointments and vacancies on the Board. Amends the Savings Bank Act. Repeals provisions relating to the Board of Savings Banks. Amends the Residential Mortgage License Act of 1987. Removes provisions relating to the Residential Mortgage Board. Effective immediately.

LRB099 15951 SMS 40268 b

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 Illinois Banking Act is amended by changing  
5 Sections 78 and 79 as follows:

6 (205 ILCS 5/78) (from Ch. 17, par. 390)

7 Sec. 78. Board of banks and trust companies; creation,  
8 members, appointment. There is created a Board which shall be  
9 known as the State Banking Board of Illinois which shall  
10 consist of the Director of Banking, who shall be its chairman,  
11 and 12 ~~11~~ additional members. The Board shall be comprised of  
12 individuals interested in the banking industry. Two members  
13 shall be from State banks having total assets of not more than  
14 \$75,000,000 at the time of their appointment; 2 members shall  
15 be from State banks having total assets of more than  
16 \$75,000,000, but not more than \$150,000,000 at the time of  
17 their appointment; 2 members shall be from State banks having  
18 total assets of more than \$150,000,000, but not more than  
19 \$500,000,000 at the time of their appointment; 2 members shall  
20 be from State banks having total assets of more than  
21 \$500,000,000, but not more than \$2,000,000,000 at the time of  
22 their appointment; ~~7~~ 1 and one member shall be from a State bank  
23 having total assets of more than \$2,000,000,000 at the time of

1 his or her appointment; and one member shall be from a savings  
2 bank organized under the Savings Bank Act. There shall be 2  
3 public members, neither of whom shall be an officer or director  
4 of or owner, whether directly or indirectly, of more than 5% of  
5 the outstanding capital stock of any bank or savings bank.  
6 Members of the State Banking Board of Illinois cease to be  
7 eligible to serve on the Board once they no longer meet the  
8 requirements of their original appointment; however, a member  
9 from a State bank shall not be disqualified solely due to a  
10 change in the bank's asset size.

11 (Source: P.A. 99-39, eff. 1-1-16.)

12 (205 ILCS 5/79) (from Ch. 17, par. 391)

13 Sec. 79. Board, terms of office. The terms of office of the  
14 State Banking Board of Illinois shall be 4 years, except that  
15 the initial Board appointments shall be staggered with the  
16 Governor initially appointing, ~~with advice and consent of the~~  
17 ~~Senate~~, 3 members to serve 2-year terms, 4 members to serve  
18 3-year terms, and 4 members to serve 4-year terms. Members  
19 shall continue to serve on the Board until their replacement is  
20 appointed and qualified. Vacancies shall be filled by  
21 appointment by the Governor ~~with advice and consent of the~~  
22 ~~Senate~~.

23 No State Banking Board member shall serve more than 2 full  
24 4-year terms of office.

25 (Source: P.A. 96-1163, eff. 1-1-11; 97-813, eff. 7-13-12.)

1 (205 ILCS 205/12104 rep.)

2 (205 ILCS 205/Art. 12.2 rep.)

3 Section 10. The Savings Bank Act is amended by repealing  
4 Section 12104 and Article 12.2.

5 Section 15. The Residential Mortgage License Act of 1987 is  
6 amended by changing Sections 1-4, 4-1, and 4-8 as follows:

7 (205 ILCS 635/1-4)

8 Sec. 1-4. Definitions. The following words and phrases have  
9 the meanings given to them in this Section:

10 (a) "Residential real property" or "residential real  
11 estate" shall mean any real property located in Illinois,  
12 upon which is constructed or intended to be constructed a  
13 dwelling. Those terms include a manufactured home as  
14 defined in subdivision (53) of Section 9-102 of the Uniform  
15 Commercial Code which is real property as defined in  
16 Section 5-35 of the Conveyance and Encumbrance of  
17 Manufactured Homes as Real Property and Severance Act.

18 (b) "Making a residential mortgage loan" or "funding a  
19 residential mortgage loan" shall mean for compensation or  
20 gain, either directly or indirectly, advancing funds or  
21 making a commitment to advance funds to a loan applicant  
22 for a residential mortgage loan.

23 (c) "Soliciting, processing, placing, or negotiating a

1 residential mortgage loan" shall mean for compensation or  
2 gain, either directly or indirectly, accepting or offering  
3 to accept an application for a residential mortgage loan,  
4 assisting or offering to assist in the processing of an  
5 application for a residential mortgage loan on behalf of a  
6 borrower, or negotiating or offering to negotiate the terms  
7 or conditions of a residential mortgage loan with a lender  
8 on behalf of a borrower including, but not limited to, the  
9 submission of credit packages for the approval of lenders,  
10 the preparation of residential mortgage loan closing  
11 documents, including a closing in the name of a broker.

12 (d) "Exempt person or entity" shall mean the following:

13 (1) (i) Any banking organization or foreign  
14 banking corporation licensed by the Illinois  
15 Commissioner of Banks and Real Estate or the United  
16 States Comptroller of the Currency to transact  
17 business in this State; (ii) any national bank,  
18 federally chartered savings and loan association,  
19 federal savings bank, federal credit union; (iii)  
20 (blank); (iv) any bank, savings and loan association,  
21 savings bank, or credit union organized under the laws  
22 of this or any other state; (v) any Illinois Consumer  
23 Installment Loan Act licensee; (vi) any insurance  
24 company authorized to transact business in this State;  
25 (vii) any entity engaged solely in commercial mortgage  
26 lending; (viii) any service corporation of a savings

1 and loan association or savings bank organized under  
2 the laws of this State or the service corporation of a  
3 federally chartered savings and loan association or  
4 savings bank having its principal place of business in  
5 this State, other than a service corporation licensed  
6 or entitled to reciprocity under the Real Estate  
7 License Act of 2000; or (ix) any first tier subsidiary  
8 of a bank, the charter of which is issued under the  
9 Illinois Banking Act by the Illinois Commissioner of  
10 Banks and Real Estate, or the first tier subsidiary of  
11 a bank chartered by the United States Comptroller of  
12 the Currency and that has its principal place of  
13 business in this State, provided that the first tier  
14 subsidiary is regularly examined by the Illinois  
15 Commissioner of Banks and Real Estate or the  
16 Comptroller of the Currency, or a consumer compliance  
17 examination is regularly conducted by the Federal  
18 Reserve Board.

19 (1.5) Any employee of a person or entity mentioned  
20 in item (1) of this subsection, when acting for such  
21 person or entity, or any registered mortgage loan  
22 originator when acting for an entity described in  
23 subsection (tt) of this Section.

24 (1.8) Any person or entity that does not originate  
25 mortgage loans in the ordinary course of business, but  
26 makes or acquires residential mortgage loans with his

1 or her own funds for his or her or its own investment  
2 without intent to make, acquire, or resell more than 3  
3 residential mortgage loans in any one calendar year.

4 (2) (Blank).

5 (3) Any person employed by a licensee to assist in  
6 the performance of the residential mortgage licensee's  
7 activities regulated by this Act who is compensated in  
8 any manner by only one licensee.

9 (4) (Blank).

10 (5) Any individual, corporation, partnership, or  
11 other entity that originates, services, or brokers  
12 residential mortgage loans, as these activities are  
13 defined in this Act, and who or which receives no  
14 compensation for those activities, subject to the  
15 Commissioner's regulations and the federal Secure and  
16 Fair Enforcement for Mortgage Licensing Act of 2008 and  
17 the rules promulgated under that Act with regard to the  
18 nature and amount of compensation.

19 (6) (Blank).

20 (e) "Licensee" or "residential mortgage licensee"  
21 shall mean a person, partnership, association,  
22 corporation, or any other entity who or which is licensed  
23 pursuant to this Act to engage in the activities regulated  
24 by this Act.

25 (f) "Mortgage loan" "residential mortgage loan" or  
26 "home mortgage loan" shall mean any loan primarily for

1 personal, family, or household use that is secured by a  
2 mortgage, deed of trust, or other equivalent consensual  
3 security interest on a dwelling as defined in Section  
4 103(v) of the federal Truth in Lending Act, or residential  
5 real estate upon which is constructed or intended to be  
6 constructed a dwelling.

7 (g) "Lender" shall mean any person, partnership,  
8 association, corporation, or any other entity who either  
9 lends or invests money in residential mortgage loans.

10 (h) "Ultimate equitable owner" shall mean a person who,  
11 directly or indirectly, owns or controls an ownership  
12 interest in a corporation, foreign corporation, alien  
13 business organization, trust, or any other form of business  
14 organization regardless of whether the person owns or  
15 controls the ownership interest through one or more persons  
16 or one or more proxies, powers of attorney, nominees,  
17 corporations, associations, partnerships, trusts, joint  
18 stock companies, or other entities or devices, or any  
19 combination thereof.

20 (i) "Residential mortgage financing transaction" shall  
21 mean the negotiation, acquisition, sale, or arrangement  
22 for or the offer to negotiate, acquire, sell, or arrange  
23 for, a residential mortgage loan or residential mortgage  
24 loan commitment.

25 (j) "Personal residence address" shall mean a street  
26 address and shall not include a post office box number.



1           (k) "Residential mortgage loan commitment" shall mean  
2 a contract for residential mortgage loan financing.

3           (l) "Party to a residential mortgage financing  
4 transaction" shall mean a borrower, lender, or loan broker  
5 in a residential mortgage financing transaction.

6           (m) "Payments" shall mean payment of all or any of the  
7 following: principal, interest and escrow reserves for  
8 taxes, insurance and other related reserves, and  
9 reimbursement for lender advances.

10           (n) "Commissioner" shall mean the Commissioner of  
11 Banks and Real Estate, except that, beginning on April 6,  
12 2009 (the effective date of Public Act 95-1047), all  
13 references in this Act to the Commissioner of Banks and  
14 Real Estate are deemed, in appropriate contexts, to be  
15 references to the Secretary of Financial and Professional  
16 Regulation, or his or her designee, including the Director  
17 of the Division of Banking of the Department of Financial  
18 and Professional Regulation.

19           (n-1) "Director" shall mean the Director of the  
20 Division of Banking of the Department of Financial and  
21 Professional Regulation, except that, beginning on July  
22 31, 2009 (the effective date of Public Act 96-112), all  
23 references in this Act to the Director are deemed, in  
24 appropriate contexts, to be the Secretary of Financial and  
25 Professional Regulation, or his or her designee, including  
26 the Director of the Division of Banking of the Department

1 of Financial and Professional Regulation.

2 (o) "Loan brokering", "brokering", or "brokerage  
3 service" shall mean the act of helping to obtain from  
4 another entity, for a borrower, a loan secured by  
5 residential real estate situated in Illinois or assisting a  
6 borrower in obtaining a loan secured by residential real  
7 estate situated in Illinois in return for consideration to  
8 be paid by either the borrower or the lender including, but  
9 not limited to, contracting for the delivery of residential  
10 mortgage loans to a third party lender and soliciting,  
11 processing, placing, or negotiating residential mortgage  
12 loans.

13 (p) "Loan broker" or "broker" shall mean a person,  
14 partnership, association, corporation, or limited  
15 liability company, other than those persons, partnerships,  
16 associations, corporations, or limited liability companies  
17 exempted from licensing pursuant to Section 1-4,  
18 subsection (d), of this Act, who performs the activities  
19 described in subsections (c), (o), and (yy) of this  
20 Section.

21 (q) "Servicing" shall mean the collection or  
22 remittance for or the right or obligation to collect or  
23 remit for any lender, noteowner, noteholder, or for a  
24 licensee's own account, of payments, interests, principal,  
25 and trust items such as hazard insurance and taxes on a  
26 residential mortgage loan in accordance with the terms of

1 the residential mortgage loan; and includes loan payment  
2 follow-up, delinquency loan follow-up, loan analysis and  
3 any notifications to the borrower that are necessary to  
4 enable the borrower to keep the loan current and in good  
5 standing. "Servicing" includes management of third-party  
6 entities acting on behalf of a residential mortgage  
7 licensee for the collection of delinquent payments and the  
8 use by such third-party entities of said licensee's  
9 servicing records or information, including their use in  
10 foreclosure.

11 (r) "Full service office" shall mean an office,  
12 provided by the licensee and not subleased from the  
13 licensee's employees, and staff in Illinois reasonably  
14 adequate to handle efficiently communications, questions,  
15 and other matters relating to any application for, or an  
16 existing home mortgage secured by residential real estate  
17 situated in Illinois with respect to which the licensee is  
18 brokering, funding originating, purchasing, or servicing.  
19 The management and operation of each full service office  
20 must include observance of good business practices such as  
21 proper signage; adequate, organized, and accurate books  
22 and records; ample phone lines, hours of business, staff  
23 training and supervision, and provision for a mechanism to  
24 resolve consumer inquiries, complaints, and problems. The  
25 Commissioner shall issue regulations with regard to these  
26 requirements and shall include an evaluation of compliance

1 with this Section in his or her periodic examination of  
2 each licensee.

3 (s) "Purchasing" shall mean the purchase of  
4 conventional or government-insured mortgage loans secured  
5 by residential real estate situated in Illinois from either  
6 the lender or from the secondary market.

7 (t) "Borrower" shall mean the person or persons who  
8 seek the services of a loan broker, originator, or lender.

9 (u) "Originating" shall mean the issuing of  
10 commitments for and funding of residential mortgage loans.

11 (v) "Loan brokerage agreement" shall mean a written  
12 agreement in which a broker or loan broker agrees to do  
13 either of the following:

14 (1) obtain a residential mortgage loan for the  
15 borrower or assist the borrower in obtaining a  
16 residential mortgage loan; or

17 (2) consider making a residential mortgage loan to  
18 the borrower.

19 (w) "Advertisement" shall mean the attempt by  
20 publication, dissemination, or circulation to induce,  
21 directly or indirectly, any person to enter into a  
22 residential mortgage loan agreement or residential  
23 mortgage loan brokerage agreement relative to a mortgage  
24 secured by residential real estate situated in Illinois.

25 (x) (Blank). ~~"Residential Mortgage Board" shall mean~~  
26 ~~the Residential Mortgage Board created in Section 1 5 of~~

1       ~~this Act.~~

2           (y) "Government-insured mortgage loan" shall mean any  
3 mortgage loan made on the security of residential real  
4 estate insured by the Department of Housing and Urban  
5 Development or Farmers Home Loan Administration, or  
6 guaranteed by the Veterans Administration.

7           (z) "Annual audit" shall mean a certified audit of the  
8 licensee's books and records and systems of internal  
9 control performed by a certified public accountant in  
10 accordance with generally accepted accounting principles  
11 and generally accepted auditing standards.

12           (aa) "Financial institution" shall mean a savings and  
13 loan association, savings bank, credit union, or a bank  
14 organized under the laws of Illinois or a savings and loan  
15 association, savings bank, credit union or a bank organized  
16 under the laws of the United States and headquartered in  
17 Illinois.

18           (bb) "Escrow agent" shall mean a third party,  
19 individual or entity charged with the fiduciary obligation  
20 for holding escrow funds on a residential mortgage loan  
21 pending final payout of those funds in accordance with the  
22 terms of the residential mortgage loan.

23           (cc) "Net worth" shall have the meaning ascribed  
24 thereto in Section 3-5 of this Act.

25           (dd) "Affiliate" shall mean:

26               (1) any entity that directly controls or is

1 controlled by the licensee and any other company that  
2 is directly affecting activities regulated by this Act  
3 that is controlled by the company that controls the  
4 licensee;

5 (2) any entity:

6 (A) that is controlled, directly or  
7 indirectly, by a trust or otherwise, by or for the  
8 benefit of shareholders who beneficially or  
9 otherwise control, directly or indirectly, by  
10 trust or otherwise, the licensee or any company  
11 that controls the licensee; or

12 (B) a majority of the directors or trustees of  
13 which constitute a majority of the persons holding  
14 any such office with the licensee or any company  
15 that controls the licensee;

16 (3) any company, including a real estate  
17 investment trust, that is sponsored and advised on a  
18 contractual basis by the licensee or any subsidiary or  
19 affiliate of the licensee.

20 (ee) "First tier subsidiary" shall be defined by  
21 regulation incorporating the comparable definitions used  
22 by the Office of the Comptroller of the Currency and the  
23 Illinois Commissioner of Banks and Real Estate.

24 (ff) "Gross delinquency rate" means the quotient  
25 determined by dividing (1) the sum of (i) the number of  
26 government-insured residential mortgage loans funded or

1 purchased by a licensee in the preceding calendar year that  
2 are delinquent and (ii) the number of conventional  
3 residential mortgage loans funded or purchased by the  
4 licensee in the preceding calendar year that are delinquent  
5 by (2) the sum of (i) the number of government-insured  
6 residential mortgage loans funded or purchased by the  
7 licensee in the preceding calendar year and (ii) the number  
8 of conventional residential mortgage loans funded or  
9 purchased by the licensee in the preceding calendar year.

10 (gg) "Delinquency rate factor" means the factor set by  
11 rule of the Commissioner that is multiplied by the average  
12 gross delinquency rate of licensees, determined annually  
13 for the immediately preceding calendar year, for the  
14 purpose of determining which licensees shall be examined by  
15 the Commissioner pursuant to subsection (b) of Section 4-8  
16 of this Act.

17 (hh) "Loan originator" means any natural person who,  
18 for compensation or in the expectation of compensation,  
19 either directly or indirectly makes, offers to make,  
20 solicits, places, or negotiates a residential mortgage  
21 loan. This definition applies only to Section 7-1 of this  
22 Act.

23 (ii) "Confidential supervisory information" means any  
24 report of examination, visitation, or investigation  
25 prepared by the Commissioner under this Act, any report of  
26 examination visitation, or investigation prepared by the

1 state regulatory authority of another state that examines a  
2 licensee, any document or record prepared or obtained in  
3 connection with or relating to any examination,  
4 visitation, or investigation, and any record prepared or  
5 obtained by the Commissioner to the extent that the record  
6 summarizes or contains information derived from any  
7 report, document, or record described in this subsection.  
8 "Confidential supervisory information" does not include  
9 any information or record routinely prepared by a licensee  
10 and maintained in the ordinary course of business or any  
11 information or record that is required to be made publicly  
12 available pursuant to State or federal law or rule.

13 (jj) "Mortgage loan originator" means an individual  
14 who for compensation or gain or in the expectation of  
15 compensation or gain:

16 (i) takes a residential mortgage loan application;

17 or

18 (ii) offers or negotiates terms of a residential  
19 mortgage loan.

20 "Mortgage loan originator" includes an individual  
21 engaged in loan modification activities as defined in  
22 subsection (yy) of this Section. A mortgage loan originator  
23 engaged in loan modification activities shall report those  
24 activities to the Department of Financial and Professional  
25 Regulation in the manner provided by the Department;  
26 however, the Department shall not impose a fee for



1 reporting, nor require any additional qualifications to  
2 engage in those activities beyond those provided pursuant  
3 to this Act for mortgage loan originators.

4 "Mortgage loan originator" does not include an  
5 individual engaged solely as a loan processor or  
6 underwriter except as otherwise provided in subsection (d)  
7 of Section 7-1A of this Act.

8 "Mortgage loan originator" does not include a person or  
9 entity that only performs real estate brokerage activities  
10 and is licensed in accordance with the Real Estate License  
11 Act of 2000, unless the person or entity is compensated by  
12 a lender, a mortgage broker, or other mortgage loan  
13 originator, or by any agent of that lender, mortgage  
14 broker, or other mortgage loan originator.

15 "Mortgage loan originator" does not include a person or  
16 entity solely involved in extensions of credit relating to  
17 timeshare plans, as that term is defined in Section  
18 101(53D) of Title 11, United States Code.

19 (kk) "Depository institution" has the same meaning as  
20 in Section 3 of the Federal Deposit Insurance Act, and  
21 includes any credit union.

22 (ll) "Dwelling" means a residential structure or  
23 mobile home which contains one to 4 family housing units,  
24 or individual units of condominiums or cooperatives.

25 (mm) "Immediate family member" means a spouse, child,  
26 sibling, parent, grandparent, or grandchild, and includes

1 step-parents, step-children, step-siblings, or adoptive  
2 relationships.

3 (nn) "Individual" means a natural person.

4 (oo) "Loan processor or underwriter" means an  
5 individual who performs clerical or support duties as an  
6 employee at the direction of and subject to the supervision  
7 and instruction of a person licensed, or exempt from  
8 licensing, under this Act. "Clerical or support duties"  
9 includes subsequent to the receipt of an application:

10 (i) the receipt, collection, distribution, and  
11 analysis of information common for the processing or  
12 underwriting of a residential mortgage loan; and

13 (ii) communicating with a consumer to obtain the  
14 information necessary for the processing or  
15 underwriting of a loan, to the extent that the  
16 communication does not include offering or negotiating  
17 loan rates or terms, or counseling consumers about  
18 residential mortgage loan rates or terms. An  
19 individual engaging solely in loan processor or  
20 underwriter activities shall not represent to the  
21 public, through advertising or other means of  
22 communicating or providing information, including the  
23 use of business cards, stationery, brochures, signs,  
24 rate lists, or other promotional items, that the  
25 individual can or will perform any of the activities of  
26 a mortgage loan originator.

1           (pp) "Nationwide Mortgage Licensing System and  
2 Registry" means a mortgage licensing system developed and  
3 maintained by the Conference of State Bank Supervisors and  
4 the American Association of Residential Mortgage  
5 Regulators for the licensing and registration of licensed  
6 mortgage loan originators.

7           (qq) "Nontraditional mortgage product" means any  
8 mortgage product other than a 30-year fixed rate mortgage.

9           (rr) "Person" means a natural person, corporation,  
10 company, limited liability company, partnership, or  
11 association.

12           (ss) "Real estate brokerage activity" means any  
13 activity that involves offering or providing real estate  
14 brokerage services to the public, including:

15               (1) acting as a real estate agent or real estate  
16 broker for a buyer, seller, lessor, or lessee of real  
17 property;

18               (2) bringing together parties interested in the  
19 sale, purchase, lease, rental, or exchange of real  
20 property;

21               (3) negotiating, on behalf of any party, any  
22 portion of a contract relating to the sale, purchase,  
23 lease, rental, or exchange of real property, other than  
24 in connection with providing financing with respect to  
25 any such transaction;

26               (4) engaging in any activity for which a person

1 engaged in the activity is required to be registered or  
2 licensed as a real estate agent or real estate broker  
3 under any applicable law; or

4 (5) offering to engage in any activity, or act in  
5 any capacity, described in this subsection (ss).

6 (tt) "Registered mortgage loan originator" means any  
7 individual that:

8 (1) meets the definition of mortgage loan  
9 originator and is an employee of:

10 (A) a depository institution;

11 (B) a subsidiary that is:

12 (i) owned and controlled by a depository  
13 institution; and

14 (ii) regulated by a federal banking  
15 agency; or

16 (C) an institution regulated by the Farm  
17 Credit Administration; and

18 (2) is registered with, and maintains a unique  
19 identifier through, the Nationwide Mortgage Licensing  
20 System and Registry.

21 (uu) "Unique identifier" means a number or other  
22 identifier assigned by protocols established by the  
23 Nationwide Mortgage Licensing System and Registry.

24 (vv) "Residential mortgage license" means a license  
25 issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

26 (ww) "Mortgage loan originator license" means a

1 license issued pursuant to Section 7-1A, 7-3, or 7-6 of  
2 this Act.

3 (xx) "Secretary" means the Secretary of the Department  
4 of Financial and Professional Regulation, or a person  
5 authorized by the Secretary or by this Act to act in the  
6 Secretary's stead.

7 (yy) "Loan modification" means, for compensation or  
8 gain, either directly or indirectly offering or  
9 negotiating on behalf of a borrower or homeowner to adjust  
10 the terms of a residential mortgage loan in a manner not  
11 provided for in the original or previously modified  
12 mortgage loan.

13 (zz) "Short sale facilitation" means, for compensation  
14 or gain, either directly or indirectly offering or  
15 negotiating on behalf of a borrower or homeowner to  
16 facilitate the sale of residential real estate subject to  
17 one or more residential mortgage loans or debts  
18 constituting liens on the property in which the proceeds  
19 from selling the residential real estate will fall short of  
20 the amount owed and the lien holders are contacted to agree  
21 to release their lien on the residential real estate and  
22 accept less than the full amount owed on the debt.

23 The Commissioner may define by rule and regulation any  
24 terms used in this Act for the efficient and clear  
25 administration of this Act.

26 (Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15;

1 99-78, eff. 7-20-15.)

2 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

3 Sec. 4-1. Commissioner of Banks and Real Estate; functions,  
4 powers, and duties. The functions, powers, and duties of the  
5 Commissioner of Banks and Real Estate shall include the  
6 following:

7 (a) to issue or refuse to issue any license as provided  
8 by this Act;

9 (b) to revoke or suspend for cause any license issued  
10 under this Act;

11 (c) to keep records of all licenses issued under this  
12 Act;

13 (d) to receive, consider, investigate, and act upon  
14 complaints made by any person in connection with any  
15 residential mortgage licensee in this State;

16 (e) (blank); ~~to consider and act upon any~~  
17 ~~recommendations from the Residential Mortgage Board;~~

18 (f) to prescribe the forms of and receive:

19 (1) applications for licenses; and

20 (2) all reports and all books and records required  
21 to be made by any licensee under this Act, including  
22 annual audited financial statements and annual reports  
23 of mortgage activity;

24 (g) to adopt rules and regulations necessary and proper  
25 for the administration of this Act;

1           (h) to subpoena documents and witnesses and compel  
2 their attendance and production, to administer oaths, and  
3 to require the production of any books, papers, or other  
4 materials relevant to any inquiry authorized by this Act;

5           (h-1) to issue orders against any person, if the  
6 Commissioner has reasonable cause to believe that an  
7 unsafe, unsound, or unlawful practice has occurred, is  
8 occurring, or is about to occur, if any person has  
9 violated, is violating, or is about to violate any law,  
10 rule, or written agreement with the Commissioner, or for  
11 the purpose of administering the provisions of this Act and  
12 any rule adopted in accordance with the Act;

13           (h-2) to address any inquiries to any licensee, or the  
14 officers thereof, in relation to its activities and  
15 conditions, or any other matter connected with its affairs,  
16 and it shall be the duty of any licensee or person so  
17 addressed, to promptly reply in writing to such inquiries.  
18 The Commissioner may also require reports from any licensee  
19 at any time the Commissioner may deem desirable;

20           (i) to require information with regard to any license  
21 applicant as he or she may deem desirable, with due regard  
22 to the paramount interests of the public as to the  
23 experience, background, honesty, truthfulness, integrity,  
24 and competency of the license applicant as to financial  
25 transactions involving primary or subordinate mortgage  
26 financing, and where the license applicant is an entity

1 other than an individual, as to the honesty, truthfulness,  
2 integrity, and competency of any officer or director of the  
3 corporation, association, or other entity, or the members  
4 of a partnership;

5 (j) to examine the books and records of every licensee  
6 under this Act at intervals as specified in Section 4-2;

7 (k) to enforce provisions of this Act;

8 (l) to levy fees, fines, and charges for services  
9 performed in administering this Act; the aggregate of all  
10 fees collected by the Commissioner on and after the  
11 effective date of this Act shall be paid promptly after  
12 receipt of the same, accompanied by a detailed statement  
13 thereof, into the Residential Finance Regulatory Fund  
14 under Section 4-1.5 of this Act; the amounts deposited into  
15 that Fund shall be used for the ordinary and contingent  
16 expenses of the Office of Banks and Real Estate. Nothing in  
17 this Act shall prevent continuing the practice of paying  
18 expenses involving salaries, retirement, social security,  
19 and State-paid insurance of State officers by  
20 appropriation from the General Revenue Fund.

21 (m) to appoint examiners, supervisors, experts, and  
22 special assistants as needed to effectively and  
23 efficiently administer this Act;

24 (n) to conduct hearings for the purpose of:

25 (1) appeals of orders of the Commissioner;

26 (2) suspensions or revocations of licenses, or



1           fining of licensees;

2           (3) investigating:

3                 (i) complaints against licensees; or

4                 (ii) annual gross delinquency rates; and

5           (4) carrying out the purposes of this Act;

6           (o) to exercise exclusive visitorial power over a  
7           licensee unless otherwise authorized by this Act or as  
8           vested in the courts, or upon prior consultation with the  
9           Commissioner, a foreign residential mortgage regulator  
10          with an appropriate supervisory interest in the parent or  
11          affiliate of a licensee;

12          (p) to enter into cooperative agreements with state  
13          regulatory authorities of other states to provide for  
14          examination of corporate offices or branches of those  
15          states and to accept reports of such examinations;

16          (q) to assign an examiner or examiners to monitor the  
17          affairs of a licensee with whatever frequency the  
18          Commissioner determines appropriate and to charge the  
19          licensee for reasonable and necessary expenses of the  
20          Commissioner, if in the opinion of the Commissioner an  
21          emergency exists or appears likely to occur;

22          (r) to impose civil penalties of up to \$50 per day  
23          against a licensee for failing to respond to a regulatory  
24          request or reporting requirement; and

25          (s) to enter into agreements in connection with the  
26          Nationwide Mortgage Licensing System and Registry.

1 (Source: P.A. 98-1081, eff. 1-1-15.)

2 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)

3 Sec. 4-8. Delinquency; examination.

4 (a) The Commissioner shall obtain from the U.S. Department  
5 of Housing and Urban Development that Department's loan  
6 delinquency data.

7 (b) The Commissioner shall conduct as part of an  
8 examination of each licensee a review of the licensee's loan  
9 delinquency data.

10 This subsection shall not be construed as a limitation of  
11 the Commissioner's examination authority under Section 4-2 of  
12 this Act or as otherwise provided in this Act. The Commissioner  
13 may require a licensee to provide loan delinquency data as the  
14 Commissioner deems necessary for the proper enforcement of the  
15 Act.

16 (c) The purpose of the examination under subsection (b)  
17 shall be to determine whether the loan delinquency data of the  
18 licensee has resulted from practices which deviate from sound  
19 and accepted mortgage underwriting practices, including but  
20 not limited to credit fraud, appraisal fraud and property  
21 inspection fraud. For the purpose of conducting this  
22 examination, the Commissioner may accept materials prepared  
23 for the U.S. Department of Housing and Urban Development. ~~At~~  
24 ~~the conclusion of the examination, the Commissioner shall make~~  
25 ~~his or her findings available to the Residential Mortgage~~

1 ~~Board.~~

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

18 (e) The Commissioner shall, at the conclusion of the public  
19 hearings, release his or her findings and shall also make  
20 public any action taken with respect to the licensee. The  
21 Commissioner shall also give full consideration to the findings  
22 of this examination whenever reapplication is made by the  
23 licensee for a new license under this Act.

24 (f) A licensee that is examined pursuant to subsection (b)  
25 shall submit to the Commissioner a plan which shall be designed  
26 to reduce that licensee's loan delinquencies. The plan shall be

1 implemented by the licensee as approved by the Commissioner. A  
2 licensee that is examined pursuant to subsection (b) shall  
3 report monthly, for a one year period, one, 2, and 3 month loan  
4 delinquencies.

5 (g) Whenever the Commissioner finds that a licensee's loan  
6 delinquencies on insured mortgages is unusually high within a  
7 particular geographic area, he or she shall require that  
8 licensee to submit such information as is necessary to  
9 determine whether that licensee's practices have constituted  
10 credit fraud, appraisal fraud or property inspection fraud. The  
11 Commissioner shall promulgate such rules as are necessary to  
12 determine whether any licensee's loan delinquencies are  
13 unusually high within a particular area.

14 (Source: P.A. 99-15, eff. 1-1-16.)

15 (205 ILCS 635/1-5 rep.)

16 Section 20. The Residential Mortgage License Act of 1987 is  
17 amended by repealing Section 1-5.

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law.