



Sen. Jason A. Barickman

Filed: 5/3/2016

09900SB2955sam002

LRB099 16517 SMS 48052 a

1 AMENDMENT TO SENATE BILL 2955

2 AMENDMENT NO. _____. Amend Senate Bill 2955, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Banking Act is amended by changing
6 Sections 78 and 79 as follows:

7 (205 ILCS 5/78) (from Ch. 17, par. 390)

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

1 \$75,000,000, but not more than \$150,000,000 at the time of
2 their appointment; 2 members shall be from State banks having
3 total assets of more than \$150,000,000, but not more than
4 \$500,000,000 at the time of their appointment; 2 members shall
5 be from State banks having total assets of more than
6 \$500,000,000, but not more than \$2,000,000,000 at the time of
7 their appointment; ~~7~~ and one member shall be from a State bank
8 having total assets of more than \$2,000,000,000 at the time of
9 his or her appointment; and one member shall be from a savings
10 bank organized under the Savings Bank Act. There shall be one
11 alternate member from a savings bank organized under the
12 Savings Bank Act whose role shall be to attend a meeting of the
13 State Banking Board if and only if the sitting member from a
14 savings bank is unable to attend the meeting. There shall be 2
15 public members, neither of whom shall be an officer or director
16 of or owner, whether directly or indirectly, of more than 5% of
17 the outstanding capital stock of any bank or savings bank.
18 Members of the State Banking Board of Illinois cease to be
19 eligible to serve on the Board once they no longer meet the
20 requirements of their original appointment; however, a member
21 from a State bank shall not be disqualified solely due to a
22 change in the bank's asset size.

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

24 (205 ILCS 5/79) (from Ch. 17, par. 391)

25 Sec. 79. Board, terms of office. The terms of office of the

1 State Banking Board of Illinois shall be 4 years, except that
2 the initial Board appointments shall be staggered with the
3 Governor initially appointing, with advice and consent of the
4 Senate, 3 members to serve 2-year terms, 4 members to serve
5 3-year terms, and 4 members to serve 4-year terms. The sitting
6 member from a savings bank organized under the Savings Bank Act
7 and the alternative member from a savings bank organized under
8 the Savings Bank Act shall be appointed for the same terms of
9 office. Members shall continue to serve on the Board until
10 their replacement is appointed and qualified. Vacancies shall
11 be filled by appointment by the Governor with advice and
12 consent of the Senate.

13 No State Banking Board member shall serve more than 2 full
14 4-year terms of office.

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

16 (205 ILCS 205/12104 rep.)

17 (205 ILCS 205/Art. 12.2 rep.)

18 Section 10. The Savings Bank Act is amended by repealing
19 Section 12104 and Article 12.2.

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

22 (205 ILCS 635/1-4)

23 Sec. 1-4. Definitions. The following words and phrases have

1 the meanings given to them in this Section:

2 (a) "Residential real property" or "residential real
3 estate" shall mean any real property located in Illinois,
4 upon which is constructed or intended to be constructed a
5 dwelling. Those terms include a manufactured home as
6 defined in subdivision (53) of Section 9-102 of the Uniform
7 Commercial Code which is real property as defined in
8 Section 5-35 of the Conveyance and Encumbrance of
9 Manufactured Homes as Real Property and Severance Act.

10 (b) "Making a residential mortgage loan" or "funding a
11 residential mortgage loan" shall mean for compensation or
12 gain, either directly or indirectly, advancing funds or
13 making a commitment to advance funds to a loan applicant
14 for a residential mortgage loan.

15 (c) "Soliciting, processing, placing, or negotiating a
16 residential mortgage loan" shall mean for compensation or
17 gain, either directly or indirectly, accepting or offering
18 to accept an application for a residential mortgage loan,
19 assisting or offering to assist in the processing of an
20 application for a residential mortgage loan on behalf of a
21 borrower, or negotiating or offering to negotiate the terms
22 or conditions of a residential mortgage loan with a lender
23 on behalf of a borrower including, but not limited to, the
24 submission of credit packages for the approval of lenders,
25 the preparation of residential mortgage loan closing
26 documents, including a closing in the name of a broker.

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

2 (1) (i) Any banking organization or foreign
3 banking corporation licensed by the Illinois
4 Commissioner of Banks and Real Estate or the United
5 States Comptroller of the Currency to transact
6 business in this State; (ii) any national bank,
7 federally chartered savings and loan association,
8 federal savings bank, federal credit union; (iii)
9 (blank); (iv) any bank, savings and loan association,
10 savings bank, or credit union organized under the laws
11 of this or any other state; (v) any Illinois Consumer
12 Installment Loan Act licensee; (vi) any insurance
13 company authorized to transact business in this State;
14 (vii) any entity engaged solely in commercial mortgage
15 lending; (viii) any service corporation of a savings
16 and loan association or savings bank organized under
17 the laws of this State or the service corporation of a
18 federally chartered savings and loan association or
19 savings bank having its principal place of business in
20 this State, other than a service corporation licensed
21 or entitled to reciprocity under the Real Estate
22 License Act of 2000; or (ix) any first tier subsidiary
23 of a bank, the charter of which is issued under the
24 Illinois Banking Act by the Illinois Commissioner of
25 Banks and Real Estate, or the first tier subsidiary of
26 a bank chartered by the United States Comptroller of

1 the Currency and that has its principal place of
2 business in this State, provided that the first tier
3 subsidiary is regularly examined by the Illinois
4 Commissioner of Banks and Real Estate or the
5 Comptroller of the Currency, or a consumer compliance
6 examination is regularly conducted by the Federal
7 Reserve Board.

8 (1.5) Any employee of a person or entity mentioned
9 in item (1) of this subsection, when acting for such
10 person or entity, or any registered mortgage loan
11 originator when acting for an entity described in
12 subsection (tt) of this Section.

13 (1.8) Any person or entity that does not originate
14 mortgage loans in the ordinary course of business, but
15 makes or acquires residential mortgage loans with his
16 or her own funds for his or her or its own investment
17 without intent to make, acquire, or resell more than 3
18 residential mortgage loans in any one calendar year.

19 (2) (Blank).

20 (3) Any person employed by a licensee to assist in
21 the performance of the residential mortgage licensee's
22 activities regulated by this Act who is compensated in
23 any manner by only one licensee.

24 (4) (Blank).

25 (5) Any individual, corporation, partnership, or
26 other entity that originates, services, or brokers

1 residential mortgage loans, as these activities are
2 defined in this Act, and who or which receives no
3 compensation for those activities, subject to the
4 Commissioner's regulations and the federal Secure and
5 Fair Enforcement for Mortgage Licensing Act of 2008 and
6 the rules promulgated under that Act with regard to the
7 nature and amount of compensation.

8 (6) (Blank).

9 (e) "Licensee" or "residential mortgage licensee"
10 shall mean a person, partnership, association,
11 corporation, or any other entity who or which is licensed
12 pursuant to this Act to engage in the activities regulated
13 by this Act.

14 (f) "Mortgage loan" "residential mortgage loan" or
15 "home mortgage loan" shall mean any loan primarily for
16 personal, family, or household use that is secured by a
17 mortgage, deed of trust, or other equivalent consensual
18 security interest on a dwelling as defined in Section
19 103(v) of the federal Truth in Lending Act, or residential
20 real estate upon which is constructed or intended to be
21 constructed a dwelling.

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

25 (h) "Ultimate equitable owner" shall mean a person who,
26 directly or indirectly, owns or controls an ownership

1 interest in a corporation, foreign corporation, alien
2 business organization, trust, or any other form of business
3 organization regardless of whether the person owns or
4 controls the ownership interest through one or more persons
5 or one or more proxies, powers of attorney, nominees,
6 corporations, associations, partnerships, trusts, joint
7 stock companies, or other entities or devices, or any
8 combination thereof.

9 (i) "Residential mortgage financing transaction" shall
10 mean the negotiation, acquisition, sale, or arrangement
11 for or the offer to negotiate, acquire, sell, or arrange
12 for, a residential mortgage loan or residential mortgage
13 loan commitment.

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

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

18 (l) "Party to a residential mortgage financing
19 transaction" shall mean a borrower, lender, or loan broker
20 in a residential mortgage financing transaction.

21 (m) "Payments" shall mean payment of all or any of the
22 following: principal, interest and escrow reserves for
23 taxes, insurance and other related reserves, and
24 reimbursement for lender advances.

25 (n) "Commissioner" shall mean the Commissioner of
26 Banks and Real Estate, except that, beginning on April 6,

1 2009 (the effective date of Public Act 95-1047), all
2 references in this Act to the Commissioner of Banks and
3 Real Estate are deemed, in appropriate contexts, to be
4 references to the Secretary of Financial and Professional
5 Regulation, or his or her designee, including the Director
6 of the Division of Banking of the Department of Financial
7 and Professional Regulation.

8 (n-1) "Director" shall mean the Director of the
9 Division of Banking of the Department of Financial and
10 Professional Regulation, except that, beginning on July
11 31, 2009 (the effective date of Public Act 96-112), all
12 references in this Act to the Director are deemed, in
13 appropriate contexts, to be the Secretary of Financial and
14 Professional Regulation, or his or her designee, including
15 the Director of the Division of Banking of the Department
16 of Financial and Professional Regulation.

17 (o) "Loan brokering", "brokering", or "brokerage
18 service" shall mean the act of helping to obtain from
19 another entity, for a borrower, a loan secured by
20 residential real estate situated in Illinois or assisting a
21 borrower in obtaining a loan secured by residential real
22 estate situated in Illinois in return for consideration to
23 be paid by either the borrower or the lender including, but
24 not limited to, contracting for the delivery of residential
25 mortgage loans to a third party lender and soliciting,
26 processing, placing, or negotiating residential mortgage

1 loans.

2 (p) "Loan broker" or "broker" shall mean a person,
3 partnership, association, corporation, or limited
4 liability company, other than those persons, partnerships,
5 associations, corporations, or limited liability companies
6 exempted from licensing pursuant to Section 1-4,
7 subsection (d), of this Act, who performs the activities
8 described in subsections (c), (o), and (yy) of this
9 Section.

10 (q) "Servicing" shall mean the collection or
11 remittance for or the right or obligation to collect or
12 remit for any lender, noteowner, noteholder, or for a
13 licensee's own account, of payments, interests, principal,
14 and trust items such as hazard insurance and taxes on a
15 residential mortgage loan in accordance with the terms of
16 the residential mortgage loan; and includes loan payment
17 follow-up, delinquency loan follow-up, loan analysis and
18 any notifications to the borrower that are necessary to
19 enable the borrower to keep the loan current and in good
20 standing. "Servicing" includes management of third-party
21 entities acting on behalf of a residential mortgage
22 licensee for the collection of delinquent payments and the
23 use by such third-party entities of said licensee's
24 servicing records or information, including their use in
25 foreclosure.

26 (r) "Full service office" shall mean an office,

1 provided by the licensee and not subleased from the
2 licensee's employees, and staff in Illinois reasonably
3 adequate to handle efficiently communications, questions,
4 and other matters relating to any application for, or an
5 existing home mortgage secured by residential real estate
6 situated in Illinois with respect to which the licensee is
7 brokering, funding originating, purchasing, or servicing.
8 The management and operation of each full service office
9 must include observance of good business practices such as
10 proper signage; adequate, organized, and accurate books
11 and records; ample phone lines, hours of business, staff
12 training and supervision, and provision for a mechanism to
13 resolve consumer inquiries, complaints, and problems. The
14 Commissioner shall issue regulations with regard to these
15 requirements and shall include an evaluation of compliance
16 with this Section in his or her periodic examination of
17 each licensee.

18 (s) "Purchasing" shall mean the purchase of
19 conventional or government-insured mortgage loans secured
20 by residential real estate situated in Illinois from either
21 the lender or from the secondary market.

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

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

26 (v) "Loan brokerage agreement" shall mean a written

1 agreement in which a broker or loan broker agrees to do
2 either of the following:

3 (1) obtain a residential mortgage loan for the
4 borrower or assist the borrower in obtaining a
5 residential mortgage loan; or

6 (2) consider making a residential mortgage loan to
7 the borrower.

8 (w) "Advertisement" shall mean the attempt by
9 publication, dissemination, or circulation to induce,
10 directly or indirectly, any person to enter into a
11 residential mortgage loan agreement or residential
12 mortgage loan brokerage agreement relative to a mortgage
13 secured by residential real estate situated in Illinois.

14 (x) (Blank). ~~"Residential Mortgage Board" shall mean~~
15 ~~the Residential Mortgage Board created in Section 1-5 of~~
16 ~~this Act.~~

17 (y) "Government-insured mortgage loan" shall mean any
18 mortgage loan made on the security of residential real
19 estate insured by the Department of Housing and Urban
20 Development or Farmers Home Loan Administration, or
21 guaranteed by the Veterans Administration.

22 (z) "Annual audit" shall mean a certified audit of the
23 licensee's books and records and systems of internal
24 control performed by a certified public accountant in
25 accordance with generally accepted accounting principles
26 and generally accepted auditing standards.

1 (aa) "Financial institution" shall mean a savings and
2 loan association, savings bank, credit union, or a bank
3 organized under the laws of Illinois or a savings and loan
4 association, savings bank, credit union or a bank organized
5 under the laws of the United States and headquartered in
6 Illinois.

7 (bb) "Escrow agent" shall mean a third party,
8 individual or entity charged with the fiduciary obligation
9 for holding escrow funds on a residential mortgage loan
10 pending final payout of those funds in accordance with the
11 terms of the residential mortgage loan.

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

14 (dd) "Affiliate" shall mean:

15 (1) any entity that directly controls or is
16 controlled by the licensee and any other company that
17 is directly affecting activities regulated by this Act
18 that is controlled by the company that controls the
19 licensee;

20 (2) any entity:

21 (A) that is controlled, directly or
22 indirectly, by a trust or otherwise, by or for the
23 benefit of shareholders who beneficially or
24 otherwise control, directly or indirectly, by
25 trust or otherwise, the licensee or any company
26 that controls the licensee; or

1 (B) a majority of the directors or trustees of
2 which constitute a majority of the persons holding
3 any such office with the licensee or any company
4 that controls the licensee;

5 (3) any company, including a real estate
6 investment trust, that is sponsored and advised on a
7 contractual basis by the licensee or any subsidiary or
8 affiliate of the licensee.

9 (ee) "First tier subsidiary" shall be defined by
10 regulation incorporating the comparable definitions used
11 by the Office of the Comptroller of the Currency and the
12 Illinois Commissioner of Banks and Real Estate.

13 (ff) "Gross delinquency rate" means the quotient
14 determined by dividing (1) the sum of (i) the number of
15 government-insured residential mortgage loans funded or
16 purchased by a licensee in the preceding calendar year that
17 are delinquent and (ii) the number of conventional
18 residential mortgage loans funded or purchased by the
19 licensee in the preceding calendar year that are delinquent
20 by (2) the sum of (i) the number of government-insured
21 residential mortgage loans funded or purchased by the
22 licensee in the preceding calendar year and (ii) the number
23 of conventional residential mortgage loans funded or
24 purchased by the licensee in the preceding calendar year.

25 (gg) "Delinquency rate factor" means the factor set by
26 rule of the Commissioner that is multiplied by the average

1 gross delinquency rate of licensees, determined annually
2 for the immediately preceding calendar year, for the
3 purpose of determining which licensees shall be examined by
4 the Commissioner pursuant to subsection (b) of Section 4-8
5 of this Act.

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

12 (ii) "Confidential supervisory information" means any
13 report of examination, visitation, or investigation
14 prepared by the Commissioner under this Act, any report of
15 examination visitation, or investigation prepared by the
16 state regulatory authority of another state that examines a
17 licensee, any document or record prepared or obtained in
18 connection with or relating to any examination,
19 visitation, or investigation, and any record prepared or
20 obtained by the Commissioner to the extent that the record
21 summarizes or contains information derived from any
22 report, document, or record described in this subsection.
23 "Confidential supervisory information" does not include
24 any information or record routinely prepared by a licensee
25 and maintained in the ordinary course of business or any
26 information or record that is required to be made publicly

1 available pursuant to State or federal law or rule.

2 (jj) "Mortgage loan originator" means an individual
3 who for compensation or gain or in the expectation of
4 compensation or gain:

5 (i) takes a residential mortgage loan application;

6 or

7 (ii) offers or negotiates terms of a residential
8 mortgage loan.

9 "Mortgage loan originator" includes an individual
10 engaged in loan modification activities as defined in
11 subsection (yy) of this Section. A mortgage loan originator
12 engaged in loan modification activities shall report those
13 activities to the Department of Financial and Professional
14 Regulation in the manner provided by the Department;
15 however, the Department shall not impose a fee for
16 reporting, nor require any additional qualifications to
17 engage in those activities beyond those provided pursuant
18 to this Act for mortgage loan originators.

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

23 "Mortgage loan originator" does not include a person or
24 entity that only performs real estate brokerage activities
25 and is licensed in accordance with the Real Estate License
26 Act of 2000, unless the person or entity is compensated by

1 a lender, a mortgage broker, or other mortgage loan
2 originator, or by any agent of that lender, mortgage
3 broker, or other mortgage loan originator.

4 "Mortgage loan originator" does not include a person or
5 entity solely involved in extensions of credit relating to
6 timeshare plans, as that term is defined in Section
7 101(53D) of Title 11, United States Code.

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

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

14 (mm) "Immediate family member" means a spouse, child,
15 sibling, parent, grandparent, or grandchild, and includes
16 step-parents, step-children, step-siblings, or adoptive
17 relationships.

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

19 (oo) "Loan processor or underwriter" means an
20 individual who performs clerical or support duties as an
21 employee at the direction of and subject to the supervision
22 and instruction of a person licensed, or exempt from
23 licensing, under this Act. "Clerical or support duties"
24 includes subsequent to the receipt of an application:

25 (i) the receipt, collection, distribution, and
26 analysis of information common for the processing or

1 underwriting of a residential mortgage loan; and

2 (ii) communicating with a consumer to obtain the
3 information necessary for the processing or
4 underwriting of a loan, to the extent that the
5 communication does not include offering or negotiating
6 loan rates or terms, or counseling consumers about
7 residential mortgage loan rates or terms. An
8 individual engaging solely in loan processor or
9 underwriter activities shall not represent to the
10 public, through advertising or other means of
11 communicating or providing information, including the
12 use of business cards, stationery, brochures, signs,
13 rate lists, or other promotional items, that the
14 individual can or will perform any of the activities of
15 a mortgage loan originator.

16 (pp) "Nationwide Mortgage Licensing System and
17 Registry" means a mortgage licensing system developed and
18 maintained by the Conference of State Bank Supervisors and
19 the American Association of Residential Mortgage
20 Regulators for the licensing and registration of licensed
21 mortgage loan originators.

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

24 (rr) "Person" means a natural person, corporation,
25 company, limited liability company, partnership, or
26 association.

1 (ss) "Real estate brokerage activity" means any
2 activity that involves offering or providing real estate
3 brokerage services to the public, including:

4 (1) acting as a real estate agent or real estate
5 broker for a buyer, seller, lessor, or lessee of real
6 property;

7 (2) bringing together parties interested in the
8 sale, purchase, lease, rental, or exchange of real
9 property;

10 (3) negotiating, on behalf of any party, any
11 portion of a contract relating to the sale, purchase,
12 lease, rental, or exchange of real property, other than
13 in connection with providing financing with respect to
14 any such transaction;

15 (4) engaging in any activity for which a person
16 engaged in the activity is required to be registered or
17 licensed as a real estate agent or real estate broker
18 under any applicable law; or

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

21 (tt) "Registered mortgage loan originator" means any
22 individual that:

23 (1) meets the definition of mortgage loan
24 originator and is an employee of:

25 (A) a depository institution;

26 (B) a subsidiary that is:

1 (i) owned and controlled by a depository
2 institution; and

3 (ii) regulated by a federal banking
4 agency; or

5 (C) an institution regulated by the Farm
6 Credit Administration; and

7 (2) is registered with, and maintains a unique
8 identifier through, the Nationwide Mortgage Licensing
9 System and Registry.

10 (uu) "Unique identifier" means a number or other
11 identifier assigned by protocols established by the
12 Nationwide Mortgage Licensing System and Registry.

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

15 (ww) "Mortgage loan originator license" means a
16 license issued pursuant to Section 7-1A, 7-3, or 7-6 of
17 this Act.

18 (xx) "Secretary" means the Secretary of the Department
19 of Financial and Professional Regulation, or a person
20 authorized by the Secretary or by this Act to act in the
21 Secretary's stead.

22 (yy) "Loan modification" means, for compensation or
23 gain, either directly or indirectly offering or
24 negotiating on behalf of a borrower or homeowner to adjust
25 the terms of a residential mortgage loan in a manner not
26 provided for in the original or previously modified

1 mortgage loan.

2 (zz) "Short sale facilitation" means, for compensation
3 or gain, either directly or indirectly offering or
4 negotiating on behalf of a borrower or homeowner to
5 facilitate the sale of residential real estate subject to
6 one or more residential mortgage loans or debts
7 constituting liens on the property in which the proceeds
8 from selling the residential real estate will fall short of
9 the amount owed and the lien holders are contacted to agree
10 to release their lien on the residential real estate and
11 accept less than the full amount owed on the debt.

12 The Commissioner may define by rule and regulation any
13 terms used in this Act for the efficient and clear
14 administration of this Act.

15 (Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15;
16 99-78, eff. 7-20-15.)

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

18 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
19 powers, and duties. The functions, powers, and duties of the
20 Commissioner of Banks and Real Estate shall include the
21 following:

22 (a) to issue or refuse to issue any license as provided
23 by this Act;

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

1 (c) to keep records of all licenses issued under this
2 Act;

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

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

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

9 (1) applications for licenses; and

10 (2) all reports and all books and records required
11 to be made by any licensee under this Act, including
12 annual audited financial statements and annual reports
13 of mortgage activity;

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

16 (h) to subpoena documents and witnesses and compel
17 their attendance and production, to administer oaths, and
18 to require the production of any books, papers, or other
19 materials relevant to any inquiry authorized by this Act;

20 (h-1) to issue orders against any person, if the
21 Commissioner has reasonable cause to believe that an
22 unsafe, unsound, or unlawful practice has occurred, is
23 occurring, or is about to occur, if any person has
24 violated, is violating, or is about to violate any law,
25 rule, or written agreement with the Commissioner, or for
26 the purpose of administering the provisions of this Act and

1 any rule adopted in accordance with the Act;

2 (h-2) to address any inquiries to any licensee, or the
3 officers thereof, in relation to its activities and
4 conditions, or any other matter connected with its affairs,
5 and it shall be the duty of any licensee or person so
6 addressed, to promptly reply in writing to such inquiries.
7 The Commissioner may also require reports from any licensee
8 at any time the Commissioner may deem desirable;

9 (i) to require information with regard to any license
10 applicant as he or she may deem desirable, with due regard
11 to the paramount interests of the public as to the
12 experience, background, honesty, truthfulness, integrity,
13 and competency of the license applicant as to financial
14 transactions involving primary or subordinate mortgage
15 financing, and where the license applicant is an entity
16 other than an individual, as to the honesty, truthfulness,
17 integrity, and competency of any officer or director of the
18 corporation, association, or other entity, or the members
19 of a partnership;

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

22 (k) to enforce provisions of this Act;

23 (l) to levy fees, fines, and charges for services
24 performed in administering this Act; the aggregate of all
25 fees collected by the Commissioner on and after the
26 effective date of this Act shall be paid promptly after

1 receipt of the same, accompanied by a detailed statement
2 thereof, into the Residential Finance Regulatory Fund
3 under Section 4-1.5 of this Act; the amounts deposited into
4 that Fund shall be used for the ordinary and contingent
5 expenses of the Office of Banks and Real Estate. Nothing in
6 this Act shall prevent continuing the practice of paying
7 expenses involving salaries, retirement, social security,
8 and State-paid insurance of State officers by
9 appropriation from the General Revenue Fund.

10 (m) to appoint examiners, supervisors, experts, and
11 special assistants as needed to effectively and
12 efficiently administer this Act;

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

14 (1) appeals of orders of the Commissioner;

15 (2) suspensions or revocations of licenses, or
16 fining of licensees;

17 (3) investigating:

18 (i) complaints against licensees; or

19 (ii) annual gross delinquency rates; and

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

21 (o) to exercise exclusive visitorial power over a
22 licensee unless otherwise authorized by this Act or as
23 vested in the courts, or upon prior consultation with the
24 Commissioner, a foreign residential mortgage regulator
25 with an appropriate supervisory interest in the parent or
26 affiliate of a licensee;

1 (p) to enter into cooperative agreements with state
2 regulatory authorities of other states to provide for
3 examination of corporate offices or branches of those
4 states and to accept reports of such examinations;

5 (q) to assign an examiner or examiners to monitor the
6 affairs of a licensee with whatever frequency the
7 Commissioner determines appropriate and to charge the
8 licensee for reasonable and necessary expenses of the
9 Commissioner, if in the opinion of the Commissioner an
10 emergency exists or appears likely to occur;

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

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

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

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

18 Sec. 4-8. Delinquency; examination.

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

22 (b) The Commissioner shall conduct as part of an
23 examination of each licensee a review of the licensee's loan
24 delinquency data.

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 data as the
4 Commissioner deems necessary for the proper enforcement of the
5 Act.

6 (c) The purpose of the examination under subsection (b)
7 shall be to determine whether the loan delinquency data of the
8 licensee has resulted from practices which deviate from sound
9 and accepted mortgage underwriting practices, including but
10 not limited to credit fraud, appraisal fraud and property
11 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. The plan shall be
16 implemented by the licensee as approved by the Commissioner. A
17 licensee that is examined pursuant to subsection (b) shall
18 report monthly, for a one year period, one, 2, and 3 month loan
19 delinquencies.

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

1 determine whether any licensee's loan delinquencies are
2 unusually high within a particular area.

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

4 (205 ILCS 635/1-5 rep.)

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

7 Section 99. Effective date. This Act takes effect upon
8 becoming law."