

1 AN ACT to amend the Residential Mortgage License Act of  
2 1987.

3 Be it enacted by the People of the State of Illinois,  
4 represented in the General Assembly:

5 Section 5. The Residential Mortgage License Act of 1987  
6 is amended by changing Sections 1-4, 1-5, and 4-8 and adding  
7 Sections 4-8.1, 4-8.2, 4-8.3, 4-8.4, 4-8.5, 4-8.6, 4-8.7,  
8 4-8.8, 4-8.9, 4-8.10, and 4-8.11 as follows:

9 (205 ILCS 635/1-4) (from Ch. 17, par. 2321-4)

10 Sec. 1-4. Definitions.

11 (a) "Residential real property" or "residential real  
12 estate" shall mean real property located in this State  
13 improved by a one-to-four family dwelling used or occupied,  
14 wholly or partly, as the home or residence of one or more  
15 persons and may refer, subject to regulations of the  
16 Commissioner, to unimproved real property upon which those  
17 kinds dwellings are to be constructed.

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 for  
22 a residential mortgage loan.

23 (c) "Soliciting, processing, placing, or negotiating a  
24 residential mortgage loan" shall mean for compensation or  
25 gain, either directly or indirectly, accepting or offering to  
26 accept an application for a residential mortgage loan,  
27 assisting or offering to assist in the processing of an  
28 application for a residential mortgage loan on behalf of a  
29 borrower, or negotiating or offering to negotiate the terms  
30 or conditions of a residential mortgage loan with a lender on  
31 behalf of a borrower including, but not limited to, the

1 submission of credit packages for the approval of lenders,  
2 the preparation of residential mortgage loan closing  
3 documents, including a closing in the name of a broker.

4 (d) "Exempt entity" shall mean the following:

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

1           (2) Any person or entity that either--(i)--has--a  
2           ~~physical--presenece-in-Illinois-or-(ii)~~ does not originate  
3           mortgage loans in the ordinary course of business making  
4           or acquiring residential mortgage loans with his or her  
5           or its own funds for his or her or its own investment  
6           without intent to make, acquire, or resell more than 10  
7           residential mortgage loans in any one calendar year.

8           (3) Any person employed by a licensee to assist in  
9           the performance of the activities regulated by this Act  
10          who is compensated in any manner by only one licensee.

11          (4) Any person licensed pursuant to the Real Estate  
12          License Act of 2000, who engages only in the taking of  
13          applications and credit and appraisal information to  
14          forward to a licensee or an exempt entity under this Act  
15          and who is compensated by either a licensee or an exempt  
16          entity under this Act, but is not compensated by either  
17          the buyer (applicant) or the seller.

18          (5) Any individual, corporation, partnership, or  
19          other entity that originates, services, or brokers  
20          residential mortgage loans, as these activities are  
21          defined in this Act, and who or which receives no  
22          compensation for those activities, subject to the  
23          Commissioner's regulations with regard to the nature and  
24          amount of compensation.

25          (6) A person who prepares supporting documentation  
26          for a residential mortgage loan application taken by a  
27          licensee and performs ministerial functions pursuant to  
28          specific instructions of the licensee who neither  
29          requires nor permits the preparer to exercise his or her  
30          discretion or judgment; provided that this activity is  
31          engaged in pursuant to a binding, written agreement  
32          between the licensee and the preparer that:

33                  (A) holds the licensee fully accountable for  
34                  the preparer's action; and

1                   (B) otherwise meets the requirements of this  
2                   Section and this Act, does not undermine the  
3                   purposes of this Act, and is approved by the  
4                   Commissioner.

5           (e) "Licensee" or "residential mortgage licensee" shall  
6           mean a person, partnership, association, corporation, or any  
7           other entity who or which is licensed pursuant to this Act to  
8           engage in the activities regulated by this Act.

9           (f) "Mortgage loan", "residential mortgage loan", or  
10           "home mortgage loan" shall mean a loan to or for the benefit  
11           of any natural person made primarily for personal, family, or  
12           household use, primarily secured by either a mortgage on  
13           residential real property or certificates of stock or other  
14           evidence of ownership interests in and proprietary leases  
15           from, corporations, partnerships, or limited liability  
16           companies formed for the purpose of cooperative ownership of  
17           residential real property, all located in Illinois.

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

21           (h) "Ultimate equitable owner" shall mean a person who,  
22           directly or indirectly, owns or controls an ownership  
23           interest in a corporation, foreign corporation, alien  
24           business organization, trust, or any other form of business  
25           organization regardless of whether the person owns or  
26           controls the ownership interest through one or more persons  
27           or one or more proxies, powers of attorney, nominees,  
28           corporations, associations, partnerships, trusts, joint stock  
29           companies, or other entities or devices, or any combination  
30           thereof.

31           (i) "Residential mortgage financing transaction" shall  
32           mean the negotiation, acquisition, sale, or arrangement for  
33           or the offer to negotiate, acquire, sell, or arrange for, a  
34           residential mortgage loan or residential mortgage loan

1 commitment.

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

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

6 (l) "Party to a residential mortgage financing  
7 transaction" shall mean a borrower, lender, or loan broker in  
8 a residential mortgage financing transaction.

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

13 (n) "Commissioner" shall mean the Commissioner of Banks  
14 and Real Estate or a person authorized by the Commissioner,  
15 the Office of Banks and Real Estate Act, or this Act to act  
16 in the Commissioner's stead.

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

27 (p) "Loan broker" or "broker" shall mean a person,  
28 partnership, association, corporation, or limited liability  
29 company, other than those persons, partnerships,  
30 associations, corporations, or limited liability companies  
31 exempted from licensing pursuant to Section 1-4, subsection  
32 (d), of this Act, who performs the activities described in  
33 subsections (c) and (o) of this Section.

34 (q) "Servicing" shall mean the collection or remittance

1 for or the right or obligation to collect or remit for any  
2 lender, noteowner, noteholder, or for a licensee's own  
3 account, of payments, interests, principal, and trust items  
4 such as hazard insurance and taxes on a residential mortgage  
5 loan in accordance with the terms of the residential mortgage  
6 loan; and includes loan payment follow-up, delinquency loan  
7 follow-up, loan analysis and any notifications to the  
8 borrower that are necessary to enable the borrower to keep  
9 the loan current and in good standing.

10 (r) "Full service office" shall mean office and staff in  
11 Illinois reasonably adequate to handle efficiently  
12 communications, questions, and other matters relating to any  
13 application for, or an existing home mortgage secured by  
14 residential real estate situated in Illinois with respect to  
15 which the licensee is brokering, funding originating,  
16 purchasing, or servicing. The management and operation of  
17 each full service office must include observance of good  
18 business practices such as adequate, organized, and accurate  
19 books and records; ample phone lines, hours of business,  
20 staff training and supervision, and provision for a mechanism  
21 to resolve consumer inquiries, complaints, and problems. The  
22 Commissioner shall issue regulations with regard to these  
23 requirements and shall include an evaluation of compliance  
24 with this Section in his or her periodic examination of each  
25 licensee.

26 (s) "Purchasing" shall mean the purchase of conventional  
27 or government-insured mortgage loans secured by residential  
28 real estate situated in Illinois from either the lender or  
29 from the secondary market.

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

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

34 (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 mortgage  
12 loan brokerage agreement relative to a mortgage secured by  
13 residential real estate situated in Illinois.

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

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

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

27 (aa) "Financial institution" shall mean a savings and  
28 loan association, savings bank, credit union, or a bank  
29 organized under the laws of Illinois or a savings and loan  
30 association, savings bank, credit union or a bank organized  
31 under the laws of the United States and headquartered in  
32 Illinois.

33 (bb) "Escrow agent" shall mean a third party, individual  
34 or entity charged with the fiduciary obligation for holding

1 escrow funds on a residential mortgage loan pending final  
2 payout of those funds in accordance with the terms of the  
3 residential mortgage loan.

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

6 (dd) "Affiliate" shall mean:

7 (1) any entity that directly controls or is  
8 controlled by the licensee and any other company that is  
9 directly affecting activities regulated by this Act that  
10 is controlled by the company that controls the licensee;

11 (2) any entity:

12 (A) that is controlled, directly or  
13 indirectly, by a trust or otherwise, by or for the  
14 benefit of shareholders who beneficially or  
15 otherwise control, directly or indirectly, by trust  
16 or otherwise, the licensee or any company that  
17 controls the licensee; or

18 (B) a majority of the directors or trustees of  
19 which constitute a majority of the persons holding  
20 any such office with the licensee or any company  
21 that controls the licensee;

22 (3) any company, including a real estate investment  
23 trust, that is sponsored and advised on a contractual  
24 basis by the licensee or any subsidiary or affiliate of  
25 the licensee.

26 The Commissioner may define by rule and regulation any  
27 terms used in this Act for the efficient and clear  
28 administration of this Act.

29 (ee) "First tier subsidiary" shall be defined by  
30 regulation incorporating the comparable definitions used by  
31 the Office of the Comptroller of the Currency and the  
32 Illinois Commissioner of Banks and Real Estate.

33 (ff) "Gross delinquency rate" means the quotient  
34 determined by dividing (1) the sum of (i) the number of



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

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

18 (Source: P.A. 90-772, eff. 1-1-99; 91-245, eff. 12-31-99.)

19 (205 ILCS 635/1-5) (from Ch. 17, par. 2321-5)  
 20 Sec. 1-5. Residential Mortgage Board.

21 (a) Board composition, compensation. There is created  
 22 the Residential Mortgage Board composed of 7 5 members  
 23 appointed by the Commissioner of Banks and Real Estate. The  
 24 majority of persons on the Board shall have no financial  
 25 interest in any residential mortgage business and one member  
 26 shall be a representative of the Mortgage Banking Trade  
 27 Association, and one member shall be a representative of the  
 28 Mortgage Broker Trade Association, one member shall be a  
 29 representative of the National Training and Information  
 30 Center and one member shall be a representative of the  
 31 Woodstock Institute. Members of the Board serving on the  
 32 effective date of this amendatory Act of 1996 shall continue  
 33 to serve their unexpired terms as members of the Residential

1 Mortgage Board. Thereafter, on or before January 15 of each  
 2 year, the Commissioner shall appoint one or more board  
 3 members, as shall be necessary to maintain a 7 5 member  
 4 Board, whose terms shall be for 3 years commencing February 1  
 5 of the year in which they are respectively appointed.

6 If a vacancy occurs on the Residential Mortgage Board,  
 7 the Commissioner shall within 60 days appoint a new member  
 8 who shall hold office for the remainder of the vacated term.

9 The Board shall meet a minimum of 4 times each calendar  
 10 year and at the call of the chairman, who along with a  
 11 Secretary, shall be selected by the Board from among its  
 12 members.

13 Members of the Board shall be entitled to receive a per  
 14 diem allowance of \$25 for each day or part of a day spent on  
 15 Board work and shall be entitled to their expenses actually  
 16 and necessarily incurred in the performance of their duties.  
 17 The members of the Board serve at the pleasure of the  
 18 Commissioner.

19 (b) Duties of Board. The Residential Mortgage Board  
 20 shall assist the Commissioner by:

21 (1) submitting recommendations to the Commissioner  
 22 for the efficient administration of this Act; and

23 (2) submitting recommendations to the Commissioner  
 24 for establishing guidelines for professional conduct of  
 25 licensees under this Act, for the conduct of formal  
 26 disciplinary proceedings brought under this Act, and for  
 27 establishing guidelines for qualifications of applicants  
 28 under this Act;

29 (3) participating in hearings conducted pursuant to  
 30 Section 4-8.3 of this Act; and

31 (4) (2) performing other duties as are prescribed  
 32 by the Commissioner.

33 (c) Notice of proposed rulemaking shall be transmitted  
 34 to the Board, and the Commissioner shall review the response

1 of the Board and any recommendations made in their response.  
2 The Commissioner, at any time, may seek the expert advice and  
3 knowledge of the Board on any matter relating to the  
4 administration or enforcement of this Act.

5 (d) ~~(e)~~ Conflict of interest declarations. Each member  
6 of the Residential Mortgage Board shall file annually, no  
7 later than February 1, with the Commissioner a statement of  
8 his or her current business transactions or other  
9 affiliations with any licensee under this Act. The  
10 Commissioner may adopt rules to avoid conflicts of interest  
11 on the part of members of the Residential Mortgage Board in  
12 connection with their position on the Board.

13 (Source: P.A. 89-355, eff. 8-17-95; 89-508, eff. 7-3-96.)

14 (205 ILCS 635/4-8) (from Ch. 17, par. 2324-8)  
15 Sec. 4-8. Default rate; examination.

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

20 (b) The Commissioner shall conduct an examination of  
21 each licensee having a default rate equal to or greater than  
22 5%.

23 This subsection shall not be construed as a limitation of  
24 the Commissioner's examination authority under Section 4-2 of  
25 this Act or as otherwise provided in this Act. The  
26 Commissioner may require a licensee to provide loan default  
27 data as the Commissioner deems necessary for the proper  
28 enforcement of the Act.

29 (c) The purpose of the examination under subsection (b)  
30 shall be to determine whether the default rate of the  
31 licensee has resulted from practices which deviate from sound  
32 and accepted mortgage underwriting practices, including but  
33 not limited to credit fraud, appraisal fraud and property

1 inspection fraud. For the purpose of conducting this  
2 examination, the Commissioner may accept materials prepared  
3 for the U.S. Department of Housing and Urban Development. At  
4 the conclusion of the examination, the Commissioner shall  
5 provide make his or her findings available to the Residential  
6 Mortgage Board.

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

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

29 (f) A licensee that is examined pursuant to subsection  
30 (b) shall submit to the Commissioner a plan which shall be  
31 designed to reduce that licensee's default rate to a figure  
32 that is less than 5%. The plan shall be implemented by the  
33 licensee as approved by the Commissioner. A licensee that is  
34 examined pursuant to subsection (b) shall report monthly, for

1 a one year period, one, 2, and 3 month defaults.

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

11 (Source: P.A. 89-355, eff. 1-1-96; 89-626, eff. 8-9-96;  
12 90-301, eff. 8-1-97.)

13 (205 ILCS 635/4-8.1 new)

14 Sec. 4-8.1. Investigations; notice of hearing. Upon the  
15 motion of either the Commissioner or the Residential Mortgage  
16 Board or upon the verified complaint in writing of any person  
17 setting forth facts which, if proven, would constitute  
18 grounds for refusal, suspension, or revocation of license  
19 under this Act, the Commissioner shall investigate the  
20 actions of any person, hereinafter called the "licensee", who  
21 holds or represents that he or she holds a license under this  
22 Act. The Commissioner shall, before suspending, revoking,  
23 placing on probationary status, or taking any other  
24 disciplinary action as the Commissioner may deem proper with  
25 regard to any registration, at least 30 days prior to the  
26 date set for the hearing, notify the licensee in writing of  
27 any charges made and of the time and place for a hearing on  
28 the charges. The Commissioner shall also direct the licensee  
29 to file a written answer to the charges under oath within 20  
30 days after the service of the notice upon the licensee and  
31 inform the licensee that if he or she fails to file an  
32 answer, his or her certificate of registration may be  
33 suspended, revoked, or placed on probationary status or that

1 other disciplinary action may be taken with regard thereto,  
2 as the Commissioner may deem proper. The written notice and  
3 any notice in the proceeding may be served by delivery  
4 personally to the licensee or by registered or certified mail  
5 to the address specified by the licensee in his or her last  
6 notification to the Commissioner. The Commissioner shall  
7 preserve a record of all proceedings at the formal hearing of  
8 any case involving the refusal to issue or renew a  
9 registration or discipline of a licensee. The notice of  
10 hearing, the complaint, all other documents in the nature of  
11 pleadings and written motions filed in the proceedings, the  
12 transcript of testimony, the report of the Board, and the  
13 orders of the Commissioner shall be the record of the  
14 proceedings.

15 (205 ILCS 635/4-8.2 new)

16 Sec. 4-8.2. Disciplinary actions.

17 (a) If a licensee, after receiving notice, fails to file  
18 an answer, his or her license may, in the discretion of the  
19 Commissioner, having first received the recommendation of the  
20 Board, be suspended, revoked, or placed on probationary  
21 status, or the Commissioner may take whatever disciplinary  
22 action he or she may deem proper, including the imposition of  
23 a fine, without a hearing, if the act or acts charged  
24 constitute sufficient grounds for such action under this Act.

25 (b) The Commissioner may temporarily suspend the  
26 registration of a licensee without a hearing, simultaneous to  
27 the institution of proceedings for a hearing under this Act,  
28 if the Commissioner finds that evidence in his possession  
29 indicates that the person's continuation of use of the title  
30 would constitute an immediate danger to the public. In the  
31 event that the Commissioner temporarily suspends the  
32 registration of a licensee without a hearing, a hearing  
33 pursuant to Section 4-8.3 must be held within 15 days after

1 the suspension has occurred and must be concluded without  
2 appreciable delay.

3 (205 ILCS 635/4-8.3 new)

4 Sec. 4-8.3. Hearings. At the time and place fixed in the  
5 notice of hearing, the Commissioner shall proceed to hear the  
6 charges before the Board, and both the licensee and the  
7 complainant shall be accorded ample opportunity to present in  
8 person, or by counsel, such statements, testimony, evidence,  
9 and arguments as may be pertinent to the charges or to their  
10 defense. The Commissioner may continue the hearing from time  
11 to time. If the Board is not sitting at the time and place  
12 fixed in the notice or at the time and place to which the  
13 hearing has been continued, the Commissioner shall continue  
14 the hearing for a period not to exceed 30 days. The  
15 Commissioner shall have power to subpoena and bring before  
16 him or her any licensee under this Act and to take testimony  
17 either orally or by deposition, or both, with the same fees  
18 and mileage and in the same manner as prescribed for civil  
19 actions in this State. The Commissioner shall have power to  
20 administer oaths at any hearing at which the Commissioner is  
21 authorized by law to conduct.

22 (205 ILCS 635/4-8.4 new)

23 Sec. 4-8.4. Attendance of witnesses; production of  
24 documents. Any circuit court, upon the application of the  
25 Commissioner, may order the attendance of witnesses and the  
26 production of relevant books and papers in any hearing  
27 relative to the application for a suspension of, revocation  
28 of, or refusal to renew a registration of, or the discipline  
29 of a licensee. The court may compel obedience to its order by  
30 proceedings for contempt.

31 (205 ILCS 635/4-8.5 new)

1       Sec. 4-8.5. Recommendations for disciplinary action;  
2 action by Commissioner. The Board may advise the Commissioner  
3 that probation be granted or that other disciplinary action,  
4 including the limitation of the use of license, be taken, as  
5 it deems proper. If disciplinary action other than suspension  
6 or revocation is taken, the Board may advise the Commissioner  
7 to impose reasonable limitations and requirements upon the  
8 licensee to insure compliance with the terms of the probation  
9 or other disciplinary action in such manner as the  
10 Commissioner may require. The Board shall present to the  
11 Commissioner a written report of its findings and  
12 recommendations. A copy of the report shall be served upon  
13 the licensee, either personally or by registered or certified  
14 mail. Within 20 days after such service, the licensee may  
15 present to the Commissioner his motion in writing for a  
16 rehearing, specifying the particular grounds for rehearing.  
17 If the licensee orders and pays for a transcript of the  
18 record, the time elapsing until the transcript is ready for  
19 delivery to him shall not be counted as part of such 20 days.  
20 At the expiration of the time allowed for filing a motion for  
21 rehearing, the Commissioner may take the action recommended  
22 by the Board. Upon suspension, revocation, placement on  
23 probationary status, or the taking of any other disciplinary  
24 action, including the limiting of the use of the license,  
25 deemed proper by the Commissioner, the licensee shall  
26 surrender his or her license to the Commissioner if ordered  
27 to do so by the Commissioner. Upon a failure or refusal to  
28 do so, the Commissioner may seize the license. In all  
29 instances in which the Board has rendered a recommendation to  
30 the Commissioner with respect to a particular person, the  
31 Commissioner shall, to the extent that he or she disagrees  
32 with or takes action contrary to the recommendation of the  
33 Board, file with the Board his specific written reasons of  
34 disagreement. The reasons shall be filed within 30 days after



1 the Commissioner has taken the contrary position. Each order  
2 of revocation, suspension, or other disciplinary action shall  
3 contain a brief and concise statement of the ground or  
4 grounds upon which the Commissioner's action is based, as  
5 well as the specific terms and conditions of that action.  
6 Whenever the Commissioner is satisfied that substantial  
7 justice has not been done either in an examination or in the  
8 revocation, suspension, or refusal to issue a license or  
9 other disciplinary action, the Commissioner may order a  
10 re-examination or rehearing.

11 (205 ILCS 635/4-8.6 new)

12 Sec. 4-8.6. Hearing officer. The Commissioner has the  
13 authority to appoint any attorney duly licensed to practice  
14 law in the State of Illinois to serve as the hearing officer  
15 for any disciplinary action under this Act. The hearing  
16 officer shall have full authority to conduct the hearing. The  
17 hearing officer shall report his or her findings and  
18 recommendations to the the Commissioner and the Board. The  
19 Board shall have 60 days from receipt of the report to review  
20 the report of the hearing officer and present its findings of  
21 fact, conclusions of law, and recommendations to the  
22 Commissioner. If the Board fails to present its report within  
23 the 60 day period, the Commissioner may issue an order based  
24 on the report of the hearing officer. If the Commissioner  
25 disagrees in any regard with the Board's report, he or she  
26 may issue an order in contravention of the Board's report.

27 (205 ILCS 635/4-8.7 new)

28 Sec. 4-8.7. Restoration. At any time after suspension,  
29 revocation, placement on probationary status, or the taking  
30 of any other disciplinary action with regard to any license,  
31 the Commissioner may restore the license, or take any other  
32 action to reinstate the license without examination, for good

1 cause shown in the opinion of the Commissioner.

2 (205 ILCS 635/4-8.8 new)

3 Sec. 4-8.8. Administrative Review Law. All final  
4 administrative decisions of the Commissioner are subject to  
5 judicial review under the Administrative Review Law and its  
6 rules. The term "administrative decision" is defined as in  
7 Section 3-101 of the Code of Civil Procedure. Proceedings for  
8 judicial review shall be commenced in the circuit court of  
9 the county in which the party applying for review resides,  
10 but if the party is not a resident of this State, the venue  
11 shall be in Sangamon County or Cook County. The Commissioner  
12 shall not be required to certify any record to the court or  
13 file any answer in court or otherwise appear in any court in  
14 a judicial review proceeding, unless there is filed in the  
15 court with the complaint a receipt from the Commissioner  
16 acknowledging payment of the costs of furnishing and  
17 certifying the record. Exhibits shall be certified without  
18 cost. Failure on the part of the plaintiff to file a receipt  
19 in court shall be grounds for dismissal of the action. During  
20 the pendency and hearing of any and all judicial proceedings  
21 incident to a disciplinary action, any sanctions imposed upon  
22 the licensee by the Commissioner shall remain in full force  
23 and effect.

24 (205 ILCS 635/4-8.9 new)

25 Sec. 4-8.9. Revocation orders. An order of revocation,  
26 suspension, placement on probationary status, or other formal  
27 disciplinary action as the Commissioner may deem proper, or a  
28 certified copy thereof, over the seal of the Commissioner and  
29 purporting to be signed by the Commissioner, is prima facie  
30 proof that:

31 (1) the signature is the genuine signature of the  
32 Commissioner;

1           (2) the Commissioner is duly appointed and  
2           qualified; and

3           (3) the Board and the members thereof are  
4           qualified.

5           (205 ILCS 635/4-8.10 new)

6           Sec. 4-8.10. Confidential information; disclosure. In  
7           hearings conducted under this Act, information presented into  
8           evidence that was acquired by the licensee when serving any  
9           individual in connection with a residential mortgage,  
10           including all financial information of the individual, shall  
11           be deemed strictly confidential and shall only be made  
12           available either as part of the record of a hearing hereunder  
13           or otherwise: (1) when the record is required, in its  
14           entirety, for purposes of judicial review; or (2) upon the  
15           express written consent of the individual served, or in the  
16           case of his or her death or disability, the consent of his or  
17           her personal representative.

18           (205 ILCS 635/4-8.11 new)

19           Sec. 4-8.11. Reports of violation. Any person licensed  
20           under this Act, or any other person, may report to the  
21           Commissioner any information that person may have that  
22           appears to show that a licensee under this Act is or may be  
23           in violation of this Act.

24           Section 99. Effective date. This Act takes effect upon  
25           becoming law.