

1 AN ACT concerning regulation.

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

4 Section 5. The Residential Mortgage License Act of 1987 is  
5 amended by changing Sections 1-3 and 1-4 and by adding Section  
6 3-11 as follows:

7 (205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

8 Sec. 1-3. Necessity for license; scope of Act.

9 (a) No person, partnership, association, corporation or  
10 other entity shall engage in the business of brokering,  
11 funding, originating, servicing or purchasing of residential  
12 mortgage loans without first obtaining a license from the  
13 Secretary in accordance with the licensing procedure provided  
14 in this Article I and such regulations as may be promulgated by  
15 the Secretary. The licensing provisions of this Section shall  
16 not apply to any entity engaged solely in commercial mortgage  
17 lending or to any person, partnership association, corporation  
18 or other entity exempted pursuant to Section 1-4, subsection  
19 (d), of this Act or in accordance with regulations promulgated  
20 by the Secretary hereunder. No provision of this Act shall  
21 apply to an exempt person or entity as defined in items (1) and  
22 (1.5) of subsection (d) of Section 1-4 of this Act.  
23 Notwithstanding anything to the contrary in the preceding

1 sentence, an individual acting as a mortgage loan originator  
2 who is not employed by and acting for an entity described in  
3 item (1) of subsection (tt) of Section 1-4 of this Act shall be  
4 subject to the mortgage loan originator licensing requirements  
5 of Article VII of this Act.

6 Effective January 1, 2011, no provision of this Act shall  
7 apply to an exempt person or entity as defined in item (1.8) of  
8 subsection (d) of Section 1-4 of this Act. Notwithstanding  
9 anything to the contrary in the preceding sentence, an  
10 individual acting as a mortgage loan originator who is not  
11 employed by and acting for an entity described in item (1) of  
12 subsection (tt) of Section 1-4 of this Act shall be subject to  
13 the mortgage loan originator licensing requirements of Article  
14 VII of this Act, and provided that an individual acting as a  
15 mortgage loan originator under item (1.8) of subsection (d) of  
16 Section 1-4 of this Act shall be further subject to a  
17 determination by the U.S. Department of Housing and Urban  
18 Development through final rulemaking or other authorized  
19 agency determination under the federal Secure and Fair  
20 Enforcement for Mortgage Licensing Act of 2008.

21 (a-1) A person who is exempt from licensure pursuant to  
22 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of  
23 this Act as a federally chartered savings bank that is  
24 registered with the Nationwide Multistate Licensing System and  
25 Registry may apply to the Secretary for an exempt company  
26 registration for the purpose of sponsoring one or more

1 individuals subject to the mortgage loan originator licensing  
2 requirements of Article VII of this Act. Registration with the  
3 Division of Banking of the Department shall not affect the  
4 exempt status of the applicant.

5 (1) A mortgage loan originator eligible for licensure  
6 under this subsection shall (A) be covered under an  
7 exclusive written contract with, and originate residential  
8 mortgage loans solely on behalf of, that exempt person;  
9 and (B) hold a current, valid insurance producer license  
10 under Article XXXI of the Illinois Insurance Code.

11 (2) An exempt person shall: (A) fulfill any reporting  
12 requirements required by the Nationwide Multistate  
13 Licensing System and Registry or the Secretary; (B)  
14 provide a blanket surety bond pursuant to Section 7-12 of  
15 this Act covering the activities of all its sponsored  
16 mortgage loan originators; (C) reasonably supervise the  
17 activities of all its sponsored mortgage loan originators;  
18 (D) comply with all rules and orders (including the  
19 averments contained in Section 2-4 of this Act as  
20 applicable to a non-licensed exempt entity provided for in  
21 this Section) that the Secretary deems necessary to ensure  
22 compliance with the federal SAFE Act; and (E) pay an  
23 annual registration fee established by the Director.

24 (3) The Secretary may deny an exempt company  
25 registration to an exempt person or fine, suspend, or  
26 revoke an exempt company registration if the Secretary

1 finds one of the following:

2 (A) that the exempt person is not a person of  
3 honesty, truthfulness, or good character;

4 (B) that the exempt person violated any applicable  
5 law, rule, or order;

6 (C) that the exempt person refused or failed to  
7 furnish, within a reasonable time, any information or  
8 make any report that may be required by the Secretary;

9 (D) that the exempt person had a final judgment  
10 entered against him or her in a civil action on grounds  
11 of fraud, deceit, or misrepresentation, and the  
12 conduct on which the judgment is based indicates that  
13 it would be contrary to the interest of the public to  
14 permit the exempt person to manage a loan originator;

15 (E) that the exempt person had an order entered  
16 against him or her involving fraud, deceit, or  
17 misrepresentation by an administrative agency of this  
18 State, the federal government, or any other state or  
19 territory of the United States, and the facts relating  
20 to the order indicate that it would be contrary to the  
21 interest of the public to permit the exempt person to  
22 manage a loan originator;

23 (F) that the exempt person made a material  
24 misstatement or suppressed or withheld information on  
25 the application for an exempt company registration or  
26 any document required to be filed with the Secretary;

1           or

2                   (G) that the exempt person violated Section 4-5 of  
3           this Act.

4           (a-5) An entity that is exempt from licensure pursuant to  
5           item (7) of subsection (d) of Section 1-4 of this Act as an  
6           independent loan processing entity shall annually apply to the  
7           Secretary through the Nationwide Multistate Licensing System  
8           and Registry for an exempt company registration for the  
9           purpose of sponsoring one or more individuals subject to the  
10          mortgage loan originator licensing requirements of Article VII  
11          of this Act. A loan processor who performs clerical or support  
12          duties at the direction of and subject to the supervision and  
13          instruction of a licensed mortgage loan originator sponsored  
14          by an independent loan processing entity shall be exempt from  
15          his or her own licensing as a mortgage loan originator. An  
16          independent loan processing entity shall not be subject to  
17          examination by the Secretary. The Secretary may adopt rules to  
18          implement any provisions necessary for the administration of  
19          this subsection.

20          (b) No person, partnership, association, corporation, or  
21          other entity except a licensee under this Act or an entity  
22          exempt from licensing pursuant to Section 1-4, subsection (d),  
23          of this Act shall do any business under any name or title, or  
24          circulate or use any advertising or make any representation or  
25          give any information to any person, which indicates or  
26          reasonably implies activity within the scope of this Act.

1           (c) The Secretary may, through the Attorney General,  
2 request the circuit court of either Cook or Sangamon County to  
3 issue an injunction to restrain any person from violating or  
4 continuing to violate any of the foregoing provisions of this  
5 Section.

6           (d) When the Secretary has reasonable cause to believe  
7 that any entity which has not submitted an application for  
8 licensure is conducting any of the activities described in  
9 subsection (a) hereof, the Secretary shall have the power to  
10 examine all books and records of the entity and any additional  
11 documentation necessary in order to determine whether such  
12 entity should become licensed under this Act.

13           (d-1) The Secretary may issue orders against any person if  
14 the Secretary has reasonable cause to believe that an unsafe,  
15 unsound, or unlawful practice has occurred, is occurring, or  
16 is about to occur, if any person has violated, is violating, or  
17 is about to violate any law, rule, or written agreement with  
18 the Secretary, or for the purposes of administering the  
19 provisions of this Act and any rule adopted in accordance with  
20 this Act.

21           (e) Any person, partnership, association, corporation or  
22 other entity who violates any provision of this Section  
23 commits a business offense and shall be fined an amount not to  
24 exceed \$25,000. A mortgage loan brokered, funded, originated,  
25 serviced, or purchased by a party who is not licensed under  
26 this Section shall not be held to be invalid solely on the

1 basis of a violation under this Section. The changes made to  
2 this Section by Public Act 99-113 are declarative of existing  
3 law.

4 (f) Each person, partnership, association, corporation or  
5 other entity conducting activities regulated by this Act shall  
6 be issued one license. Each full service office, ~~place of~~  
7 ~~business or location~~ at which a residential mortgage licensee  
8 conducts any part of his or her business must be recorded with  
9 the Secretary pursuant to Section 2-8 of this Act.

10 (g) Licensees under this Act shall solicit, broker, fund,  
11 originate, service and purchase residential mortgage loans  
12 only in conformity with the provisions of this Act and such  
13 rules and regulations as may be promulgated by the Secretary.

14 (h) This Act applies to all entities doing business in  
15 Illinois as residential mortgage bankers, as defined by "An  
16 Act to provide for the regulation of mortgage bankers",  
17 approved September 15, 1977, as amended, regardless of whether  
18 licensed under that or any prior Act. Any existing residential  
19 mortgage lender or residential mortgage broker in Illinois  
20 whether or not previously licensed, must operate in accordance  
21 with this Act.

22 (i) This Act is a successor Act to and a continuance of the  
23 regulation of residential mortgage bankers provided in "An Act  
24 to provide for the regulation of mortgage bankers", approved  
25 September 15, 1977, as amended.

26 Entities and persons subject to the predecessor Act shall

1 be subject to this Act from and after its effective date.

2 (Source: P.A. 100-851, eff. 8-14-18; 100-1153, eff. 12-19-18;  
3 101-81, eff. 7-12-19.)

4 (205 ILCS 635/1-4)

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

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

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

20 (c) "Soliciting, processing, placing, or negotiating a  
21 residential mortgage loan" shall mean for compensation or  
22 gain, either directly or indirectly, accepting or offering  
23 to accept an application for a residential mortgage loan,  
24 assisting or offering to assist in the processing of an  
25 application for a residential mortgage loan on behalf of a



1 borrower, or negotiating or offering to negotiate the  
2 terms or conditions of a residential mortgage loan with a  
3 lender on behalf of a borrower including, but not limited  
4 to, the submission of credit packages for the approval of  
5 lenders, the preparation of residential mortgage loan  
6 closing documents, including a closing in the name of a  
7 broker.

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

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

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

16 (1.5) Any employee of a person or entity mentioned  
17 in item (1) of this subsection, when acting for such  
18 person or entity, or any registered mortgage loan  
19 originator when acting for an entity described in  
20 subsection (tt) of this Section.

21 (1.8) Any person or entity that does not originate  
22 mortgage loans in the ordinary course of business, but  
23 makes or acquires residential mortgage loans with his  
24 or her own funds for his or her or its own investment  
25 without intent to make, acquire, or resell more than 3  
26 residential mortgage loans in any one calendar year.

1 (2) (Blank).

2 (2.1) A bona fide nonprofit organization.

3 (2.2) An employee of a bona fide nonprofit  
4 organization when acting on behalf of that  
5 organization.

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

10 (4) (Blank).

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

20 (6) (Blank).

21 (7) Any entity engaged solely in providing loan  
22 processing services through the sponsoring of  
23 individuals acting pursuant to subsection (d) of  
24 Section 7-1A of this Act.

25 (e) "Licensee" or "residential mortgage licensee"  
26 shall mean a person, partnership, association,

1 corporation, or any other entity who or which is licensed  
2 pursuant to this Act to engage in the activities regulated  
3 by this Act.

4 (f) "Mortgage loan" "residential mortgage loan" or  
5 "home mortgage loan" shall mean any loan primarily for  
6 personal, family, or household use that is secured by a  
7 mortgage, deed of trust, or other equivalent consensual  
8 security interest on a dwelling as defined in Section  
9 103(v) of the federal Truth in Lending Act, or residential  
10 real estate upon which is constructed or intended to be  
11 constructed a dwelling.

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

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

25 (i) "Residential mortgage financing transaction" shall  
26 mean the negotiation, acquisition, sale, or arrangement

1 for or the offer to negotiate, acquire, sell, or arrange  
2 for, a residential mortgage loan or residential mortgage  
3 loan commitment.

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

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

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

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

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

24 (n-1) "Director" shall mean the Director of the  
25 Division of Banking of the Department of Financial and  
26 Professional Regulation, except that, beginning on July

1 31, 2009 (the effective date of Public Act 96-112), all  
2 references in this Act to the Director are deemed, in  
3 appropriate contexts, to be the Secretary of Financial and  
4 Professional Regulation, or his or her designee, including  
5 the Director of the Division of Banking of the Department  
6 of Financial and Professional Regulation.

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

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

26 (q) "Servicing" shall mean the collection or

1 remittance for or the right or obligation to collect or  
2 remit for any lender, noteowner, noteholder, or for a  
3 licensee's own account, of payments, interests, principal,  
4 and trust items such as hazard insurance and taxes on a  
5 residential mortgage loan in accordance with the terms of  
6 the residential mortgage loan; and includes loan payment  
7 follow-up, delinquency loan follow-up, loan analysis and  
8 any notifications to the borrower that are necessary to  
9 enable the borrower to keep the loan current and in good  
10 standing. "Servicing" includes management of third-party  
11 entities acting on behalf of a residential mortgage  
12 licensee for the collection of delinquent payments and the  
13 use by such third-party entities of said licensee's  
14 servicing records or information, including their use in  
15 foreclosure.

16 (r) "Full service office" shall mean an office,  
17 provided by the licensee and not subleased from the  
18 licensee's employees or independent contractors, and staff  
19 in Illinois reasonably adequate to handle efficiently  
20 communications, questions, and other matters relating to  
21 any application for, or an existing home mortgage secured  
22 by residential real estate situated in Illinois with  
23 respect to which the licensee is brokering, funding  
24 originating, purchasing, or servicing. The management and  
25 operation of each full service office must include  
26 observance of good business practices such as proper

1 signage; adequate, organized, and accurate books and  
2 records; ample phone lines, hours of business, staff  
3 training and supervision, and provision for a mechanism to  
4 resolve consumer inquiries, complaints, and problems. The  
5 Commissioner shall issue regulations with regard to these  
6 requirements and shall include an evaluation of compliance  
7 with this Section in his or her periodic examination of  
8 each licensee. "Full service office" does not include a  
9 remote location.

10 (s) "Purchasing" shall mean the purchase of  
11 conventional or government-insured mortgage loans secured  
12 by residential real estate situated in Illinois from  
13 either the lender or from the secondary market.

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

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

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

21 (1) obtain a residential mortgage loan for the  
22 borrower or assist the borrower in obtaining a  
23 residential mortgage loan; or

24 (2) consider making a residential mortgage loan to  
25 the borrower.

26 (w) "Advertisement" shall mean the attempt by



1 publication, dissemination, or circulation to induce,  
2 directly or indirectly, any person to enter into a  
3 residential mortgage loan agreement or residential  
4 mortgage loan brokerage agreement relative to a mortgage  
5 secured by residential real estate situated in Illinois.

6 (x) (Blank).

7 (y) "Government-insured mortgage loan" shall mean any  
8 mortgage loan made on the security of residential real  
9 estate insured by the Department of Housing and Urban  
10 Development or Farmers Home Loan Administration, or  
11 guaranteed by the Veterans Administration.

12 (z) "Annual audit" shall mean a certified audit of the  
13 licensee's books and records and systems of internal  
14 control performed by a certified public accountant in  
15 accordance with generally accepted accounting principles  
16 and generally accepted auditing standards.

17 (aa) "Financial institution" shall mean a savings and  
18 loan association, savings bank, credit union, or a bank  
19 organized under the laws of Illinois or a savings and loan  
20 association, savings bank, credit union or a bank  
21 organized under the laws of the United States and  
22 headquartered in Illinois.

23 (bb) "Escrow agent" shall mean a third party,  
24 individual or entity charged with the fiduciary obligation  
25 for holding escrow funds on a residential mortgage loan  
26 pending final payout of those funds in accordance with the

1 terms of the residential mortgage loan.

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

4 (dd) "Affiliate" shall mean:

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

10 (2) any entity:

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

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

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

25 (ee) "First tier subsidiary" shall be defined by  
26 regulation incorporating the comparable definitions used

1 by the Office of the Comptroller of the Currency and the  
2 Illinois Commissioner of Banks and Real Estate.

3 (ff) "Gross delinquency rate" means the quotient  
4 determined by dividing (1) the sum of (i) the number of  
5 government-insured residential mortgage loans funded or  
6 purchased by a licensee in the preceding calendar year  
7 that are delinquent and (ii) the number of conventional  
8 residential mortgage loans funded or purchased by the  
9 licensee in the preceding calendar year that are  
10 delinquent by (2) the sum of (i) the number of  
11 government-insured residential mortgage loans funded or  
12 purchased by the licensee in the preceding calendar year  
13 and (ii) the number of conventional residential mortgage  
14 loans funded or purchased by the licensee in the preceding  
15 calendar year.

16 (gg) "Delinquency rate factor" means the factor set by  
17 rule of the Commissioner that is multiplied by the average  
18 gross delinquency rate of licensees, determined annually  
19 for the immediately preceding calendar year, for the  
20 purpose of determining which licensees shall be examined  
21 by the Commissioner pursuant to subsection (b) of Section  
22 4-8 of this Act.

23 (hh) (Blank).

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

1 examination visitation, or investigation prepared by the  
2 state regulatory authority of another state that examines  
3 a licensee, any document or record prepared or obtained in  
4 connection with or relating to any examination,  
5 visitation, or investigation, and any record prepared or  
6 obtained by the Commissioner to the extent that the record  
7 summarizes or contains information derived from any  
8 report, document, or record described in this subsection.

9 "Confidential supervisory information" does not include  
10 any information or record routinely prepared by a licensee  
11 and maintained in the ordinary course of business or any  
12 information or record that is required to be made publicly  
13 available pursuant to State or federal law or rule.

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

17 (i) takes a residential mortgage loan application;

18 or

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

21 "Mortgage loan originator" includes an individual  
22 engaged in loan modification activities as defined in  
23 subsection (yy) of this Section. A mortgage loan  
24 originator engaged in loan modification activities shall  
25 report those activities to the Department of Financial and  
26 Professional Regulation in the manner provided by the

1 Department; however, the Department shall not impose a fee  
2 for reporting, nor require any additional qualifications  
3 to engage in those activities beyond those provided  
4 pursuant to this Act for mortgage loan originators.

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

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

16 "Mortgage loan originator" does not include a person  
17 or entity solely involved in extensions of credit relating  
18 to timeshare plans, as that term is defined in Section  
19 101(53D) of Title 11, United States Code.

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

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

26 (mm) "Immediate family member" means a spouse, child,

1 sibling, parent, grandparent, or grandchild, and includes  
2 step-parents, step-children, step-siblings, or adoptive  
3 relationships.

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

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

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

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

1 individual can or will perform any of the activities  
2 of a mortgage loan originator.

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

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

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

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

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

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

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

1 respect to any such transaction;

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

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

8 (tt) "Registered mortgage loan originator" means any  
9 individual that:

10 (1) meets the definition of mortgage loan  
11 originator and is an employee of:

12 (A) a depository institution;

13 (B) a subsidiary that is:

14 (i) owned and controlled by a depository  
15 institution; and

16 (ii) regulated by a federal banking  
17 agency; or

18 (C) an institution regulated by the Farm  
19 Credit Administration; and

20 (2) is registered with, and maintains a unique  
21 identifier through, the Nationwide Multistate  
22 Licensing System and Registry.

23 (uu) "Unique identifier" means a number or other  
24 identifier assigned by protocols established by the  
25 Nationwide Multistate Licensing System and Registry.

26 (vv) "Residential mortgage license" means a license



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

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

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

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

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

25 (aaa) "Bona fide nonprofit organization" means an  
26 organization that is described in Section 501(c)(3) of the

1 Internal Revenue Code, is exempt from federal income tax  
2 under Section 501(a) of the Internal Revenue Code, does  
3 not operate in a commercial context, and does all of the  
4 following:

5 (1) Promotes affordable housing or provides home  
6 ownership education or similar services.

7 (2) Conducts its activities in a manner that  
8 serves public or charitable purposes.

9 (3) Receives funding and revenue and charges fees  
10 in a manner that does not create an incentive for  
11 itself or its employees to act other than in the best  
12 interests of its clients.

13 (4) Compensates its employees in a manner that  
14 does not create an incentive for its employees to act  
15 other than in the best interests of its clients.

16 (5) Provides to, or identifies for, the borrower  
17 residential mortgage loans with terms favorable to the  
18 borrower and comparable to residential mortgage loans  
19 and housing assistance provided under government  
20 housing assistance programs.

21 (bbb) "Remote location" means a location other than a  
22 principal place of business or a full service office at  
23 which a mortgage loan originator of a licensee may conduct  
24 business.

25 The Commissioner may define by rule and regulation any  
26 terms used in this Act for the efficient and clear

1 administration of this Act.

2 (Source: P.A. 100-783, eff. 8-10-18; 100-851, eff. 8-14-18;  
3 100-1153, eff. 12-19-18; 101-81, eff. 7-12-19.)

4 (205 ILCS 635/3-11 new)

5 Sec. 3-11. Remote location operations. Licensees may allow  
6 mortgage loan originators to work from a remote location if:

7 (1) the licensee has written policies and procedures  
8 for the supervision of mortgage loan originators working  
9 from a remote location;

10 (2) access to company platforms and customer  
11 information is in accordance with the licensee's  
12 comprehensive written information security plan;

13 (3) no in-person customer interaction occurs at a  
14 mortgage originator's residence unless that residence is a  
15 licensed location;

16 (4) physical records are not maintained at a remote  
17 location;

18 (5) customer interactions and conversations about  
19 consumers will be in compliance with federal and State  
20 information security requirements, including applicable  
21 provisions under the federal Gramm-Leach-Bliley Act and  
22 the Safeguards Rule established by the Federal Trade  
23 Commission and set forth in 16 CFR Part 314, as such  
24 requirements may be amended from time to time;

25 (6) mortgage loan originators working at a remote

1 location access the company's secure systems, including a  
2 cloud-based system, directly from any out-of-office device  
3 the mortgage loan originator uses, including, but not  
4 limited to, a laptop, phone, desktop computer, or tablet,  
5 via a virtual private network or comparable system that  
6 ensures secure connectivity and requires passwords or  
7 other forms of authentication to access;

8 (7) the licensee ensures that appropriate security  
9 updates, patches, or other alterations to the security of  
10 all devices used at remote locations are installed and  
11 maintained;

12 (8) the licensee has an ability to remotely lock or  
13 erase company-related contents of any device or otherwise  
14 remotely limit all access to a company's secure systems;  
15 and

16 (9) the Nationwide Multistate Licensing System and  
17 Registry record of a loan originator that works from a  
18 remote location designates the principal place of business  
19 as the loan originator's registered location unless the  
20 loan originator elects another licensed branch office as a  
21 registered location.