



Sen. Terry Link

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LRB094 17958 MKM 55221 a

1 AMENDMENT TO SENATE BILL 2495

2 AMENDMENT NO. _____. Amend Senate Bill 2495 on page 12,
3 lines 25 and 26, by deleting ", other than for unappropriated
4 administrative expenses"; and

5 on page 22, lines 3 and 4, by deleting ", other than for
6 unappropriated administrative expenses"; and

7 on page 27, lines 17 and 18, by deleting ", other than for
8 unappropriated administrative expenses"; and

9 on page 28, immediately below line 22, by inserting the
10 following:

11 "Section 30. The Residential Mortgage License Act of 1987
12 is amended by changing Section 2-2, 2-6, and 4-1 as follows:

13 (205 ILCS 635/2-2) (from Ch. 17, par. 2322-2)

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

15 (a) The Commissioner shall issue a license upon completion
16 of all of the following:

17 (1) The filing of an application for license.

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

21 (3) The payment, in certified funds, of investigation

1 and application fees, the total of which shall be in an
2 amount equal to \$1,800 ~~\$2,700~~ annually, however, the
3 Commissioner may increase the investigation and
4 application fees by rule as provided in Section 4-11.

5 (4) Except for a broker applying to renew a license,
6 the filing of an audited balance sheet including all
7 footnotes prepared by a certified public accountant in
8 accordance with generally accepted accounting principles
9 and generally accepted auditing principles which evidences
10 that the applicant meets the net worth requirements of
11 Section 3-5.

12 (5) The filing of proof satisfactory to the
13 Commissioner that the applicant, the members thereof if the
14 applicant is a partnership or association, the members or
15 managers thereof that retain any authority or
16 responsibility under the operating agreement if the
17 applicant is a limited liability company, or the officers
18 thereof if the applicant is a corporation have 3 years
19 experience preceding application in real estate finance.
20 Instead of this requirement, the applicant and the
21 applicant's officers or members, as applicable, may
22 satisfactorily complete a program of education in real
23 estate finance and fair lending, as approved by the
24 Commissioner, prior to receiving the initial license. The
25 Commissioner shall promulgate rules regarding proof of
26 experience requirements and educational requirements and
27 the satisfactory completion of those requirements. The
28 Commissioner may establish by rule a list of duly licensed
29 professionals and others who may be exempt from this
30 requirement.

31 (6) An investigation of the averments required by
32 Section 2-4, which investigation must allow the
33 Commissioner to issue positive findings stating that the
34 financial responsibility, experience, character, and

1 general fitness of the license applicant and of the members
2 thereof if the license applicant is a partnership or
3 association, of the officers and directors thereof if the
4 license applicant is a corporation, and of the managers and
5 members that retain any authority or responsibility under
6 the operating agreement if the license applicant is a
7 limited liability company are such as to command the
8 confidence of the community and to warrant belief that the
9 business will be operated honestly, fairly and efficiently
10 within the purpose of this Act. If the Commissioner shall
11 not so find, he or she shall not issue such license, and he
12 or she shall notify the license applicant of the denial.

13 The Commissioner may impose conditions on a license if the
14 Commissioner determines that the conditions are necessary or
15 appropriate. These conditions shall be imposed in writing and
16 shall continue in effect for the period prescribed by the
17 Commissioner.

18 (b) All licenses shall be issued in duplicate with one copy
19 being transmitted to the license applicant and the second being
20 retained with the Commissioner.

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

26 (Source: P.A. 93-32, eff. 7-1-03; 93-1018, eff. 1-1-05.)

27 (205 ILCS 635/2-6) (from Ch. 17, par. 2322-6)

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

29 (a) Beginning July 1, 2003, licenses shall be renewed every
30 year on the anniversary of the date of issuance of the original
31 license. Properly completed renewal application forms and
32 filing fees must be received by the Commissioner 60 days prior
33 to the renewal date.

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

9 (1) A fee of \$500 ~~\$750~~ will be assessed to the licensee
10 30 days after the proper renewal date and \$1,000 ~~\$1,500~~
11 each month thereafter, until the license is either renewed
12 or expires pursuant to Section 2-6, subsections (c) and
13 (d), of this Act.

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

19 (c) A license which is not renewed by the date required in
20 this Section shall automatically become inactive. No activity
21 regulated by this Act shall be conducted by the licensee when a
22 license becomes inactive. The Commissioner may require the
23 licensee to provide a plan for the disposition of any
24 residential mortgage loans not closed or funded when the
25 license becomes inactive. The Commissioner may allow a licensee
26 with an inactive license to conduct activities regulated by
27 this Act for the sole purpose of assisting borrowers in the
28 closing or funding of loans for which the loan application was
29 taken from a borrower while the license was active. An inactive
30 license may be reactivated by the Commissioner upon payment of
31 the renewal fee, and payment of a reactivation fee equal to the
32 renewal fee.

33 (d) A license which is not renewed within one year of
34 becoming inactive shall expire.

1 (e) A licensee ceasing an activity or activities regulated
2 by this Act and desiring to no longer be licensed shall so
3 inform the Commissioner in writing and, at the same time,
4 convey the license and all other symbols or indicia of
5 licensure. The licensee shall include a plan for the withdrawal
6 from regulated business, including a timetable for the
7 disposition of the business. Upon receipt of such written
8 notice, the Commissioner shall issue a certified statement
9 canceling the license.

10 (Source: P.A. 93-32, eff. 7-1-03; 93-561, eff. 1-1-04; 93-1018,
11 eff. 1-1-05.)

12 (205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

13 Sec. 4-1. Commissioner of Banks and Real Estate; functions,
14 powers, and duties. The functions, powers, and duties of the
15 Commissioner of Banks and Real Estate shall include the
16 following:

17 (a) To issue or refuse to issue any license as provided by
18 this Act;

19 (b) To revoke or suspend for cause any license issued under
20 this Act;

21 (c) To keep records of all licenses issued under this Act;

22 (d) To receive, consider, investigate, and act upon
23 complaints made by any person in connection with any
24 residential mortgage licensee in this State;

25 (e) To consider and act upon any recommendations from the
26 Residential Mortgage Board;

27 (f) To prescribe the forms of and receive:

28 (1) applications for licenses; and

29 (2) all reports and all books and records required to
30 be made by any licensee under this Act, including annual
31 audited financial statements and annual reports of
32 mortgage activity;

33 (g) To adopt rules and regulations necessary and proper for

1 the administration of this Act;

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

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

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

21 (i) To require information with regard to any license
22 applicant as he or she may deem desirable, with due regard to
23 the paramount interests of the public as to the experience,
24 background, honesty, truthfulness, integrity, and competency
25 of the license applicant as to financial transactions involving
26 primary or subordinate mortgage financing, and where the
27 license applicant is an entity other than an individual, as to
28 the honesty, truthfulness, integrity, and competency of any
29 officer or director of the corporation, association, or other
30 entity, or the members of a partnership;

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

33 (k) To enforce provisions of this Act;

34 (l) To levy fees, fines, and charges for services performed

1 in administering this Act; the aggregate of all fees collected
2 by the Commissioner on and after the effective date of this Act
3 shall be paid promptly after receipt of the same, accompanied
4 by a detailed statement thereof, into the Savings and
5 Residential Finance Regulatory Fund; the amounts deposited
6 into that Fund shall be used for the ordinary and contingent
7 expenses of the Office of Banks and Real Estate. Nothing in
8 this Act shall prevent continuing the practice of paying
9 expenses involving salaries, retirement, social security, and
10 State-paid insurance of State officers by appropriation from
11 the General Revenue Fund. For the fiscal year beginning on July
12 1, 2007, the Commissioner must adopt rules to adjust regulatory
13 fee rates to those in effect prior to the escalation in rates
14 published in 27 Ill.Reg. 10783, July 1, 2003, unless an audit
15 by the Auditor General of banking regulatory oversight
16 activities requires a different rate to be set. Any adjustments
17 made pursuant to an Auditor General's audit must be set forth
18 in the form of a notice to each affected entity 45 days prior
19 to making those adjustments. The notice must contain an
20 explanation that includes a description of the audit results
21 pertaining to the banking industry and a description of each
22 reason why adjustments to the regulatory fee rates are
23 required.

24 (m) To appoint examiners, supervisors, experts, and
25 special assistants as needed to effectively and efficiently
26 administer this Act;

27 (n) To conduct hearings for the purpose of:

28 (1) appeals of orders of the Commissioner;

29 (2) suspensions or revocations of licenses, or fining
30 of licensees;

31 (3) investigating:

32 (i) complaints against licensees; or

33 (ii) annual gross delinquency rates; and

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

1 (o) To exercise exclusive visitorial power over a licensee
2 unless otherwise authorized by this Act or as vested in the
3 courts, or upon prior consultation with the Commissioner, a
4 foreign residential mortgage regulator with an appropriate
5 supervisory interest in the parent or affiliate of a licensee;

6 (p) To enter into cooperative agreements with state
7 regulatory authorities of other states to provide for
8 examination of corporate offices or branches of those states
9 and to accept reports of such examinations;

10 (q) To assign an examiner or examiners to monitor the
11 affairs of a licensee with whatever frequency the Commissioner
12 determines appropriate and to charge the licensee for
13 reasonable and necessary expenses of the Commissioner, if in
14 the opinion of the Commissioner an emergency exists or appears
15 likely to occur; and

16 (r) To impose civil penalties of up to \$50 per day against
17 a licensee for failing to respond to a regulatory request or
18 reporting requirement.

19 (Source: P.A. 93-1018, eff. 1-1-05.)".