

HB2316



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB2316

Introduced 2/18/2011, by Rep. Tom Cross

SYNOPSIS AS INTRODUCED:

205 ILCS 635/1-3

from Ch. 17, par. 2321-3

Amends the Residential Mortgage License Act of 1987. Makes a technical change in a Section concerning the necessity of obtaining a license.

LRB097 07457 CEL 47566 b

A BILL FOR

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 Section 1-3 as follows:

6 (205 ILCS 635/1-3) (from Ch. 17, par. 2321-3)

7 Sec. 1-3. Necessity for License; Scope of Act.

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

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

5 (b) No person, partnership, association, corporation, or
6 other entity except a licensee under this Act or an entity
7 exempt from licensing pursuant to Section 1-4, subsection (d),
8 of this Act shall do any business under any name or title, or
9 circulate or use any advertising or make any representation or
10 give any information to any person, which indicates or
11 reasonably implies activity within the scope of this Act.

12 (c) The Commissioner may, through the Attorney General,
13 request the circuit court of either Cook or Sangamon County to
14 issue an injunction to restrain any person from violating or
15 continuing to violate any of the foregoing provisions of this
16 Section.

17 (d) When the Commissioner has reasonable cause to believe
18 that any entity which has not submitted an application for
19 licensure is conducting any of the activities described in
20 subsection (a) hereof, the Commissioner shall have the power to
21 examine all books and records of the entity and any additional
22 documentation necessary in order to determine whether such
23 entity should become licensed under this Act.

24 (d-1) The Commissioner may issue orders against any person
25 if the Commissioner has reasonable cause to believe that an
26 unsafe, unsound, or unlawful practice has occurred, is

1 occurring, or is about to occur, if any person has violated, is
2 violating, or is about to violate any law, rule, or written
3 agreement with the Commissioner, or for the purposes of
4 administering the provisions of this Act and any rule adopted
5 in accordance with this Act.

6 (e) Any person, partnership, association, corporation or
7 other entity who violates any provision of this Section commits
8 a business offense and shall be fined an amount not to exceed
9 \$25,000.

10 (f) Each person, partnership, association, corporation or
11 other entity conducting activities regulated by this Act shall
12 be issued one license. Each office, place of business or
13 location at which a residential mortgage licensee conducts any
14 part of his or her business must be recorded with the
15 Commissioner pursuant to Section 2-8 of this Act.

16 (g) Licensees under this Act shall solicit, broker, fund,
17 originate, service and purchase residential mortgage loans
18 only in conformity with the provisions of this Act and such
19 rules and regulations as may be promulgated by the
20 Commissioner.

21 (h) This Act applies to all entities doing business in
22 Illinois as residential mortgage bankers, as defined by "An Act
23 to provide for the regulation of mortgage bankers", approved
24 September 15, 1977, as amended, regardless of whether licensed
25 under that or any prior Act. Any existing residential mortgage
26 lender or residential mortgage broker in Illinois whether or

1 not previously licensed, must operate in accordance with this
2 Act.

3 (i) This Act is a successor Act to and a continuance of the
4 regulation of residential mortgage bankers provided in, "An Act
5 to provide for the regulation of mortgage bankers", approved
6 September 15, 1977, as amended.

7 Entities and persons subject to the predecessor Act shall
8 be subject to this Act from and after its effective date.

9 (Source: P.A. 96-112, eff. 7-31-09; 96-1216, eff. 1-1-11.)