

HB1738



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB1738

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.

LRB098 06698 MGM 36744 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 Effective January 1, 2011, no provision of this Act shall
6 apply to an exempt person or entity as defined in item (1.8) of
7 subsection (d) of Section 1-4 of this Act. Notwithstanding
8 anything to the contrary in the preceding sentence, an
9 individual acting as a mortgage loan originator who is not
10 employed by and acting for an entity described in item (1) of
11 subsection (tt) of Section 1-4 of this Act shall be subject to
12 the mortgage loan originator licensing requirements of Article
13 VII of this Act, and provided that an individual acting as a
14 mortgage loan originator under item (1.8) of subsection (d) of
15 Section 1-4 of this Act shall be further subject to a
16 determination by the U.S. Department of Housing and Urban
17 Development through final rulemaking or other authorized
18 agency determination under the federal Secure and Fair
19 Enforcement for Mortgage Licensing Act of 2008.

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

21 (e) Any person, partnership, association, corporation or
22 other entity who violates any provision of this Section commits
23 a business offense and shall be fined an amount not to exceed
24 \$25,000.

25 (f) Each person, partnership, association, corporation or
26 other entity conducting activities regulated by this Act shall

1 be issued one license. Each office, place of business or
2 location at which a residential mortgage licensee conducts any
3 part of his or her business must be recorded with the
4 Commissioner pursuant to Section 2-8 of this Act.

5 (g) Licensees under this Act shall solicit, broker, fund,
6 originate, service and purchase residential mortgage loans
7 only in conformity with the provisions of this Act and such
8 rules and regulations as may be promulgated by the
9 Commissioner.

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

18 (i) This Act is a successor Act to and a continuance of the
19 regulation of residential mortgage bankers provided in, "An Act
20 to provide for the regulation of mortgage bankers", approved
21 September 15, 1977, as amended.

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

24 (Source: P.A. 96-112, eff. 7-31-09; 96-1216, eff. 1-1-11;
25 97-143, eff. 7-14-11.)