

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

1 who is not employed by and acting for an entity described in
2 item (1) of subsection (tt) of Section 1-4 of this Act shall be
3 subject to the mortgage loan originator licensing requirements
4 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 (a-1) A person who is exempt from licensure pursuant to
21 paragraph (ii) of item (1) of subsection (d) of Section 1-4 of
22 this Act as a federally chartered savings bank that is
23 registered with the Nationwide Multistate Mortgage Licensing
24 System and Registry may apply to the Secretary for an exempt
25 company registration for the purpose of sponsoring one or more
26 individuals subject to the mortgage loan originator licensing

1 requirements of Article VII of this Act. Registration with the
2 Division of Banking of the Department shall not affect the
3 exempt status of the applicant.

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

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

23 (3) The Secretary may deny an exempt company
24 registration to an exempt person or fine, suspend, or
25 revoke an exempt company registration if the Secretary
26 finds one of the following:

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

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

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

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

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

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

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

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

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

26 (c) The Secretary may, through the Attorney General,

1 request the circuit court of either Cook or Sangamon County to
2 issue an injunction to restrain any person from violating or
3 continuing to violate any of the foregoing provisions of this
4 Section.

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

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

19 (e) Any person, partnership, association, corporation or
20 other entity who violates any provision of this Section commits
21 a business offense and shall be fined an amount not to exceed
22 \$25,000. A mortgage loan brokered, funded, originated,
23 serviced, or purchased by a party who is not licensed under
24 this Section shall not be held to be invalid solely on the
25 basis of a violation under this Section. The changes made to
26 this Section by this amendatory Act of the 99th General

1 Assembly are declarative of existing law.

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

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

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

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

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

26 (Source: P.A. 98-492, eff. 8-16-13; 99-113, eff. 7-23-15.)

1 (205 ILCS 635/1-4)

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

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

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

17 (c) "Soliciting, processing, placing, or negotiating a
18 residential mortgage loan" shall mean for compensation or
19 gain, either directly or indirectly, accepting or offering
20 to accept an application for a residential mortgage loan,
21 assisting or offering to assist in the processing of an
22 application for a residential mortgage loan on behalf of a
23 borrower, or negotiating or offering to negotiate the terms
24 or conditions of a residential mortgage loan with a lender
25 on 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 person or entity" shall mean the following:

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

1 Illinois Banking Act by the Illinois Commissioner of
2 Banks and Real Estate, or the first tier subsidiary of
3 a bank chartered by the United States Comptroller of
4 the Currency and that has its principal place of
5 business in this State, provided that the first tier
6 subsidiary is regularly examined by the Illinois
7 Commissioner of Banks and Real Estate or the
8 Comptroller of the Currency, or a consumer compliance
9 examination is regularly conducted by the Federal
10 Reserve Board.

11 (1.5) Any employee of a person or entity mentioned
12 in item (1) of this subsection, when acting for such
13 person or entity, or any registered mortgage loan
14 originator when acting for an entity described in
15 subsection (tt) of this Section.

16 (1.8) Any person or entity that does not originate
17 mortgage loans in the ordinary course of business, but
18 makes or acquires residential mortgage loans with his
19 or her own funds for his or her or its own investment
20 without intent to make, acquire, or resell more than 3
21 residential mortgage loans in any one calendar year.

22 (2) (Blank).

23 (3) Any person employed by a licensee to assist in
24 the performance of the residential mortgage licensee's
25 activities regulated by this Act who is compensated in
26 any manner by only one licensee.

1 (4) (Blank).

2 (5) Any individual, corporation, partnership, or
3 other entity that originates, services, or brokers
4 residential mortgage loans, as these activities are
5 defined in this Act, and who or which receives no
6 compensation for those activities, subject to the
7 Commissioner's regulations and the federal Secure and
8 Fair Enforcement for Mortgage Licensing Act of 2008 and
9 the rules promulgated under that Act with regard to the
10 nature and amount of compensation.

11 (6) (Blank).

12 (7) Any entity engaged solely in providing loan
13 processing services through the sponsoring of
14 individuals acting pursuant to subsection (d) of
15 Section 7-1A of this Act.

16 (e) "Licensee" or "residential mortgage licensee"
17 shall mean a person, partnership, association,
18 corporation, or any other entity who or which is licensed
19 pursuant to this Act to engage in the activities regulated
20 by this Act.

21 (f) "Mortgage loan" "residential mortgage loan" or
22 "home mortgage loan" shall mean any loan primarily for
23 personal, family, or household use that is secured by a
24 mortgage, deed of trust, or other equivalent consensual
25 security interest on a dwelling as defined in Section
26 103(v) of the federal Truth in Lending Act, or residential

1 real estate upon which is constructed or intended to be
2 constructed a dwelling.

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

6 (h) "Ultimate equitable owner" shall mean a person who,
7 directly or indirectly, owns or controls an ownership
8 interest in a corporation, foreign corporation, alien
9 business organization, trust, or any other form of business
10 organization regardless of whether the person owns or
11 controls the ownership interest through one or more persons
12 or one or more proxies, powers of attorney, nominees,
13 corporations, associations, partnerships, trusts, joint
14 stock companies, or other entities or devices, or any
15 combination thereof.

16 (i) "Residential mortgage financing transaction" shall
17 mean the negotiation, acquisition, sale, or arrangement
18 for or the offer to negotiate, acquire, sell, or arrange
19 for, a residential mortgage loan or residential mortgage
20 loan commitment.

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

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

25 (l) "Party to a residential mortgage financing
26 transaction" shall mean a borrower, lender, or loan broker

1 in a residential mortgage financing transaction.

2 (m) "Payments" shall mean payment of all or any of the
3 following: principal, interest and escrow reserves for
4 taxes, insurance and other related reserves, and
5 reimbursement for lender advances.

6 (n) "Commissioner" shall mean the Commissioner of
7 Banks and Real Estate, except that, beginning on April 6,
8 2009 (the effective date of Public Act 95-1047), all
9 references in this Act to the Commissioner of Banks and
10 Real Estate are deemed, in appropriate contexts, to be
11 references to the Secretary of Financial and Professional
12 Regulation, or his or her designee, including the Director
13 of the Division of Banking of the Department of Financial
14 and Professional Regulation.

15 (n-1) "Director" shall mean the Director of the
16 Division of Banking of the Department of Financial and
17 Professional Regulation, except that, beginning on July
18 31, 2009 (the effective date of Public Act 96-112), all
19 references in this Act to the Director are deemed, in
20 appropriate contexts, to be the Secretary of Financial and
21 Professional Regulation, or his or her designee, including
22 the Director of the Division of Banking of the Department
23 of Financial and Professional Regulation.

24 (o) "Loan brokering", "brokering", or "brokerage
25 service" shall mean the act of helping to obtain from
26 another entity, for a borrower, a loan secured by

1 residential real estate situated in Illinois or assisting a
2 borrower in obtaining a loan secured by residential real
3 estate situated in Illinois in return for consideration to
4 be paid by either the borrower or the lender including, but
5 not limited to, contracting for the delivery of residential
6 mortgage loans to a third party lender and soliciting,
7 processing, placing, or negotiating residential mortgage
8 loans.

9 (p) "Loan broker" or "broker" shall mean a person,
10 partnership, association, corporation, or limited
11 liability company, other than those persons, partnerships,
12 associations, corporations, or limited liability companies
13 exempted from licensing pursuant to Section 1-4,
14 subsection (d), of this Act, who performs the activities
15 described in subsections (c), (o), and (yy) of this
16 Section.

17 (q) "Servicing" shall mean the collection or
18 remittance for or the right or obligation to collect or
19 remit for any lender, noteowner, noteholder, or for a
20 licensee's own account, of payments, interests, principal,
21 and trust items such as hazard insurance and taxes on a
22 residential mortgage loan in accordance with the terms of
23 the residential mortgage loan; and includes loan payment
24 follow-up, delinquency loan follow-up, loan analysis and
25 any notifications to the borrower that are necessary to
26 enable the borrower to keep the loan current and in good

1 standing. "Servicing" includes management of third-party
2 entities acting on behalf of a residential mortgage
3 licensee for the collection of delinquent payments and the
4 use by such third-party entities of said licensee's
5 servicing records or information, including their use in
6 foreclosure.

7 (r) "Full service office" shall mean an office,
8 provided by the licensee and not subleased from the
9 licensee's employees, and staff in Illinois reasonably
10 adequate to handle efficiently communications, questions,
11 and other matters relating to any application for, or an
12 existing home mortgage secured by residential real estate
13 situated in Illinois with respect to which the licensee is
14 brokering, funding originating, purchasing, or servicing.
15 The management and operation of each full service office
16 must include observance of good business practices such as
17 proper signage; adequate, organized, and accurate books
18 and records; ample phone lines, hours of business, staff
19 training and supervision, and provision for a mechanism to
20 resolve consumer inquiries, complaints, and problems. The
21 Commissioner shall issue regulations with regard to these
22 requirements and shall include an evaluation of compliance
23 with this Section in his or her periodic examination of
24 each licensee.

25 (s) "Purchasing" shall mean the purchase of
26 conventional or government-insured mortgage loans secured

1 by residential real estate situated in Illinois from either
2 the lender or from the secondary market.

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

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

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

10 (1) obtain a residential mortgage loan for the
11 borrower or assist the borrower in obtaining a
12 residential mortgage loan; or

13 (2) consider making a residential mortgage loan to
14 the borrower.

15 (w) "Advertisement" shall mean the attempt by
16 publication, dissemination, or circulation to induce,
17 directly or indirectly, any person to enter into a
18 residential mortgage loan agreement or residential
19 mortgage loan brokerage agreement relative to a mortgage
20 secured by residential real estate situated in Illinois.

21 (x) "Residential Mortgage Board" shall mean the
22 Residential Mortgage Board created in Section 1-5 of this
23 Act.

24 (y) "Government-insured mortgage loan" shall mean any
25 mortgage loan made on the security of residential real
26 estate insured by the Department of Housing and Urban

1 Development or Farmers Home Loan Administration, or
2 guaranteed by the Veterans Administration.

3 (z) "Annual audit" shall mean a certified audit of the
4 licensee's books and records and systems of internal
5 control performed by a certified public accountant in
6 accordance with generally accepted accounting principles
7 and generally accepted auditing standards.

8 (aa) "Financial institution" shall mean a savings and
9 loan association, savings bank, credit union, or a bank
10 organized under the laws of Illinois or a savings and loan
11 association, savings bank, credit union or a bank organized
12 under the laws of the United States and headquartered in
13 Illinois.

14 (bb) "Escrow agent" shall mean a third party,
15 individual or entity charged with the fiduciary obligation
16 for holding escrow funds on a residential mortgage loan
17 pending final payout of those funds in accordance with the
18 terms of the residential mortgage loan.

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

21 (dd) "Affiliate" shall mean:

22 (1) any entity that directly controls or is
23 controlled by the licensee and any other company that
24 is directly affecting activities regulated by this Act
25 that is controlled by the company that controls the
26 licensee;

1 (2) any entity:

2 (A) that is controlled, directly or
3 indirectly, by a trust or otherwise, by or for the
4 benefit of shareholders who beneficially or
5 otherwise control, directly or indirectly, by
6 trust or otherwise, the licensee or any company
7 that controls the licensee; or

8 (B) a majority of the directors or trustees of
9 which constitute a majority of the persons holding
10 any such office with the licensee or any company
11 that controls the licensee;

12 (3) any company, including a real estate
13 investment trust, that is sponsored and advised on a
14 contractual basis by the licensee or any subsidiary or
15 affiliate of the licensee.

16 (ee) "First tier subsidiary" shall be defined by
17 regulation incorporating the comparable definitions used
18 by the Office of the Comptroller of the Currency and the
19 Illinois Commissioner of Banks and Real Estate.

20 (ff) "Gross delinquency rate" means the quotient
21 determined by dividing (1) the sum of (i) the number of
22 government-insured residential mortgage loans funded or
23 purchased by a licensee in the preceding calendar year that
24 are delinquent and (ii) the number of conventional
25 residential mortgage loans funded or purchased by the
26 licensee in the preceding calendar year that are delinquent

1 by (2) the sum of (i) the number of government-insured
2 residential mortgage loans funded or purchased by the
3 licensee in the preceding calendar year and (ii) the number
4 of conventional residential mortgage loans funded or
5 purchased by the licensee in the preceding calendar year.

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

13 (hh) "Loan originator" means any natural person who,
14 for compensation or in the expectation of compensation,
15 either directly or indirectly makes, offers to make,
16 solicits, places, or negotiates a residential mortgage
17 loan. This definition applies only to Section 7-1 of this
18 Act.

19 (ii) "Confidential supervisory information" means any
20 report of examination, visitation, or investigation
21 prepared by the Commissioner under this Act, any report of
22 examination visitation, or investigation prepared by the
23 state regulatory authority of another state that examines a
24 licensee, any document or record prepared or obtained in
25 connection with or relating to any examination,
26 visitation, or investigation, and any record prepared or

1 obtained by the Commissioner to the extent that the record
2 summarizes or contains information derived from any
3 report, document, or record described in this subsection.
4 "Confidential supervisory information" does not include
5 any information or record routinely prepared by a licensee
6 and maintained in the ordinary course of business or any
7 information or record that is required to be made publicly
8 available pursuant to State or federal law or rule.

9 (jj) "Mortgage loan originator" means an individual
10 who for compensation or gain or in the expectation of
11 compensation or gain:

12 (i) takes a residential mortgage loan application;

13 or

14 (ii) offers or negotiates terms of a residential
15 mortgage loan.

16 "Mortgage loan originator" includes an individual
17 engaged in loan modification activities as defined in
18 subsection (yy) of this Section. A mortgage loan originator
19 engaged in loan modification activities shall report those
20 activities to the Department of Financial and Professional
21 Regulation in the manner provided by the Department;
22 however, the Department shall not impose a fee for
23 reporting, nor require any additional qualifications to
24 engage in those activities beyond those provided pursuant
25 to this Act for mortgage loan originators.

26 "Mortgage loan originator" does not include an

1 individual engaged solely as a loan processor or
2 underwriter except as otherwise provided in subsection (d)
3 of Section 7-1A of this Act.

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

11 "Mortgage loan originator" does not include a person or
12 entity solely involved in extensions of credit relating to
13 timeshare plans, as that term is defined in Section
14 101(53D) of Title 11, United States Code.

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

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

21 (mm) "Immediate family member" means a spouse, child,
22 sibling, parent, grandparent, or grandchild, and includes
23 step-parents, step-children, step-siblings, or adoptive
24 relationships.

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

26 (oo) "Loan processor or underwriter" means an

1 individual who performs clerical or support duties as an
2 employee at the direction of and subject to the supervision
3 and instruction of a person licensed, or exempt from
4 licensing, under this Act. "Clerical or support duties"
5 includes subsequent to the receipt of an application:

6 (i) the receipt, collection, distribution, and
7 analysis of information common for the processing or
8 underwriting of a residential mortgage loan; and

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

23 (pp) "Nationwide Mortgage Licensing System and
24 Registry" means a mortgage licensing system developed and
25 maintained by the Conference of State Bank Supervisors and
26 the American Association of Residential Mortgage

1 Regulators for the licensing and registration of licensed
2 mortgage loan originators.

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

5 (rr) "Person" means a natural person, corporation,
6 company, limited liability company, partnership, or
7 association.

8 (ss) "Real estate brokerage activity" means any
9 activity that involves offering or providing real estate
10 brokerage services to the public, including:

11 (1) acting as a real estate agent or real estate
12 broker for a buyer, seller, lessor, or lessee of real
13 property;

14 (2) bringing together parties interested in the
15 sale, purchase, lease, rental, or exchange of real
16 property;

17 (3) negotiating, on behalf of any party, any
18 portion of a contract relating to the sale, purchase,
19 lease, rental, or exchange of real property, other than
20 in connection with providing financing with respect to
21 any such transaction;

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

26 (5) offering to engage in any activity, or act in

1 any capacity, described in this subsection (ss).

2 (tt) "Registered mortgage loan originator" means any
3 individual that:

4 (1) meets the definition of mortgage loan
5 originator and is an employee of:

6 (A) a depository institution;

7 (B) a subsidiary that is:

8 (i) owned and controlled by a depository
9 institution; and

10 (ii) regulated by a federal banking
11 agency; or

12 (C) an institution regulated by the Farm
13 Credit Administration; and

14 (2) is registered with, and maintains a unique
15 identifier through, the Nationwide Mortgage Licensing
16 System and Registry.

17 (uu) "Unique identifier" means a number or other
18 identifier assigned by protocols established by the
19 Nationwide Mortgage Licensing System and Registry.

20 (vv) "Residential mortgage license" means a license
21 issued pursuant to Section 1-3, 2-2, or 2-6 of this Act.

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

25 (xx) "Secretary" means the Secretary of the Department
26 of Financial and Professional Regulation, or a person

1 authorized by the Secretary or by this Act to act in the
2 Secretary's stead.

3 (yy) "Loan modification" means, for compensation or
4 gain, either directly or indirectly offering or
5 negotiating on behalf of a borrower or homeowner to adjust
6 the terms of a residential mortgage loan in a manner not
7 provided for in the original or previously modified
8 mortgage loan.

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

19 The Commissioner may define by rule and regulation any
20 terms used in this Act for the efficient and clear
21 administration of this Act.

22 (Source: P.A. 98-749, eff. 7-16-14; 98-1081, eff. 1-1-15;
23 99-78, eff. 7-20-15.)

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