



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB1342

by Rep. Joe Sosnowski

#### SYNOPSIS AS INTRODUCED:

815 ILCS 137/10

Amends the High Risk Home Loan Act. Excludes loans made under the Veteran's Administration Interest Rate Reduction Refinancing Loan program or the Federal Housing Administration 203b Streamline Refinancing Loan Program from the scope of the Act.

LRB098 04153 MLW 34176 b

1 AN ACT concerning lending practices.

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

4 Section 5. The High Risk Home Loan Act is amended by  
5 changing Section 10 as follows:

6 (815 ILCS 137/10)

7 Sec. 10. Definitions. As used in this Act:

8 "Approved credit counselor" means a credit counselor  
9 approved by the Director of Financial Institutions.

10 "Bona fide discount points" means loan discount points that  
11 are knowingly paid by the consumer for the purpose of reducing,  
12 and that in fact result in a bona fide reduction of, the  
13 interest rate or time price differential applicable to the  
14 mortgage.

15 "Borrower" means a natural person who seeks or obtains a  
16 high risk home loan.

17 "Commissioner" means the Commissioner of the Office of  
18 Banks and Real Estate.

19 "Department" means the Department of Financial  
20 Institutions.

21 "Director" means the Director of Financial Institutions.

22 "Good faith" means honesty in fact in the conduct or  
23 transaction concerned.

1 "High risk home loan" means a consumer credit transaction,  
2 other than a reverse mortgage, that is secured by the  
3 consumer's principal dwelling if: (i) at the time of  
4 origination, the annual percentage rate exceeds by more than 6  
5 percentage points in the case of a first lien mortgage, or by  
6 more than 8 percentage points in the case of a junior mortgage,  
7 the average prime offer rate, as defined in Section  
8 129C(b)(2)(B) of the federal Truth in Lending Act, for a  
9 comparable transaction as of the date on which the interest  
10 rate for the transaction is set, (ii) the loan documents permit  
11 the creditor to charge or collect prepayment fees or penalties  
12 more than 36 months after the transaction closing or such fees  
13 exceed, in the aggregate, more than 2% of the amount prepaid,  
14 or (iii) the total points and fees payable in connection with  
15 the transaction, other than bona fide third-party charges not  
16 retained by the mortgage originator, creditor, or an affiliate  
17 of the mortgage originator or creditor, will exceed (1) 5% of  
18 the total loan amount in the case of a transaction for \$20,000  
19 or more or (2) the lesser of 8% of the total loan amount or  
20 \$1,000 (or such other dollar amount as prescribed by federal  
21 regulation pursuant to the federal Dodd-Frank Act) in the case  
22 of a transaction for less than \$20,000, except that, with  
23 respect to all transactions, bona fide loan discount points may  
24 be excluded as provided for in Section 35 of this Act. "High  
25 risk home loan" does not include a loan that is made primarily  
26 for a business purpose unrelated to the residential real

1 property securing the loan, ~~or~~ a consumer credit transaction  
2 made by a natural person who provides seller financing secured  
3 by a principal residence no more than 3 times in a 12-month  
4 period, provided such consumer credit transaction is not made  
5 by a person that has constructed or acted as a contractor for  
6 the construction of the residence in the ordinary course of  
7 business of such person, or a loan made under the Veteran's  
8 Administration Interest Rate Reduction Refinancing Loan  
9 program or the Federal Housing Administration 203b Streamline  
10 Refinancing Loan Program.

11 "Lender" means a natural or artificial person who  
12 transfers, deals in, offers, or makes a high risk home loan.

13 "Lender" includes, but is not limited to, creditors and brokers  
14 who transfer, deal in, offer, or make high risk home loans.

15 "Lender" does not include purchasers, assignees, or subsequent  
16 holders of high risk home loans.

17 "Office" means the Office of Banks and Real Estate.

18 "Points and fees" means all items considered to be points  
19 and fees under 12 CFR 226.32 (2000, or as initially amended  
20 pursuant to Section 1431 of the federal Dodd-Frank Act with no  
21 subsequent amendments or editions included, whichever is  
22 later); compensation paid directly or indirectly by a consumer  
23 or creditor to a mortgage broker from any source, including a  
24 broker that originates a loan in its own name in a table-funded  
25 transaction, not otherwise included in 12 CFR 226.4; the  
26 maximum prepayment fees and penalties that may be charged or

1 collected under the terms of the credit transaction; all  
2 prepayment fees or penalties that are incurred by the consumer  
3 if the loan refinances a previous loan made or currently held  
4 by the same creditor or an affiliate of the creditor; and  
5 premiums or other charges payable at or before closing or  
6 financed directly or indirectly into the loan for any credit  
7 life, credit disability, credit unemployment, credit property,  
8 other accident, loss of income, life, or health insurance or  
9 payments directly or indirectly for any debt cancellation or  
10 suspension agreement or contract, except that insurance  
11 premiums or debt cancellation or suspension fees calculated and  
12 paid in full on a monthly basis shall not be considered  
13 financed by the creditor. "Points and fees" does not include  
14 any insurance premium provided by an agency of the federal  
15 government or an agency of a state; any insurance premium paid  
16 by the consumer after closing; and any amount of a premium,  
17 charge, or fee that is not in excess of the amount payable  
18 under policies in effect at the time of origination under  
19 Section 203(c)(2)(A) of the National Housing Act (12 U.S.C.  
20 1709(c)(2)(A)), provided that the premium, charge, or fee is  
21 required to be refundable on a pro-rated basis and the refund  
22 is automatically issued upon notification of the satisfaction  
23 of the underlying mortgage loan.

24 "Reasonable" means fair, proper, just, or prudent under the  
25 circumstances.

26 "Servicer" means any entity chartered under the Illinois

1 Banking Act, the Savings Bank Act, the Illinois Credit Union  
2 Act, or the Illinois Savings and Loan Act of 1985 and any  
3 person or entity licensed under the Residential Mortgage  
4 License Act of 1987, the Consumer Installment Loan Act, or the  
5 Sales Finance Agency Act who is responsible for the collection  
6 or remittance for, or has the right or obligation to collect or  
7 remit for, any lender, note owner, or note holder or for a  
8 licensee's own account, of payments, interest, principal, and  
9 trust items (such as hazard insurance and taxes on a  
10 residential mortgage loan) in accordance with the terms of the  
11 residential mortgage loan, including loan payment follow-up,  
12 delinquency loan follow-up, loan analysis, and any  
13 notifications to the borrower that are necessary to enable the  
14 borrower to keep the loan current and in good standing.

15 "Total loan amount" has the same meaning as that term is  
16 given in 12 CFR 226.32 and shall be calculated in accordance  
17 with the Federal Reserve Board's Official Staff Commentary to  
18 that regulation.

19 (Source: P.A. 97-849, eff. 1-1-13.)