

AN ACT concerning property.

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

Section 5. The Mortgage Escrow Account Act is amended by adding Section 6.5 as follows:

(765 ILCS 910/6.5 new)

Sec. 6.5. Homeownership preservation program.

(a) For purposes of this Section,

"Homeownership Preservation Program" means

(1) a program that is expressly intended to assist homeowners by refinancing or restructuring existing mortgage obligations either (i) to avoid default or foreclosure, or both, or (ii) to lower interest rates, and that is sponsored by a federal, state, or local government authority or a non-profit organization; or

(2) a lender-sponsored program that is expressly intended to assist homeowners by restructuring existing mortgage obligations to avoid default or foreclosure, or both.

"Subprime Mortgage Lender" means a mortgage lender that has, for at least 2 of the prior 3 reporting years, reported the rate spread, as required under 12 C.F.R. § 203.4(a)(12), for at least 75% of the loans reported by the mortgage lender

in the Loan/Application Register filed in compliance with the federal Home Mortgage Disclosure Act, 12 U.S.C. 2801 et seq., and implementing Regulation C, 12 C.F.R. 201 et seq.

(b) Section 6 shall not apply:

(1) to a mortgage loan made by a subprime mortgage lender in compliance with the requirements for higher-priced mortgage loans established in Regulation Z 12 C.F.R. Part 226, issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending Act, whether or not the mortgage loan is a higher-priced mortgage loan, provided that:

(A) for loans that are not higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower; and

(B) for loans that are higher-priced mortgage loans, the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(i) the escrow termination requirements established in Regulation Z are satisfied;

(ii) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(iii) the borrower has reimbursed the mortgage

lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request.

(2) to a refinance or modification made by a subprime mortgage lender under a homeownership preservation program that requires establishment of an escrow account as a condition or requirement of the refinance or modification, provided that the escrow account must be terminated upon the borrower's request at no cost to the borrower on terms no stricter than the following conditions:

(A) termination is permitted under the terms of the government or non-profit sponsored homeownership preservation program, if applicable, and the borrower complies with all conditions or requirements for termination established by or allowed under such program;

(B) the borrower has maintained a satisfactory payment history (no payments more than 30 days late) for the 12 months prior to the mortgage lender's receipt of the borrower's termination request; and

(C) the borrower has reimbursed the mortgage lender for any escrow advances or escrow deficiencies existing at the time of the borrower's termination request.

Termination may not be denied for failure to reimburse escrow advances or escrow deficiencies under item (iii) of

subparagraph (B) of paragraph (1) of subsection (b), or subparagraph (C) of paragraph (2) of subsection (b) if the borrower claims, in writing, that there is an error with such advances or deficiencies. In such case, the lender must terminate the escrow account if all other conditions of termination are satisfied; however, such termination will not alter or affect any other rights of the mortgage lender or the borrower with respect to the collection of such escrow advances or escrow deficiencies.

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