

AN ACT concerning regulation.

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

Section 5. The State Finance Act is amended by changing Sections 5.214, 5.805, and 8.12 as follows:

(30 ILCS 105/5.214) (from Ch. 127, par. 141.214)

Sec. 5.214. The ~~Savings and~~ Residential Finance Regulatory Fund.

(Source: P.A. 85-1209; 86-1213.)

(30 ILCS 105/5.805)

Sec. 5.805. The Savings Bank ~~Institutions~~ Regulatory Fund.  
(Source: P.A. 97-492, eff. 1-1-12; 97-813, eff. 7-13-12.)

(30 ILCS 105/8.12) (from Ch. 127, par. 144.12)

Sec. 8.12. State Pensions Fund.

(a) The moneys in the State Pensions Fund shall be used exclusively for the administration of the Uniform Disposition of Unclaimed Property Act and for the expenses incurred by the Auditor General for administering the provisions of Section 2-8.1 of the Illinois State Auditing Act and for the funding of the unfunded liabilities of the designated retirement systems. Beginning in State fiscal year 2015, payments to the designated

retirement systems under this Section shall be in addition to, and not in lieu of, any State contributions required under the Illinois Pension Code.

"Designated retirement systems" means:

- (1) the State Employees' Retirement System of Illinois;
- (2) the Teachers' Retirement System of the State of Illinois;
- (3) the State Universities Retirement System;
- (4) the Judges Retirement System of Illinois; and
- (5) the General Assembly Retirement System.

(b) Each year the General Assembly may make appropriations from the State Pensions Fund for the administration of the Uniform Disposition of Unclaimed Property Act.

Each month, the Commissioner of the Office of Banks and Real Estate shall certify to the State Treasurer the actual expenditures that the Office of Banks and Real Estate incurred conducting unclaimed property examinations under the Uniform Disposition of Unclaimed Property Act during the immediately preceding month. Within a reasonable time following the acceptance of such certification by the State Treasurer, the State Treasurer shall pay from its appropriation from the State Pensions Fund to the Bank and Trust Company Fund, the Savings Bank Regulatory Fund, and the ~~Savings and~~ Residential Finance Regulatory Fund an amount equal to the expenditures incurred by each Fund for that month.

Each month, the Director of Financial Institutions shall certify to the State Treasurer the actual expenditures that the Department of Financial Institutions incurred conducting unclaimed property examinations under the Uniform Disposition of Unclaimed Property Act during the immediately preceding month. Within a reasonable time following the acceptance of such certification by the State Treasurer, the State Treasurer shall pay from its appropriation from the State Pensions Fund to the Financial Institution Fund and the Credit Union Fund an amount equal to the expenditures incurred by each Fund for that month.

(c) As soon as possible after the effective date of this amendatory Act of the 93rd General Assembly, the General Assembly shall appropriate from the State Pensions Fund (1) to the State Universities Retirement System the amount certified under Section 15-165 during the prior year, (2) to the Judges Retirement System of Illinois the amount certified under Section 18-140 during the prior year, and (3) to the General Assembly Retirement System the amount certified under Section 2-134 during the prior year as part of the required State contributions to each of those designated retirement systems; except that amounts appropriated under this subsection (c) in State fiscal year 2005 shall not reduce the amount in the State Pensions Fund below \$5,000,000. If the amount in the State Pensions Fund does not exceed the sum of the amounts certified in Sections 15-165, 18-140, and 2-134 by at least \$5,000,000,

the amount paid to each designated retirement system under this subsection shall be reduced in proportion to the amount certified by each of those designated retirement systems.

(c-5) For fiscal years 2006 through 2014, the General Assembly shall appropriate from the State Pensions Fund to the State Universities Retirement System the amount estimated to be available during the fiscal year in the State Pensions Fund; provided, however, that the amounts appropriated under this subsection (c-5) shall not reduce the amount in the State Pensions Fund below \$5,000,000.

(c-6) For fiscal year 2015 and each fiscal year thereafter, as soon as may be practical after any money is deposited into the State Pensions Fund from the Unclaimed Property Trust Fund, the State Treasurer shall apportion the deposited amount among the designated retirement systems as defined in subsection (a) to reduce their actuarial reserve deficiencies. The State Comptroller and State Treasurer shall pay the apportioned amounts to the designated retirement systems to fund the unfunded liabilities of the designated retirement systems. The amount apportioned to each designated retirement system shall constitute a portion of the amount estimated to be available for appropriation from the State Pensions Fund that is the same as that retirement system's portion of the total actual reserve deficiency of the systems, as determined annually by the Governor's Office of Management and Budget at the request of the State Treasurer. The amounts apportioned under this

subsection shall not reduce the amount in the State Pensions Fund below \$5,000,000.

(d) The Governor's Office of Management and Budget shall determine the individual and total reserve deficiencies of the designated retirement systems. For this purpose, the Governor's Office of Management and Budget shall utilize the latest available audit and actuarial reports of each of the retirement systems and the relevant reports and statistics of the Public Employee Pension Fund Division of the Department of Insurance.

(d-1) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the Comptroller shall direct and the Treasurer shall transfer from the State Pensions Fund to the General Revenue Fund, as funds become available, a sum equal to the amounts that would have been paid from the State Pensions Fund to the Teachers' Retirement System of the State of Illinois, the State Universities Retirement System, the Judges Retirement System of Illinois, the General Assembly Retirement System, and the State Employees' Retirement System of Illinois after the effective date of this amendatory Act during the remainder of fiscal year 2004 to the designated retirement systems from the appropriations provided for in this Section if the transfers provided in Section 6z-61 had not occurred. The transfers described in this subsection (d-1) are to partially repay the General Revenue Fund for the costs associated with the bonds

used to fund the moneys transferred to the designated retirement systems under Section 6z-61.

(e) The changes to this Section made by this amendatory Act of 1994 shall first apply to distributions from the Fund for State fiscal year 1996.

(Source: P.A. 97-72, eff. 7-1-11; 97-732, eff. 6-30-12; 98-24, eff. 6-19-13; 98-463, eff. 8-16-13.)

Section 10. The Illinois Banking Act is amended by changing Section 71 as follows:

(205 ILCS 5/71) (from Ch. 17, par. 383)

Sec. 71. Voluntary dissolution; fees and expenses  
~~Commissioner's fee.~~

(a) Any bank that elects to dissolve voluntarily under this Act shall pay to the Secretary a fee, which shall be paid upon the Secretary's receipt of the bank's statement of intent. The Secretary shall prescribe by rule the amount of such fee.

(b) All expenses incurred by the Secretary in connection with the voluntary dissolution of any bank shall be paid by the dissolving State bank. The expenses incurred under this subsection shall be deemed to be a liability of the dissolving bank.

~~The Commissioner shall be entitled to a fee, which shall be paid at the time of deposit, on all money deposited with him for the account of one dissolving bank of two per cent of the~~

~~first five thousand dollars and one per cent of all sums in excess of five thousand dollars.~~

(Source: Laws 1965, p. 2020.)

(205 ILCS 105/Act rep.)

Section 15. The Illinois Savings and Loan Act of 1985 is repealed.

Section 20. The Savings Bank Act is amended by changing Sections 1007.130, 4008, 9002, and 9002.5 and by adding Sections 1007.150 and 9002.1 and Articles 12.1 and 12.2 as follows:

(205 ILCS 205/1007.130)

Sec. 1007.130. Out-of-state savings bank. "Out-of-state savings bank" means a savings bank or an association chartered under the laws of a state other than Illinois, a territory of the United States, or the District of Columbia.

(Source: P.A. 93-965, eff. 8-20-04.)

(205 ILCS 205/1007.150 new)

Sec. 1007.150. Applicability of other Acts. Whenever the term "savings and loan", "building and loan", "mutual building loan and homestead", or "building loan and homestead" or other similar name is used with reference to an association organized for the purposes of associations incorporated under the

Illinois Savings and Loan Act of 1985 or a similar Act, such reference shall be applicable to a savings bank operating under this Act. Whenever in any Act the term "members", "shareholders", or "investors" is used in connection with such associations, however named, the same shall refer to members and holders of capital of savings banks operating under this Act.

(205 ILCS 205/4008) (from Ch. 17, par. 7304-8)

Sec. 4008. Directors. The business and affairs of the savings bank shall be exercised by its elected board of directors. The board of directors shall consist of the number of directors fixed by the bylaws, but shall not be fewer than 5. No more than 40% of the directors shall be salaried employees of the savings bank, except that a higher percentage may be allowed with the prior written approval of the Commissioner. ~~At least two thirds of the directors shall be residents of this State.~~

(Source: P.A. 90-301, eff. 8-1-97.)

(205 ILCS 205/9002) (from Ch. 17, par. 7309-2)

Sec. 9002. Powers of Secretary. The Secretary shall have the following powers and duties:

(1) To exercise the rights, powers, and duties set forth in this Act or in any related Act.

(2) To establish regulations as may be reasonable or



necessary to accomplish the purposes of this Act.

(3) To make an annual report regarding the work of his office under this Act as he may consider desirable to the Governor, or as the Governor may request.

(4) To cause a suit to be filed in his name to enforce any law of this State that applies to savings banks, their service corporations, subsidiaries, affiliates, or holding companies operating under this Act, including the enforcement of any obligation of the officers, directors, agents, or employees of any savings bank.

(5) To prescribe a uniform manner in which the books and records of every savings bank are to be maintained.

(6) To establish a reasonable fee structure for savings banks and holding companies operating under this Act and for their service corporations and subsidiaries. The fees shall include, but not be limited to, annual fees, application fees, regular and special examination fees, and other fees as the Secretary establishes and demonstrates to be directly resultant from the Secretary's responsibilities under this Act and as are directly attributable to individual entities operating under this Act. The aggregate of all moneys collected by the Secretary on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the Savings Bank Regulatory Fund established under Section 9002.1 of this

~~Act. Savings and Residential Finance Regulatory Fund~~  
~~subject to the provisions of Section 7-19.1 of the Illinois~~  
~~Savings and Loan Act of 1985 including without limitation~~  
~~the provision for credits against regulatory fees. The~~  
~~amounts deposited into the Fund shall be used for the~~  
~~ordinary and contingent expenses of the Office of Banks and~~  
~~Real Estate. Notwithstanding any other provision of this~~  
~~paragraph (6), the aggregate of all moneys collected by the~~  
~~Secretary under this Act shall be paid promptly after~~  
~~receipt of same, accompanied by a detailed statement~~  
~~thereof, into the Savings Institutions Regulatory Fund~~  
~~upon the creation of that fund under Section 7-19.2 of the~~  
~~Illinois Savings and Loan Act of 1985, subject to the~~  
~~provisions of Section 7-19.2 of the Illinois Savings and~~  
~~Loan Act of 1985, including without limitation the~~  
~~provision for credits against regulatory fees. The amounts~~  
~~deposited into the Savings Institutions Regulatory Fund~~  
~~under this paragraph (6) shall be used for the ordinary and~~  
~~contingent expenses of administering and enforcing this~~  
~~Act.~~ Nothing in this Act shall prevent continuing the  
practice of paying expenses involving salaries,  
retirement, social security, and State-paid insurance of  
State officers by appropriation from the General Revenue  
Fund. The Secretary may require payment of the fees under  
this Act by an electronic transfer of funds or an automatic  
debit of an account of each of the savings banks.

(Source: P.A. 96-1365, eff. 7-28-10; 97-492, eff. 1-1-12.)

(205 ILCS 205/9002.1 new)

Sec. 9002.1. Savings Bank Regulatory Fund.

(a) The aggregate of all moneys collected by the Secretary under this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the State treasury and shall be set apart in the Savings Bank Regulatory Fund. All earnings received from investments of funds in the Savings Bank Regulatory Fund shall be deposited into the Savings Bank Regulatory Fund and may be used for the same purposes as fees deposited into the Savings Bank Regulatory Fund. The amount from time to time deposited into the Fund shall be used (i) to offset the ordinary administration expenses as defined in subsection (c) of this Section or (ii) as a credit against fees under subsection (b) of this Section. Nothing in this Section shall prevent continuing the practice of paying expenses involving salaries, retirement, Social Security, and State paid insurance premiums of State officers by appropriation from the General Revenue Fund. However, the General Revenue Fund shall be reimbursed for those payments made by an annual transfer of funds from the Savings Bank Regulatory Fund. Money in the Savings Bank Regulatory Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil

Administrative Code of Illinois.

(b) Adequate funds shall be available in the Savings Bank Regulatory Fund to permit the timely payment of administration expenses. In each fiscal year, the total administration expenses shall be deducted from the total fees collected by the Secretary and the remainder transferred into the Cash Flow Reserve Account, unless the balance of the Cash Flow Reserve Account prior to the transfer equals or exceeds one-fourth of the total initial appropriations from the Savings Bank Regulatory Fund for the subsequent year, in which case the remainder shall be credited to savings banks and applied against their fees for the subsequent year. The amount credited to each savings bank shall be in the same proportion as the regulatory fees paid by each for the year bear to the total regulatory fees collected for the year. If, after a transfer to the Cash Flow Reserve Account is made or if no remainder is available for transfer, the balance of the Cash Flow Reserve Account is less than one-fourth of the total initial appropriations for the subsequent year and the amount transferred is less than 5% of the total regulatory fees for the year, additional amounts needed to make the transfer equal to 5% of the total regulatory fees for the year shall be apportioned amongst, assessed upon, and paid by savings banks in the same proportion that the regulatory fees of each, respectively, for the year bear to the total regulatory fees collected for the year. The additional amounts assessed shall

be transferred into the Cash Flow Reserve Account.

(c) For purposes of this Section, the following terms shall have the following meanings:

"Administration expenses", for any fiscal year, means the ordinary and contingent expenses for that year incident to making the examinations provided for by, and for otherwise administering, this Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State, including the Secretary and the Director of the Division, communication equipment and services, office furnishings, surety bond premiums, and travel expenses of those officers and employees, expenditures or charges for the acquisition, enlargement or improvement of, or for the use of, any office space, building, or structure, or expenditures for the maintenance thereof or for furnishing heat, light, or power with respect thereto, all to the extent that those expenditures are directly incidental to such examinations or administration. The Secretary shall not be required by this subsection to maintain in any fiscal year's budget appropriated reserves for accrued vacation and accrued sick leave that is required to be paid to employees of the Secretary upon termination of their service with the Secretary in an amount that is more than is reasonably anticipated to be necessary for any anticipated turnover in employees, whether due to normal attrition or due to layoffs, terminations, or resignations.

"Regulatory fees" includes both fees collected under Section 9002.5 and fees collected for examinations conducted by the Secretary or his examiners or designees under authority of this Act.

"Fiscal year" means a period beginning July 1 of any year and ending June 30 of the next year.

(205 ILCS 205/9002.5)

Sec. 9002.5. Regulatory fees.

(a) For the fiscal year beginning July 1, 2007 and every year thereafter, each savings bank and each service corporation operating under this Act shall pay a fixed fee of \$520, plus a variable fee based on the total assets of the savings bank or service corporation at the following rates:

24.97¢ per \$1,000 of the first \$2,000,000 of total assets;

22.70¢ per \$1,000 of the next \$3,000,000 of total assets;

20.43¢ per \$1,000 of the next \$5,000,000 of total assets;

17.025¢ per \$1,000 of the next \$15,000,000 of total assets;

14.755¢ per \$1,000 of the next \$25,000,000 of total assets;

12.485¢ per \$1,000 of the next \$50,000,000 of total assets;

10.215¢ per \$1,000 of the next \$400,000,000 of total assets;

6.81¢ per \$1,000 of the next \$500,000,000 of total assets; and

4.54¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.

(b) The Secretary shall receive and there shall be paid to the Secretary an additional fee as an adjustment to the supervisory fee, based upon the difference between the total assets of each savings bank and each service corporation as shown by its financial report filed with the Secretary for the reporting period of the calendar year ended December 31 on which the supervisory fee was based and the total assets of each savings bank and each service corporation as shown by its financial report filed with the Secretary for the reporting period of the calendar year ended December 31 in which the quarterly payments are made according to the following schedule:

24.97¢ per \$1,000 of the first \$2,000,000 of total assets;

22.70¢ per \$1,000 of the next \$3,000,000 of total assets;

20.43¢ per \$1,000 of the next \$5,000,000 of total assets;

17.025¢ per \$1,000 of the next \$15,000,000 of total

assets;

14.755¢ per \$1,000 of the next \$25,000,000 of total

assets;

12.485¢ per \$1,000 of the next \$50,000,000 of total

assets;

10.215¢ per \$1,000 of the next \$400,000,000 of total

assets;

6.81¢ per \$1,000 of the next \$500,000,000 of total

assets; and

4.54¢ per \$1,000 of all total assets in excess of \$1,000,000,000 of such savings bank or service corporation.

(c) The Secretary shall receive and there shall be paid to the Secretary by each savings bank and each service corporation a fee of \$520 for each approved branch office or facility office established under the Illinois Administrative Code. The determination of the fees shall be made annually as of the close of business of the prior calendar year ended December 31.

(d) The Secretary shall receive for each fiscal year, commencing with the fiscal year ending June 30, 2014, a contingent fee equal to the lesser of the aggregate of the fees paid by all savings banks under subsections (a), (b), and (c) of this Section for that year, or the amount, if any, whereby the aggregate of the administration expenses, as defined in subsection (c) of Section 9002.1 of this Act, for that fiscal year exceeds the sum of the aggregate of the fees payable by



all savings banks for that year under subsections (a), (b), and (c) of this Section, plus any amounts transferred into the Savings Bank Regulatory Fund from the State Pensions Fund for that year, plus all other amounts collected by the Secretary for that year under any other provision of this Act. The aggregate amount of the contingent fee thus arrived at for any fiscal year shall be apportioned amongst, assessed upon, and paid by the savings banks, respectively, in the same proportion that the fee of each under subsections (a), (b), and (c) of this Section, respectively, for that year bears to the aggregate for that year of the fees collected under subsections (a), (b), and (c) of this Section. The aggregate amount of the contingent fee, and the portion thereof to be assessed upon each savings bank, respectively, shall be determined by the Secretary and shall be paid by each, respectively, within 120 days of the close of the period for which the contingent fee is computed and is payable, and the Secretary shall give 20 days advance notice of the amount of the contingent fee payable by the savings bank and of the date fixed by the Secretary for payment of the fee.

(Source: P.A. 95-1047, eff. 4-6-09.)

(205 ILCS 205/Art. 12.1 heading new)

ARTICLE 12.1. Effect of Repeal of Illinois  
Savings and Loan Act of 1985

(205 ILCS 205/12101 new)

Sec. 12101. Effect of repeal. This Article sets forth the effect of and means of transition necessitated by the repeal of the Illinois Savings and Loan Act of 1985.

(205 ILCS 205/12102 new)

Sec. 12102. Effect on special funds.

(a) The Savings and Residential Finance Regulatory Fund established under Section 7-19.1 of the Illinois Savings and Loan Act of 1985 is hereby redesignated the Residential Finance Regulatory Fund. The fund shall continue in existence under the Illinois Residential Mortgage License Act of 1987 without interruption and shall retain all moneys therein, except moneys required to be transferred or returned from Savings and Residential Finance Regulatory Fund, now designated the Residential Finance Regulatory Fund, to the Savings Institutions Regulatory Fund, now designated the Savings Bank Regulatory Fund, pursuant to subsection (e) of Section 7-19.2 of the Illinois Savings and Loan Act of 1985, shall continue to be required to be transferred or returned to the Savings Institutions Regulatory Fund, now designated the Savings Bank Regulatory Fund, as if subsection (e) of Section 7-19.2 of the Illinois Savings and Loan Act of 1985 had not been repealed.

(b) The Savings Institutions Regulatory Fund established under Section 7-19.2 of the Illinois Savings and Loan Act of 1985 is hereby redesignated the Savings Bank Regulatory Fund.

The fund shall continue in existence under Section 9002.1 of this Act without interruption and shall retain all moneys therein.

(205 ILCS 205/12103 new)

Sec. 12103. Effect on foreign associations.

(a) Any existing foreign association shall be deemed to be an out-of-state savings bank under this Act.

(b) Notwithstanding any other provision of this Act, an existing foreign association may retain any branch or office in the State that properly existed in the State at the time of the repeal of the Illinois Savings and Loan Act of 1985, and continue to engage in the same activities in the State therefrom as were engaged in immediately prior to the repeal of the Illinois Savings and Loan Act, without further application or notice to or approval of the Secretary.

(c) An existing foreign association may retain a representative office in the State that properly existed in the State at the time of the repeal of the Illinois Savings and Loan Act of 1985, provided that the foreign association obtains a license under the Foreign Bank Representative Office Act.

(205 ILCS 205/12104 new)

Sec. 12104. Effect on the Board of Savings Institutions.

The Board of Savings Institutions is hereby redesignated as the Board of Savings Banks. The Board shall continue to operate

without interruption and as if it had been originally established under Article 12.2 of this Act. The current members of the Board of Savings Institutions shall continue to serve the balance of their terms. Thereafter, the Board of Savings Institutions shall be composed of members as required by Section 12202 of this Act.

(205 ILCS 205/12105 new)

Sec. 12105. Applicability of other Acts. Whenever in any Act the term "savings and loan", "building and loan", "mutual building loan and homestead", or "building loan and homestead" or other similar name is used with reference to an association organized for the purposes of associations incorporated under the Illinois Savings and Loan Act of 1985 or a similar Act, such reference shall be applicable to a savings bank operating under this Act. Whenever in any Act the term "members", "shareholders", or "investors" is used in connection with such associations, however named, the same shall refer to members and holders of capital of savings banks operating under this Act.

(205 ILCS 205/Art. 12.2 heading new)

ARTICLE 12.2. Board of Savings Banks

(205 ILCS 205/12201 new)

Sec. 12201. Board of Savings Banks; appointment. The Board

of Savings Bank is established pursuant to Section 12104 of this Act. The Board of Savings Banks shall be composed of the Director of Banking, who shall be its chairperson and have the power to vote, and 7 persons appointed by the Governor. Two of the 7 persons appointed by the Governor shall represent the public interest and the remainder shall have been engaged actively in savings bank or savings and loan management in this State for at least 5 years immediately prior to appointment. Each member of the Board appointed by the Governor shall be reimbursed for ordinary and necessary expenses incurred in attending the meetings of the Board. Members, excluding the chairperson, shall be appointed for 4-year terms to expire on the third Monday in January. Except as otherwise provided in this Section, members of the Board shall serve until their respective successors are appointed and qualified. A member who tenders a written resignation shall serve only until the resignation is accepted by the chairperson. A member who fails to attend 3 consecutive Board meetings without an excused absence shall no longer serve as a member. The Governor shall fill any vacancy by the appointment of a member for the unexpired term in the same manner as in the making of original appointments.

(205 ILCS 205/12202 new)

Sec. 12202. Board of Savings Banks; organization and meetings. The Board shall elect a vice chairperson and

secretary of the Board; shall adopt by-laws for the holding and conducting of meetings and appointing officers and committees; and shall keep a record of all meetings and transactions and make such other provisions for the daily conduct of its business as it deems necessary. A majority of the members of the Board, excluding those members who are no longer serving as members as provided in Section 12201 of this Act, shall constitute a quorum. The act of the majority of the members of the Board present at a meeting at which a quorum is present shall be the act of the Board. Regular meetings shall be held as provided in the by-laws, and special meetings may be called by the chairperson or upon the request of any 3 members of the Board or the Secretary. The Board shall maintain at the office of the Secretary permanent records of its meetings, hearings, and decisions. The Secretary shall provide adequate quarters and personnel for use by the Board.

(205 ILCS 205/12203 new)

Sec. 12203. Board of Savings Banks; powers. The Board shall have the power to:

(a) advise the Governor and Secretary on all matters relating to the regulation of savings banks; and

(b) advise the Governor on legislation proposed to amend this Act or any related Act.

(205 ILCS 205/1007.70 rep.)

(205 ILCS 205/9017 rep.)

Section 25. The Savings Bank Act is amended by repealing Sections 1007.70 and 9017.

Section 30. The Residential Mortgage License Act of 1987 is amended by changing Sections 1-4, 2-2, 2-4, 3-2, and 4-1 and by adding Section 4-1.5 as follows:

(205 ILCS 635/1-4)

Sec. 1-4. Definitions.

(a) "Residential real property" or "residential real estate" shall mean any real property located in Illinois, upon which is constructed or intended to be constructed a dwelling.

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

(c) "Soliciting, processing, placing, or negotiating a residential mortgage loan" shall mean for compensation or gain, either directly or indirectly, accepting or offering to accept an application for a residential mortgage loan, assisting or offering to assist in the processing of an application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a

borrower including, but not limited to, the submission of credit packages for the approval of lenders, the preparation of residential mortgage loan closing documents, including a closing in the name of a broker.

(d) "Exempt person or entity" shall mean the following:

(1) (i) Any banking organization or foreign banking corporation licensed by the Illinois Commissioner of Banks and Real Estate or the United States Comptroller of the Currency to transact business in this State; (ii) any national bank, federally chartered savings and loan association, federal savings bank, federal credit union; (iii) (blank); ~~any pension trust, bank trust, or bank trust company;~~ (iv) any bank, savings and loan association, savings bank, or credit union organized under the laws of this or any other state; (v) any Illinois Consumer Installment Loan Act licensee; (vi) any insurance company authorized to transact business in this State; (vii) any entity engaged solely in commercial mortgage lending; (viii) any service corporation of a savings and loan association or savings bank organized under the laws of this State or the service corporation of a federally chartered savings and loan association or savings bank having its principal place of business in this State, other than a service corporation licensed or entitled to reciprocity under the Real Estate License Act of 2000; or (ix) any first tier subsidiary of a bank, the charter of



which is issued under the Illinois Banking Act by the Illinois Commissioner of Banks and Real Estate, or the first tier subsidiary of a bank chartered by the United States Comptroller of the Currency and that has its principal place of business in this State, provided that the first tier subsidiary is regularly examined by the Illinois Commissioner of Banks and Real Estate or the Comptroller of the Currency, or a consumer compliance examination is regularly conducted by the Federal Reserve Board.

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

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

(2) (Blank).

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

(4) (Blank).

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

(6) (Blank).

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

(f) "Mortgage loan" "residential mortgage loan" or "home mortgage loan" shall mean any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling as defined in Section 103(v) of the federal Truth in Lending Act, or residential real estate upon which is constructed or intended to be constructed a dwelling.

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

(h) "Ultimate equitable owner" shall mean a person who, directly or indirectly, owns or controls an ownership interest

in a corporation, foreign corporation, alien business organization, trust, or any other form of business organization regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies, or other entities or devices, or any combination thereof.

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

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

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

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

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

(n) "Commissioner" shall mean the Commissioner of Banks and Real Estate, except that, beginning on April 6, 2009 (the effective date of Public Act 95-1047), all references in this

Act to the Commissioner of Banks and Real Estate are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation, or his or her designee, including the Director of the Division of Banking of the Department of Financial and Professional Regulation.

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

(o) "Loan brokering", "brokering", or "brokerage service" shall mean the act of helping to obtain from another entity, for a borrower, a loan secured by residential real estate situated in Illinois or assisting a borrower in obtaining a loan secured by residential real estate situated in Illinois in return for consideration to be paid by either the borrower or the lender including, but not limited to, contracting for the delivery of residential mortgage loans to a third party lender and soliciting, processing, placing, or negotiating residential mortgage loans.

(p) "Loan broker" or "broker" shall mean a person, partnership, association, corporation, or limited liability

company, other than those persons, partnerships, associations, corporations, or limited liability companies exempted from licensing pursuant to Section 1-4, subsection (d), of this Act, who performs the activities described in subsections (c), (o), and (yy) of this Section.

(q) "Servicing" shall mean the collection or remittance for or the right or obligation to collect or remit for any lender, noteowner, noteholder, or for a licensee's own account, of payments, interests, principal, and trust items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan; and includes loan payment follow-up, delinquency loan follow-up, loan analysis and any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing. "Servicing" includes management of third-party entities acting on behalf of a residential mortgage licensee for the collection of delinquent payments and the use by such third-party entities of said licensee's servicing records or information, including their use in foreclosure.

(r) "Full service office" shall mean an office, provided by the licensee and not subleased from the licensee's employees, and staff in Illinois reasonably adequate to handle efficiently communications, questions, and other matters relating to any application for, or an existing home mortgage secured by residential real estate situated in Illinois with respect to which the licensee is brokering, funding originating,

purchasing, or servicing. The management and operation of each full service office must include observance of good business practices such as proper signage; adequate, organized, and accurate books and records; ample phone lines, hours of business, staff training and supervision, and provision for a mechanism to resolve consumer inquiries, complaints, and problems. The Commissioner shall issue regulations with regard to these requirements and shall include an evaluation of compliance with this Section in his or her periodic examination of each licensee.

(s) "Purchasing" shall mean the purchase of conventional or government-insured mortgage loans secured by residential real estate situated in Illinois from either the lender or from the secondary market.

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

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

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

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

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

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

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

(y) "Government-insured mortgage loan" shall mean any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or Farmers Home Loan Administration, or guaranteed by the Veterans Administration.

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

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

(bb) "Escrow agent" shall mean a third party, individual or entity charged with the fiduciary obligation for holding escrow funds on a residential mortgage loan pending final payout of

those funds in accordance with the terms of the residential mortgage loan.

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

(dd) "Affiliate" shall mean:

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

(2) any entity:

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

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

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

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



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

(ff) "Gross delinquency rate" means the quotient determined by dividing (1) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by a licensee in the preceding calendar year that are delinquent and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year that are delinquent by (2) the sum of (i) the number of government-insured residential mortgage loans funded or purchased by the licensee in the preceding calendar year and (ii) the number of conventional residential mortgage loans funded or purchased by the licensee in the preceding calendar year.

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

(hh) "Loan originator" means any natural person who, for compensation or in the expectation of compensation, either directly or indirectly makes, offers to make, solicits, places,

or negotiates a residential mortgage loan. This definition applies only to Section 7-1 of this Act.

(ii) "Confidential supervisory information" means any report of examination, visitation, or investigation prepared by the Commissioner under this Act, any report of examination visitation, or investigation prepared by the state regulatory authority of another state that examines a licensee, any document or record prepared or obtained in connection with or relating to any examination, visitation, or investigation, and any record prepared or obtained by the Commissioner to the extent that the record summarizes or contains information derived from any report, document, or record described in this subsection. "Confidential supervisory information" does not include any information or record routinely prepared by a licensee and maintained in the ordinary course of business or any information or record that is required to be made publicly available pursuant to State or federal law or rule.

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

- (i) takes a residential mortgage loan application; or
- (ii) offers or negotiates terms of a residential mortgage loan.

"Mortgage loan originator" includes an individual engaged in loan modification activities as defined in subsection (yy) of this Section. A mortgage loan originator engaged in loan

modification activities shall report those activities to the Department of Financial and Professional Regulation in the manner provided by the Department; however, the Department shall not impose a fee for reporting, nor require any additional qualifications to engage in those activities beyond those provided pursuant to this Act for mortgage loan originators.

"Mortgage loan originator" does not include an individual engaged solely as a loan processor or underwriter except as otherwise provided in subsection (d) of Section 7-1A of this Act.

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

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

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

(ll) "Dwelling" means a residential structure or mobile

home which contains one to 4 family housing units, or individual units of condominiums or cooperatives.

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

(nn) "Individual" means a natural person.

(oo) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, under this Act. "Clerical or support duties" includes subsequent to the receipt of an application:

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

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms. An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate

lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(pp) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of licensed mortgage loan originators.

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

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

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

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

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

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

(4) engaging in any activity for which a person engaged

in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; or

(5) offering to engage in any activity, or act in any capacity, described in this subsection (ss).

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

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

(A) a depository institution;

(B) a subsidiary that is:

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

(ii) regulated by a federal banking agency; or

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

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

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

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

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

(xx) "Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary or by this Act to act in the Secretary's stead.

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

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

(Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10; 96-1216, eff. 1-1-11; 97-143, eff. 7-14-11; 97-891, eff. 8-3-12.)

(205 ILCS 635/2-2)

Sec. 2-2. Application process; investigation; fee.

(a) The Secretary shall issue a license upon completion of

all of the following:

(1) The filing of an application for license with the Director or the Nationwide Mortgage Licensing System and Registry as approved by the Director.

(2) The filing with the Secretary of a listing of judgments entered against, and bankruptcy petitions by, the license applicant for the preceding 10 years.

(3) The payment, in certified funds, of investigation and application fees, the total of which shall be in an amount equal to \$2,700 annually. To comply with the common renewal date and requirements of the Nationwide Mortgage Licensing System and Registry, the term of initial licenses may be extended or shortened with applicable fees prorated or combined accordingly.

(4) Except for a broker applying to renew a license, the filing of an audited balance sheet including all footnotes prepared by a certified public accountant in accordance with generally accepted accounting principles and generally accepted auditing standards ~~principles~~ which evidences that the applicant meets the net worth requirements of Section 3-5. Notwithstanding the requirements of this subsection, an applicant that is a subsidiary may submit audited consolidated financial statements of its parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements which include the applicant's



financial statement. If the consolidating statements are unaudited, the applicant's chief financial officer shall attest to the applicant's financial statements disclosed in the consolidating statements.

(5) The filing of proof satisfactory to the Commissioner that the applicant, the members thereof if the applicant is a partnership or association, the members or managers thereof that retain any authority or responsibility under the operating agreement if the applicant is a limited liability company, or the officers thereof if the applicant is a corporation have 3 years experience preceding application in real estate finance. Instead of this requirement, the applicant and the applicant's officers or members, as applicable, may satisfactorily complete a program of education in real estate finance and fair lending, as approved by the Commissioner, prior to receiving the initial license. The Commissioner shall promulgate rules regarding proof of experience requirements and educational requirements and the satisfactory completion of those requirements. The Commissioner may establish by rule a list of duly licensed professionals and others who may be exempt from this requirement.

(6) An investigation of the averments required by Section 2-4, which investigation must allow the Commissioner to issue positive findings stating that the

financial responsibility, experience, character, and general fitness of the license applicant and of the members thereof if the license applicant is a partnership or association, of the officers and directors thereof if the license applicant is a corporation, and of the managers and members that retain any authority or responsibility under the operating agreement if the license applicant is a limited liability company are such as to command the confidence of the community and to warrant belief that the business will be operated honestly, fairly and efficiently within the purpose of this Act. If the Commissioner shall not so find, he or she shall not issue such license, and he or she shall notify the license applicant of the denial.

The Commissioner may impose conditions on a license if the Commissioner determines that the conditions are necessary or appropriate. These conditions shall be imposed in writing and shall continue in effect for the period prescribed by the Commissioner.

(b) All licenses shall be issued to the license applicant.

Upon receipt of such license, a residential mortgage licensee shall be authorized to engage in the business regulated by this Act. Such license shall remain in full force and effect until it expires without renewal, is surrendered by the licensee or revoked or suspended as hereinafter provided.

(Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10; 97-891, eff. 8-3-12.)

(205 ILCS 635/2-4) (from Ch. 17, par. 2322-4)

Sec. 2-4. Averments of Licensee. Each application for license ~~or for the renewal of a license~~ shall be accompanied by the following averments stating that the applicant:

(a) Will maintain at least one full service office within the State of Illinois pursuant to Section 3-4 of this Act;

(b) Will maintain staff reasonably adequate to meet the requirements of Section 3-4 of this Act;

(c) Will keep and maintain for 36 months the same written records as required by the federal Equal Credit Opportunity Act, and any other information required by regulations of the Commissioner regarding any home mortgage in the course of the conduct of its residential mortgage business;

(d) Will file with the Commissioner or Nationwide Mortgage Licensing System and Registry as applicable, when due, any report or reports which it is required to file under any of the provisions of this Act;

(e) Will not engage, whether as principal or agent, in the practice of rejecting residential mortgage applications without reasonable cause, or varying terms or application procedures without reasonable cause, for home mortgages on real estate within any specific geographic area from the terms or procedures generally provided by the

licensee within other geographic areas of the State;

(f) Will not engage in fraudulent home mortgage underwriting practices;

(g) Will not make payment, whether directly or indirectly, of any kind to any in house or fee appraiser of any government or private money lending agency with which an application for a home mortgage has been filed for the purpose of influencing the independent judgment of the appraiser with respect to the value of any real estate which is to be covered by such home mortgage;

(h) Has filed tax returns (State and Federal) for the past 3 years or filed with the Commissioner an accountant's or attorney's statement as to why no return was filed;

(i) Will not engage in any discrimination or redlining activities prohibited by Section 3-8 of this Act;

(j) Will not knowingly make any false promises likely to influence or persuade, or pursue a course of misrepresentation and false promises through agents, solicitors, advertising or otherwise;

(k) Will not knowingly misrepresent, circumvent or conceal, through whatever subterfuge or device, any of the material particulars or the nature thereof, regarding a transaction to which it is a party to the injury of another party thereto;

(l) Will disburse funds in accordance with its agreements;

(m) Has not committed a crime against the law of this State, any other state or of the United States, involving moral turpitude, fraudulent or dishonest dealing, and that no final judgment has been entered against it in a civil action upon grounds of fraud, misrepresentation or deceit which has not been previously reported to the Commissioner;

(n) Will account or deliver to the owner upon request any personal property such as money, fund, deposit, check, draft, mortgage, other document or thing of value which it is not in law or equity entitled to retain under the circumstances;

(o) Has not engaged in any conduct which would be cause for denial of a license;

(p) Has not become insolvent;

(q) Has not submitted an application for a license under this Act which contains a material misstatement;

(r) Has not demonstrated by course of conduct, negligence or incompetence in performing any act for which it is required to hold a license under this Act;

(s) Will advise the Commissioner in writing, or the Nationwide Mortgage Licensing System and Registry as applicable, of any changes to the information submitted on the most recent application for license or averments of record within 30 days of said change. The written notice must be signed in the same form as the application for license being amended;

(t) Will comply with the provisions of this Act, or with any lawful order, rule or regulation made or issued under the provisions of this Act;

(u) Will submit to periodic examination by the Commissioner as required by this Act;

(v) Will advise the Commissioner in writing of judgments entered against, and bankruptcy petitions by, the license applicant within 5 days of occurrence;

(w) Will advise the Commissioner in writing within 30 days of any request made to a licensee under this Act to repurchase a loan in a manner that completely and clearly identifies to whom the request was made, the loans involved, and the reason therefor;

(x) Will advise the Commissioner in writing within 30 days of any request from any entity to repurchase a loan in a manner that completely and clearly identifies to whom the request was made, the loans involved, and the reason for the request;

(y) Will at all times act in a manner consistent with subsections (a) and (b) of Section 1-2 of this Act;

(z) Will not knowingly hire or employ a loan originator who is not registered, or mortgage loan originator who is not licensed, with the Commissioner as required under Section 7-1 or Section 7-1A, as applicable, of this Act;

(aa) Will not charge or collect advance payments from borrowers or homeowners for engaging in loan modification;

and

(bb) Will not structure activities or contracts to evade provisions of this Act.

A licensee who fails to fulfill obligations of an averment, to comply with averments made, or otherwise violates any of the averments made under this Section shall be subject to the penalties in Section 4-5 of this Act.

(Source: P.A. 96-112, eff. 7-31-09; 97-891, eff. 8-3-12.)

(205 ILCS 635/3-2) (from Ch. 17, par. 2323-2)

Sec. 3-2. Annual audit.

(a) At the licensee's fiscal year-end, but in no case more than 12 months after the last audit conducted pursuant to this Section, except as otherwise provided in this Section, it shall be mandatory for each residential mortgage licensee to cause its books and accounts to be audited by a certified public accountant not connected with such licensee. The books and records of all licensees under this Act shall be maintained on an accrual basis. The audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements, which must be prepared in accordance with generally accepted accounting principles, and must be performed in accordance with generally accepted auditing standards. Notwithstanding the requirements of this subsection, a licensee that is a ~~first-tier~~ subsidiary may submit audited consolidated financial statements of its

parent, intermediary parent, or ultimate parent as long as the consolidated statements are supported by consolidating statements which include the licensee's financial statement. If the consolidating statements are unaudited, the. ~~The~~ licensee's chief financial officer shall attest to the licensee's financial statements disclosed in the consolidating statements.

(b) As used herein, the term "expression of opinion" includes either (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion.

(c) If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefore must be fully explained. An opinion, qualified as to a scope limitation, shall not be acceptable.

(d) The most recent audit report shall be filed with the Commissioner within 90 days after the end of the licensee's fiscal year, or with the Nationwide Mortgage Licensing System and Registry, if applicable, pursuant to Mortgage Call Report requirements. The report filed with the Commissioner shall be certified by the certified public accountant conducting the audit. The Commissioner may promulgate rules regarding late audit reports.

(e) If any licensee required to make an audit shall fail to cause an audit to be made, the Commissioner shall cause the same to be made by a certified public accountant at the



licensee's expense. The Commissioner shall select such certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by regulation.

(f) In lieu of the audit or compilation financial statement required by this Section, a licensee shall submit and the Commissioner may accept any audit made in conformance with the audit requirements of the U.S. Department of Housing and Urban Development.

(g) With respect to licensees who solely broker residential mortgage loans as defined in subsection (o) of Section 1-4, instead of the audit required by this Section, the Commissioner may accept compilation financial statements prepared at least every 12 months, and the compilation financial statement must be submitted within 90 days after the end of the licensee's fiscal year, or with the Nationwide Mortgage Licensing System and Registry, if applicable, pursuant to Mortgage Call Report requirements. If a licensee under this Section fails to file a compilation as required, the Commissioner shall cause an audit of the licensee's books and accounts to be made by a certified public accountant at the licensee's expense. The Commissioner shall select the certified public accountant by advertising for bids or by such other fair and impartial means as he or she establishes by rule. A licensee who files false or misleading compilation financial statements is guilty of a business offense and shall be fined not less than \$5,000.

(h) The workpapers of the certified public accountants employed by each licensee for purposes of this Section are to be made available to the Commissioner or the Commissioner's designee upon request and may be reproduced by the Commissioner or the Commissioner's designee to enable to the Commissioner to carry out the purposes of this Act.

(i) Notwithstanding any other provision of this Section, if a licensee relying on subsection (g) of this Section causes its books to be audited at any other time or causes its financial statements to be reviewed, a complete copy of the audited or reviewed financial statements shall be delivered to the Commissioner at the time of the annual license renewal payment following receipt by the licensee of the audited or reviewed financial statements. All workpapers shall be made available to the Commissioner upon request. The financial statements and workpapers may be reproduced by the Commissioner or the Commissioner's designee to carry out the purposes of this Act.

(Source: P.A. 97-813, eff. 7-13-12; 97-891, eff. 8-3-12; 98-463, eff. 8-16-13.)

(205 ILCS 635/4-1) (from Ch. 17, par. 2324-1)

Sec. 4-1. Commissioner of Banks and Real Estate; functions, powers, and duties. The functions, powers, and duties of the Commissioner of Banks and Real Estate shall include the following:

(a) to issue or refuse to issue any license as provided

by this Act;

(b) to revoke or suspend for cause any license issued under this Act;

(c) to keep records of all licenses issued under this Act;

(d) to receive, consider, investigate, and act upon complaints made by any person in connection with any residential mortgage licensee in this State;

(e) to consider and act upon any recommendations from the Residential Mortgage Board;

(f) to prescribe the forms of and receive:

(1) applications for licenses; and

(2) all reports and all books and records required to be made by any licensee under this Act, including annual audited financial statements and annual reports of mortgage activity;

(g) to adopt rules and regulations necessary and proper for the administration of this Act;

(h) to subpoena documents and witnesses and compel their attendance and production, to administer oaths, and to require the production of any books, papers, or other materials relevant to any inquiry authorized by this Act;

(h-1) to issue orders against any person, if the Commissioner has reasonable cause to believe that an unsafe, unsound, or unlawful practice has occurred, is occurring, or is about to occur, if any person has

violated, is violating, or is about to violate any law, rule, or written agreement with the Commissioner, or for the purpose of administering the provisions of this Act and any rule adopted in accordance with the Act;

(h-2) to address any inquiries to any licensee, or the officers thereof, in relation to its activities and conditions, or any other matter connected with its affairs, and it shall be the duty of any licensee or person so addressed, to promptly reply in writing to such inquiries. The Commissioner may also require reports from any licensee at any time the Commissioner may deem desirable;

(i) to require information with regard to any license applicant as he or she may deem desirable, with due regard to the paramount interests of the public as to the experience, background, honesty, truthfulness, integrity, and competency of the license applicant as to financial transactions involving primary or subordinate mortgage financing, and where the license applicant is an entity other than an individual, as to the honesty, truthfulness, integrity, and competency of any officer or director of the corporation, association, or other entity, or the members of a partnership;

(j) to examine the books and records of every licensee under this Act at intervals as specified in Section 4-2;

(k) to enforce provisions of this Act;

(l) to levy fees, fines, and charges for services

performed in administering this Act; the aggregate of all fees collected by the Commissioner on and after the effective date of this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the ~~Savings~~ and Residential Finance Regulatory Fund under Section 4-1.5 of this Act; the amounts deposited into that Fund shall be used for the ordinary and contingent expenses of the Office of Banks and Real Estate. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State-paid insurance of State officers by appropriation from the General Revenue Fund.

(m) to appoint examiners, supervisors, experts, and special assistants as needed to effectively and efficiently administer this Act;

(n) to conduct hearings for the purpose of:

(1) appeals of orders of the Commissioner;

(2) suspensions or revocations of licenses, or fining of licensees;

(3) investigating:

(i) complaints against licensees; or

(ii) annual gross delinquency rates; and

(4) carrying out the purposes of this Act;

(o) to exercise exclusive visitorial power over a licensee unless otherwise authorized by this Act or as

vested in the courts, or upon prior consultation with the Commissioner, a foreign residential mortgage regulator with an appropriate supervisory interest in the parent or affiliate of a licensee;

(p) to enter into cooperative agreements with state regulatory authorities of other states to provide for examination of corporate offices or branches of those states and to accept reports of such examinations;

(q) to assign an examiner or examiners to monitor the affairs of a licensee with whatever frequency the Commissioner determines appropriate and to charge the licensee for reasonable and necessary expenses of the Commissioner, if in the opinion of the Commissioner an emergency exists or appears likely to occur;

(r) to impose civil penalties of up to \$50 per day against a licensee for failing to respond to a regulatory request or reporting requirement; and

(s) to enter into agreements in connection with the Nationwide Mortgage Licensing System and Registry.

(Source: P.A. 96-112, eff. 7-31-09; 96-1000, eff. 7-2-10.)

(205 ILCS 635/4-1.5 new)

Sec. 4-1.5. Residential Finance Regulatory Fund.

(a) The aggregate of all moneys collected by the Secretary under this Act shall be paid promptly after receipt of the same, accompanied by a detailed statement thereof, into the

State treasury and shall be set apart in the Residential Finance Regulatory Fund, formerly designated the Savings and Residential Finance Regulatory Fund, a special fund created in the State treasury. The amounts deposited into the Fund shall be used for the ordinary and contingent expenses of the Department of Financial and Professional Regulation and the Division of Banking, or their successors, in administering and enforcing the Residential Mortgage License Act of 1987 and other laws, rules, and regulations as may apply to the administration and enforcement of the foregoing laws, rules, and regulations, as amended from time to time. Nothing in this Act shall prevent continuing the practice of paying expenses involving salaries, retirement, social security, and State paid insurance of State officers by appropriation from the General Revenue Fund.

(b) Moneys in the Residential Finance Regulatory Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(c) All earnings received from investments of funds in the Residential Finance Regulatory Fund shall be deposited into that Fund and may be used for the same purposes as fees deposited into that Fund.

Section 35. The Foreign Bank Representative Office Act is

amended by changing Section 2 as follows:

(205 ILCS 650/2) (from Ch. 17, par. 2852)

Sec. 2. Definitions. As used in this Act, unless the context requires otherwise:

(a) "Commissioner" means the Secretary of Financial and Professional Regulation or a person authorized by the Secretary, the Division of Banking Act, or this Act to act in the Secretary's stead.

(b) "Foreign bank" means (1) a bank, savings bank, savings association, or trust company which is organized under the laws of any state or territory of the United States, including the District of Columbia, other than the State of Illinois; (2) a national bank having its principal place of business in any state or territory of the United States, including the District of Columbia, other than the State of Illinois; or (3) a bank or trust company organized and operating under the laws of a country other than the United States of America.

(c) "Representative office" means an office in the State of Illinois at which a foreign bank engages in representational functions but does not conduct a commercial banking business.

(d) "Division" means the Division of Banking within the Department of Financial and Professional Regulation.

(Source: P.A. 96-1365, eff. 7-28-10.)

Section 40. The Residential Real Property Disclosure Act is



amended by changing Sections 70, 72, 74, 76, 78, and 80 as follows:

(765 ILCS 77/70)

Sec. 70. Predatory lending database program.

(a) As used in this Article:

"Adjustable rate mortgage" or "ARM" means a closed-end mortgage transaction that allows adjustments of the loan interest rate during the first 3 years of the loan term.

"Borrower" means a person seeking a mortgage loan.

"Broker" means a "broker" or "loan broker", as defined in subsection (p) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Closing agent" means an individual assigned by a title insurance company or a broker or originator to ensure that the execution of documents related to the closing of a real estate sale or the refinancing of a real estate loan and the disbursement of closing funds are in conformity with the instructions of the entity financing the transaction.

"Counseling" means in-person counseling provided by a counselor employed by a HUD-approved ~~HUD-certified~~ counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician, or the borrower resides 50

miles or more from the nearest participating HUD-approved ~~HUD-certified~~ housing counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Counselor" means a counselor employed by a HUD-approved ~~HUD-certified~~ housing counseling agency.

"Credit score" means a credit risk score as defined by the Fair Isaac Corporation, or its successor, and reported under such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE" by one or more of the following credit reporting agencies or their successors: Equifax, Inc., Experian Information Solutions, Inc., and TransUnion LLC. If the borrower's credit report contains credit scores from 2 reporting agencies, then the broker or loan originator shall report the lower score. If the borrower's credit report contains credit scores from 3 reporting agencies, then the broker or loan originator shall report the middle score.

"Department" means the Department of Financial and Professional Regulation.

"Exempt person or entity" means that term as it is defined in subsections (d) (1), (d) (1.5), and (d) (1.8) of Section 1-4 of the Residential Mortgage License Act of 1987.

"First-time homebuyer" means a borrower who has not held an ownership interest in residential property.

"HUD-approved ~~HUD-certified~~ counseling" or "counseling"

means counseling given to a borrower by a counselor employed by a HUD-approved ~~HUD-certified~~ housing counseling agency.

"Interest only" means a closed-end loan that permits one or more payments of interest without any reduction of the principal balance of the loan, other than the first payment on the loan.

"Lender" means that term as it is defined in subsection (g) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Licensee" means that term as it is defined in subsection (e) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Mortgage loan" means that term as it is defined in subsection (f) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Negative amortization" means an amortization method under which the outstanding balance may increase at any time over the course of the loan because the regular periodic payment does not cover the full amount of interest due.

"Originator" means a "loan originator" as defined in subsection (hh) of Section 1-4 of the Residential Mortgage License Act of 1987, except an exempt person, and means a "mortgage loan originator" as defined in subsection (jj) of Section 1-4 of the Residential Mortgage License Act of 1987, except an exempt person.

"Points and fees" has the meaning ascribed to that term in Section 10 of the High Risk Home Loan Act.

"Prepayment penalty" means a charge imposed by a lender under a mortgage note or rider when the loan is paid before the expiration of the term of the loan.

"Refinancing" means a loan secured by the borrower's or borrowers' primary residence where the proceeds are not used as purchase money for the residence.

"Title insurance company" means any domestic company organized under the laws of this State for the purpose of conducting the business of guaranteeing or insuring titles to real estate and any title insurance company organized under the laws of another State, the District of Columbia, or a foreign government and authorized to transact the business of guaranteeing or insuring titles to real estate in this State.

(a-5) A predatory lending database program shall be established within Cook County. The program shall be administered in accordance with this Article. The inception date of the program shall be July 1, 2008. A predatory lending database program shall be expanded to include Kane, Peoria, and Will counties. The inception date of the expansion of the program as it applies to Kane, Peoria, and Will counties shall be July 1, 2010. Until the inception date, none of the duties, obligations, contingencies, or consequences of or from the program shall be imposed. The program shall apply to all mortgage applications that are governed by this Article and that are made or taken on or after the inception of the program.

(b) The database created under this program shall be maintained and administered by the Department. The database shall be designed to allow brokers, originators, counselors, title insurance companies, and closing agents to submit information to the database online. The database shall not be designed to allow those entities to retrieve information from the database, except as otherwise provided in this Article. Information submitted by the broker or originator to the Department may be used to populate the online form submitted by a counselor, title insurance company, or closing agent.

(c) Within 10 business days after taking a mortgage application, the broker or originator for any mortgage on residential property within the program area must submit to the predatory lending database all of the information required under Section 72 and any other information required by the Department by rule. Within 7 business days after receipt of the information, the Department shall compare that information to the housing counseling standards in Section 73 and issue to the borrower and the broker or originator a determination of whether counseling is recommended for the borrower. The borrower may not waive counseling. If at any time after submitting the information required under Section 72 the broker or originator (i) changes the terms of the loan or (ii) issues a new commitment to the borrower, then, within 5 business days thereafter, the broker or originator shall re-submit all of the information required under Section 72 and, within 4 business

days after receipt of the information re-submitted by the broker or originator, the Department shall compare that information to the housing counseling standards in Section 73 and shall issue to the borrower and the broker or originator a new determination of whether re-counseling is recommended for the borrower based on the information re-submitted by the broker or originator. The Department shall require re-counseling if the loan terms have been modified to meet another counseling standard in Section 73, or if the broker has increased the interest rate by more than 200 basis points.

(d) If the Department recommends counseling for the borrower under subsection (c), then the Department shall notify the borrower of all participating HUD-approved ~~HUD-certified~~ counseling agencies located within the State and direct the borrower to interview with a counselor associated with one of those agencies. Within 10 business days after receipt of the notice of HUD-approved ~~HUD-certified~~ counseling agencies, it is the borrower's responsibility to ~~borrower shall~~ select one of those agencies and shall engage in an interview with a counselor associated with that agency. The selection must take place and the appointment for the interview must be set within 10 business days, although the interview may take place beyond the 10 business day period. Within 7 business days after interviewing the borrower, the counselor must submit to the predatory lending database all of the information required under Section 74 and any other information required by the

Department by rule. Reasonable and customary costs not to exceed \$300 associated with counseling provided under the program shall be paid by the broker or originator and shall not be charged back to, or recovered from, the borrower. The Department shall annually calculate to the nearest dollar an adjusted rate for inflation. A counselor shall not recommend or suggest that a borrower contact any specific mortgage origination company, financial institution, or entity that deals in mortgage finance to obtain a loan, another quote, or for any other reason related to the specific mortgage transaction; however, a counselor may suggest that the borrower seek an opinion or a quote from another mortgage origination company, financial institution, or entity that deals in mortgage finance. A counselor or housing counseling agency that in good faith provides counseling shall not be liable to a broker or originator or borrower for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.

(e) The broker or originator and the borrower may not take any legally binding action concerning the loan transaction until the later of the following:

(1) the Department issues a determination not to recommend HUD-approved ~~HUD-certified~~ counseling for the borrower in accordance with subsection (c); or

(2) the Department issues a determination that HUD-approved ~~HUD-certified~~ counseling is recommended for

the borrower and the counselor submits all required information to the database in accordance with subsection (d).

(f) Within 10 business days after closing, the title insurance company or closing agent must submit to the predatory lending database all of the information required under Section 76 and any other information required by the Department by rule.

(g) The title insurance company or closing agent shall attach to the mortgage a certificate of compliance with the requirements of this Article, as generated by the database. If the transaction is exempt, the title insurance company or closing agent shall attach to the mortgage a certificate of exemption, as generated by the database. If the title insurance company or closing agent fails to attach the certificate of compliance or exemption, whichever is required, then the mortgage is not recordable. In addition, if any lis pendens for a residential mortgage foreclosure is recorded on the property within the program area, a certificate of service must be simultaneously recorded that affirms that a copy of the lis pendens was filed with the Department. The lis pendens may be filed with the Department either electronically or by filing a hard copy. If the certificate of service is not recorded, then the lis pendens pertaining to the residential mortgage foreclosure in question is not recordable and is of no force and effect.



(h) All information provided to the predatory lending database under the program is confidential and is not subject to disclosure under the Freedom of Information Act, except as otherwise provided in this Article. Information or documents obtained by employees of the Department in the course of maintaining and administering the predatory lending database are deemed confidential. Employees are prohibited from making disclosure of such confidential information or documents. Any request for production of information from the predatory lending database, whether by subpoena, notice, or any other source, shall be referred to the Department of Financial and Professional Regulation. Any borrower may authorize in writing the release of database information. The Department may use the information in the database without the consent of the borrower: (i) for the purposes of administering and enforcing the program; (ii) to provide relevant information to a counselor providing counseling to a borrower under the program; or (iii) to the appropriate law enforcement agency or the applicable administrative agency if the database information demonstrates criminal, fraudulent, or otherwise illegal activity.

(i) Nothing in this Article is intended to prevent a borrower from making his or her own decision as to whether to proceed with a transaction.

(j) Any person who violates any provision of this Article commits an unlawful practice within the meaning of the Consumer

Fraud and Deceptive Business Practices Act.

(j-1) A violation of any provision of this Article by a mortgage banking licensee or licensed mortgage loan originator shall constitute a violation of the Residential Mortgage License Act of 1987.

(j-2) A violation of any provision of this Article by a title insurance company, title agent, or escrow agent shall constitute a violation of the Title Insurance Act.

(j-3) A violation of any provision of this Article by a housing counselor shall be referred to the Department of Housing and Urban Development.

(k) During the existence of the program, the Department shall submit semi-annual reports to the Governor and to the General Assembly by May 1 and November 1 of each year detailing its findings regarding the program. The report shall include, by county, at least the following information for each reporting period:

- (1) the number of loans registered with the program;
- (2) the number of borrowers receiving counseling;
- (3) the number of loans closed;
- (4) the number of loans requiring counseling for each of the standards set forth in Section 73;
- (5) the number of loans requiring counseling where the mortgage originator changed the loan terms subsequent to counseling;
- (6) the number of licensed mortgage brokers and loan

originators entering information into the database;

(7) the number of investigations based on information obtained from the database, including the number of licensees fined, the number of licenses suspended, and the number of licenses revoked;

(8) a summary of the types of non-traditional mortgage products being offered; and

(9) a summary of how the Department is actively utilizing the program to combat mortgage fraud.

(Source: P.A. 96-328, eff. 8-11-09; 96-856, eff. 12-31-09; 97-891, eff. 1-1-13.)

(765 ILCS 77/72)

Sec. 72. Originator; required information. As part of the predatory lending database program, the broker or originator must submit all of the following information for inclusion in the predatory lending database for each loan for which the originator takes an application:

(1) The borrower's name, address, social security number or taxpayer identification number, date of birth, and income and expense information, including total monthly consumer debt, contained in the mortgage application.

(2) The address, permanent index number, and a description of the collateral and information about the loan or loans being applied for and the loan terms,

including the amount of the loan, the rate and whether the rate is fixed or adjustable, amortization or loan period terms, and any other material terms.

(3) The borrower's credit score at the time of application.

(4) Information about the originator and the company the originator works for, including the originator's license number and address, fees being charged, whether the fees are being charged as points up front, the yield spread premium payable outside closing, and other charges made or remuneration required by the broker or originator or its affiliates or the broker's or originator's employer or its affiliates for the mortgage loans.

(5) Information about affiliated or third party service providers, including the names and addresses of appraisers, title insurance companies, closing agents, attorneys, and realtors who are involved with the transaction and the broker or originator and any moneys received from the broker or originator in connection with the transaction.

(6) All information indicated on the Good Faith Estimate and Truth in Lending statement disclosures given to the borrower by the broker or originator.

(7) Annual real estate taxes for the property, together with any assessments payable in connection with the property to be secured by the collateral and the proposed

monthly principal and interest charge of all loans to be taken by the borrower and secured by the property of the borrower.

(8) Information concerning how the broker or originator obtained the client and the name of its referral source, if any.

(9) Information concerning the notices provided by the broker or originator to the borrower as required by law and the date those notices were given.

(10) Information concerning whether a sale and leaseback is contemplated and the names of the lessor and lessee, seller, and purchaser.

(11) Any and all financing by the borrower for the subject property within 12 months prior to the date of application.

(12) Loan information, including interest rate, term, purchase price, down payment, and closing costs.

(13) Whether the buyer is a first-time homebuyer or refinancing a primary residence.

(14) Whether the loan permits interest only payments.

(15) Whether the loan may result in negative amortization.

(16) Whether the total points and fees payable by the borrowers at or before closing will exceed 5%.

(17) Whether the loan includes a prepayment penalty, and, if so, the terms of the penalty.

(18) Whether the loan is an ARM.

All information entered into the predatory lending database must be true and correct to the best of the originator's knowledge. The originator shall, prior to closing, correct, update, or amend the data as necessary. If any corrections become necessary after the file has been accessed by the closing agent or housing counselor, a new file must be entered.

(Source: P.A. 97-891, eff. 1-1-13.)

(765 ILCS 77/74)

Sec. 74. Counselor; required information. As part of the predatory lending database program, a counselor must submit all of the following information for inclusion in the predatory lending database:

(1) The information called for in items (1), (6), (9), (11), (12), (13), (14), (15), (16), (17), and (18) of Section 72.

(2) Any information from the borrower that confirms or contradicts the information called for under item (1) of this Section.

(3) The name of the counselor and address of the HUD-approved ~~HUD-certified~~ housing counseling agency that employs the counselor.

(4) Information pertaining to the borrower's monthly expenses that assists the counselor in determining whether

the borrower can afford the loans or loans for which the borrower is applying.

(5) A list of the disclosures furnished to the borrower, as seen and reviewed by the counselor, and a comparison of that list to all disclosures required by law.

(6) Whether the borrower provided tax returns to the broker or originator or to the counselor, and, if so, who prepared the tax returns.

(7) A statement of the recommendations of the counselor that indicates the counselor's response to each of the following statements:

(A) The loan should not be approved due to indicia of fraud.

(B) The loan should be approved; no material problems noted.

(C) The borrower cannot afford the loan.

(D) The borrower does not understand the transaction.

(E) The borrower does not understand the costs associated with the transaction.

(F) The borrower's monthly income and expenses have been reviewed and disclosed.

(G) The rate of the loan is above market rate.

(H) The borrower should seek a competitive bid from another broker or originator.

(I) There are discrepancies between the borrower's

verbal understanding and the originator's completed form.

(J) The borrower is precipitously close to not being able to afford the loan.

(K) The borrower understands the true cost of debt consolidation and the need for credit card discipline.

(L) The information that the borrower provided the originator has been amended by the originator.

(Source: P.A. 97-813, eff. 7-13-12.)

(765 ILCS 77/76)

Sec. 76. Title insurance company or closing agent; required information. As part of the predatory lending database ~~pilot~~ program, a title insurance company or closing agent must submit all of the following information for inclusion in the predatory lending database:

(1) The borrower's name, address, social security number or taxpayer identification number, date of birth, and income and expense information contained in the mortgage application.

(2) The address, permanent index number, and a description of the collateral and information about the loan or loans being applied for and the loan terms, including the amount of the loan, the rate and whether the rate is fixed or adjustable, amortization or loan period terms, and any other material terms.



(3) Annual real estate taxes for the property, together with any assessments payable in connection with the property to be secured by the collateral and the proposed monthly principal and interest charge of all loans to be taken by the borrower and secured by the property of the borrower as well as any required escrows and the amounts paid monthly for those escrows.

(4) All itemizations and descriptions set forth in the RESPA settlement statement including items to be disbursed, payable outside closing "POC" items noted on the statement, and a list of payees and the amounts of their checks.

(5) The name and license number of the title insurance company or closing agent together with the name of the agent actually conducting the closing.

(6) The names and addresses of all originators, brokers, appraisers, sales persons, attorneys, and surveyors that are present at the closing.

(7) The date of closing, a detailed list of all notices provided to the borrower at closing and the date of those notices, and all information indicated on the Truth in Lending statement and Good Faith Estimate disclosures.

(Source: P.A. 94-280, eff. 1-1-06.)

(765 ILCS 77/78)

Sec. 78. Exemption. Borrowers applying for reverse

mortgage financing of residential real estate including under programs regulated by the Federal Housing Administration (FHA) that require HUD-approved ~~HUD-certified~~ counseling are exempt from the program and may submit a HUD counseling certificate to comply with the program. A certificate of exemption is required for recording.

Mortgages secured by non-owner occupied property, commercial property, residential property consisting of more than 4 units, and government property are exempt but require a certificate of exemption for recording.

Mortgages originated by an exempt person or entity are exempt but require a certificate of exemption for recording.

(Source: P.A. 98-463, eff. 8-16-13.)

(765 ILCS 77/80)

Sec. 80. Predatory Lending Database Program Fund. The Predatory Lending Database Program Fund is created as a special fund in the State treasury. Subject to appropriation, moneys in the Fund shall be appropriated to the Illinois Housing Development Authority for the purpose of making grants for HUD-approved ~~HUD-certified~~ counseling agencies participating in the Predatory Lending Database Program to assist with implementation and development of the Predatory Lending Database Program.

(Source: P.A. 95-707, eff. 1-11-08.)