DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

The Department of Financial and Professional Regulation is posting these proposed amendments in an effort to make the public aware of possible changes that may have an impact on the profession.

The general public may submit written comments to the Department during the first 45 day public comment period. Any suggested changes will be considered by the Department and the appropriate Board.

These proposed amendments were published in the April 1, 2016 Illinois Register. The 45 day comment period will end May 16, 2016.

Please submit written comments to Craig Cellini as stated in the attached notice.

THESE PROPOSED CHANGES ARE NOT IN EFFECT AT THIS TIME AND THE ADOPTED RULES MAY DIFFER FROM THOSE ORIGINALLY PUBLISHED.

1) Heading of the Part: Residential Mortgage License Act of 1987

2) Code Citation: 38 Ill. Adm. Code 1050

3) Section Number: Proposed Action:
   1050.370 Amendment

4) Statutory Authority: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].

5) A Complete Description of the Subjects and Issues Involved: The Division of Banking will be implementing the Uniform State Test (“UST”) standard by adding pre-license education (“PE”) and/or continuing education (“CE”) hours for mortgage loan originators to Section 1050.370 of this Part.

The Residential Mortgage License Act of 1987 (“Act”) [205 ILCS 635] provides in Section 7-3(4) that Mortgage Loan Originators (“MLO”) must pass a written test meeting test requirements described in Section 7-5 of the Act prior to issuance of their Illinois MLO License. This requirement is mandated by the federal SAFE Act. Section 7-5 of the Act provides that the MLO test must be a qualified written test developed by the Nationwide Mortgage Licensing System and Registry (“NMLS”) and administered by a test provider approved by the NMLS based upon reasonable standards. Illinois’ proposed amendments will meet this standard.
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Adopting the UST will achieve testing uniformity with the vast majority of states, which will increase competition in the mortgage market-place here in Illinois.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rulemaking currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Interested persons may submit written comments to:

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield, IL 62786

Phone: 217/785-0813
Fax: 217/557-4451

All written comments received within 45 days after this issue of the Illinois Register will be considered.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Mortgage Loan Originators
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B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments concerning continuing education requirements.

C) Types of professional skills necessary for compliance: Please review the proposed amendments concerning continuing education requirements.

14) Regulatory Agenda on which this rulemaking was summarized: July 2015

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
NOTICE OF PROPOSED AMENDMENTS
TITLE 38: FINANCIAL INSTITUTIONS
CHAPTER II: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
PART 1050
RESIDENTIAL MORTGAGE LICENSE ACT OF 1987

SUBPART A: DEFINITIONS

Section 1050.100 High Risk Home Loan Definitions; Applicability
1050.110 Definitions
1050.115 Administrative Decision (Repealed)
1050.120 Assisting (Repealed)
1050.125 Commissioner (Repealed)
1050.130 Control (Repealed)
1050.132 Conviction or Convicted (Repealed)
1050.135 Document (Repealed)
1050.140 Employee (Repealed)
1050.145 First Tier Subsidiary (Repealed)
1050.150 Hearing Officer (Repealed)
1050.155 High Risk Home Loan (Repealed)
1050.157 Licensee (Repealed)
1050.160 Material (Repealed)
1050.165 Other Regulatory Agencies (Repealed)
1050.170 Party (Repealed)
1050.175 Principal Place of Business (Repealed)
1050.180 Repurchase a Loan (Repealed)
1050.185 State (Repealed)
1050.190 Servicer (Repealed)
1050.195 Points and Fees (Repealed)
1050.197 Total Loan Amount (Repealed)
1050.198 Approved Credit Counselor (Repealed)
1050.199 Home Equity Loan (Repealed)

SUBPART B: FEES

Section 1050.210 Fees
1050.220 License Fees (Repealed)
1050.230 Amended License Fees – Corporate Changes (Repealed)
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1050.240 Duplicate Original License Fees (Repealed)
1050.245 Loan Originator Registration Application Fee (Repealed)
1050.246 Loan Originator Registration Transfer Fee (Repealed)
1050.247 Loan Originator Registration Reactivation Fee (Repealed)
1050.248 Duplicate Loan Originator Certificate of Registration or Pocket Card Fee (Repealed)
1050.250 Examination Fees (Repealed)
1050.255 Direct Expenses of Out-of-State Examinations (Repealed)
1050.260 Additional Full-Service Office Fees (Repealed)
1050.270 Hearing Fees (Repealed)
1050.280 Late Fees (Repealed)
1050.290 Manner of Payment (Repealed)

SUBPART C: LICENSING

Section
1050.310 Application for an Illinois Residential Mortgage License
1050.320 Application for Renewal of an Illinois Residential Mortgage License
1050.330 Waiver of License Fee
1050.340 Full-Service Office
1050.350 Additional Full-Service Office
1050.360 Continuing Education Requirements for Certain Employees (Repealed)
1050.370 Licensing of Mortgage Loan Originators

SUBPART D: OPERATIONS AND SUPERVISION

Section
1050.410 Net Worth
1050.420 Line of Credit (Repealed)
1050.425 Examination
1050.430 Late Audit Reports
1050.440 Escrow
1050.450 Audit Workpapers
1050.460 Selection of Independent Auditor (Repealed)
1050.470 Proceedings Affecting a License
1050.475 Change in Business Activities
1050.480 Change of Ownership, Control or Name or Address of Licensee
1050.490 Bonding Requirements

SUBPART E: ANNUAL REPORT OF MORTGAGE ACTIVITY, MORTGAGE
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BROKERAGE ACTIVITY, PURCHASING ACTIVITY, AND MORTGAGE SERVICING ACTIVITY

Section
1050.610 Filing Requirements
1050.620 Reporting Forms
1050.630 Annual Report of Mortgage Activity
1050.640 Annual Report of Brokerage Activity
1050.650 Annual Report of Servicing Activity
1050.655 Annual Report of Purchasing Activity
1050.660 Verification

SUBPART F: FORECLOSURE RATE

Section
1050.710 Computation of National Residential Mortgage Foreclosure Rate
1050.720 Computation of Illinois Residential Mortgage Foreclosure Rate
1050.730 Excess Foreclosure Rate
1050.740 Foreclosure Rate Hearing
1050.750 Director's Authority – Unusually High Rate

SUBPART G: SERVICING

Section
1050.810 New Loans
1050.820 Transfer of Servicing
1050.830 Real Property Tax and Hazard Insurance Payments
1050.840 Payment Processing
1050.850 Toll-Free Telephone Arrangement
1050.860 Payoff of Outstanding Mortgage Loan
1050.870 Compliance with Other Laws

SUBPART H: ADVERTISING

Section
1050.910 General Prohibition
1050.920 Definition of Advertisement
1050.930 Compliance with Other Laws
1050.940 Requirements
1050.950 Misleading and Deceptive Advertising Prohibition
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SUBPART I: LOAN BROKERAGE PRACTICES

Section
1050.1010 Loan Brokerage Agreement
1050.1020 Loan Brokerage Disclosure Statement
1050.1030 Prohibited Practice

SUBPART J: LOAN APPLICATION PRACTICES

Section
1050.1100 High Risk Home Loan Application Practices; Applicability
1050.1110 Borrower Information Document
1050.1120 Description of Required Documentation
1050.1130 Maintenance of Records (Repealed)
1050.1140 Loan Application Procedures
1050.1150 Copies of Signed Documents
1050.1160 Confirmation of Statements
1050.1170 Cancellation of Application
1050.1175 Loan Log
1050.1176 Record Retention
1050.1177 Required Loan Application File Documents
1050.1180 Ability to Repay
1050.1185 Verification of Ability to Pay Loan
1050.1186 Fraudulent or Deceptive Practices
1050.1187 Prepayment Penalty

SUBPART K: GENERAL LENDING PRACTICES

Section
1050.1200 High Risk Home Loan Lending Practices; Applicability
1050.1210 Notice to Joint Borrowers
1050.1220 Inaccuracy of Disclosed Information
1050.1230 Changes Affecting Loans in Process
1050.1240 Prohibition of Unauthorized Lenders
1050.1250 Good Faith Requirements
1050.1260 Pre-paid Insurance Products and Warranties
1050.1270 Refinancing Prohibited in Certain Cases
1050.1272 Balloon Payments
1050.1275 Financing of Certain Points and Fees
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1050.1276 Payments to Contractors
1050.1277 Negative Amortization
1050.1278 Negative Equity
1050.1280 Counseling Prior to Perfecting Foreclosure Proceedings

SUBPART L: COMMITMENT AND CLOSING PRACTICES

Section
1050.1305 Approval Notice
1050.1310 Inconsistent Conditions Prohibited
1050.1315 Avoidance of Commitment
1050.1320 Charges to Seller
1050.1325 Intentional Delay
1050.1330 No Duplication to Borrower of Seller's Costs
1050.1335 Fees and Charges
1050.1340 Refunds on Failure to Close
1050.1345 Representative at Closing
1050.1350 Compliance with Other Laws
1050.1355 Failure to Close – Disclosure
1050.1360 Escrow Account Agreements at Closing

SUBPART M: EXEMPTION GUIDELINES

Section
1050.1410 General
1050.1420 Interpretative Guidelines

SUBPART N: ADMINISTRATIVE HEARING PROCEDURES

Section
1050.1510 Applicability
1050.1520 Definitions (Repealed)
1050.1530 Filing
1050.1540 Form of Documents
1050.1550 Computation of Time
1050.1560 Appearances
1050.1570 Request for Hearing
1050.1580 Notice of Hearing
1050.1590 Service of the Notice of Hearing
1050.1595 Bill of Particulars or Motion for More Definite Statement
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1050.1600 Motion and Answer
1050.1610 Consolidation and Severance of Matters – Additional Parties
1050.1620 Intervention
1050.1630 Postponement or Continuance of Hearing
1050.1640 Authority of Hearing Officer
1050.1650 Bias or Disqualification of Hearing Officer
1050.1660 Prehearing Conferences
1050.1670 Discovery
1050.1680 Subpoenas
1050.1690 Conduct of Hearing
1050.1700 Default
1050.1710 Evidence
1050.1720 Hostile Witnesses
1050.1730 Record of Proceedings
1050.1740 Briefs
1050.1750 Hearing Officer's Recommendation
1050.1760 Order of the Director
1050.1770 Rehearings and Reopening of Hearings
1050.1790 Costs of Hearing

SUBPART O: MORTGAGE AWARENESS PROGRAM

Section
1050.1800 Applicability
1050.1810 General
1050.1820 Guidelines
1050.1830 Offer of Mortgage Awareness Program

SUBPART P: DEFAULT AND FORECLOSURE RATES ON CONVENTIONAL LOANS

Section
1050.1900 Applicability
1050.1910 Report of Default and Foreclosure Rates on Conventional Loans
1050.1920 Director's Review and Analysis

SUBPART Q: THIRD PARTY REVIEW OF HIGH RISK HOME LOANS

Section
1050.2000 Applicability
1050.2010 Third Party Review of High Risk Home Loans
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SUBPART R: REGISTRATION OF LOAN ORIGINATORS

Section
1050.2100 Mortgage Loan Originators; Applicability
1050.2110 Application for Registration
1050.2112 Evaluation of Applications
1050.2115 Examination
1050.2120 Continuing Education Requirements for Loan Originators
1050.2125 Certificate of Registration Issuance
1050.2130 Roster of Registered Loan Originators
1050.2135 Pocket Card
1050.2140 Certificate of Registration Renewal
1050.2145 Certificate of Registration Transfer Application or Inactive Notice
1050.2150 Inactive Registration Status; Reactivation
1050.2155 Temporary Permits
1050.2160 Confidential Information
1050.2165 Averments
1050.2170 Suspension or Revocation of Registration, Refusal to Renew, Fines
1050.2175 Loan Originator Hearings; Fees and Costs
1050.2180 Criminal Proceedings
1050.2185 Violations of Tax Acts
1050.2190 Disciplinary Action for Educational Loan Defaults
1050.2195 Nonpayment of Child Support

SUBPART S: PROVISIONAL REGISTRATION OF LOAN ORIGINATORS

Section
1050.2200 Purpose
1050.2210 Definitions
1050.2220 Registration Required
1050.2230 Exemptions
1050.2240 Application for Provisional Certificate of Registration; Contents; Amendment
1050.2250 Issuance of Provisional Certificate of Registration; Effective Date; Conditions
1050.2260 Loan Origination Practices
1050.2270 Enforcement

1050.APPENDIX A Estimated Monthly Income and Expenses Worksheet
1050.APPENDIX B Mortgage Ratio Worksheet
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AUTHORITY: Implementing and authorized by the Residential Mortgage License Act of 1987 [205 ILCS 635/4-1(g)].


SUBPART C: LICENSING

Section 1050.370 Licensing of Mortgage Loan Originators
a) License Applications
The Director may withdraw any license application for which the applicant has failed or refused to provide a written response, including any required documentation, within 21 business days after receiving a deficiency letter for this response and required documentation from the Director.

b) Licenses

1) Issuance of License; Conditions and Reports. Upon approving an application for an original or renewed Mortgage Loan Originator License pursuant to Article VII of the Act and this Part, the Director may issue the Mortgage Loan Originator License through electronic licensing systems such as the Nationwide Mortgage Licensing System and Registry and maintain a public record of all licenses issued within those electronic licensing systems. The Director may make copies of licenses available to licensees through electronic or other methods. Mortgage Loan Originator Licenses shall be issued subject to the following conditions:

A) The Director shall use applicable license numbers and/or identifiers for each Mortgage Loan Originator License, including unique identifiers as authorized by Section 7-14 of the Act.

B) Each Mortgage Loan Originator shall provide notification to the Director through the Nationwide Mortgage Licensing System and Registry, within 10 calendar days after obtaining information that the Mortgage Loan Originator has had his or her license revoked in any governmental jurisdiction (see Section 7-3(1) of the Act), has been convicted of, or pled guilty or nolo contendere to, a felony (see Section 7-3(2) of the Act), or has had an adverse judgment of $500 or more in any jurisdiction (see the financial responsibility, character and general fitness requirements of Section 7-3(3) of the Act). The notification shall describe fully all convictions, revocations and adverse judgments. The Director may take disciplinary action against any Mortgage Loan Originator for convictions, revocations and adverse judgments based upon failure to comply with Sections 7-3(1), (2), or (3) of the Act and may take disciplinary action against a Mortgage Loan Originator who fails to comply with the reporting requirement of this subsection (b)(1)(B).
C) Each employing licensee shall provide notification to the Director through submitting a sponsor removal to the Nationwide Mortgage Licensing System and Registry, immediately, but no later than 30 calendar days after the termination of a Mortgage Loan Originator's employment. The employing licensee may notify the Director of the reasons for the termination and, if applicable, the employing licensee also shall provide a report to the Director pursuant to Section 6-2(4) of the Act. The Director may take disciplinary action against an employing licensee that fails to comply with the reporting requirement of this subsection (b)(1)(C) or files a frivolous, false or misleading report under Section 6-2(4) of the Act.

D) Each Mortgage Loan Originator shall notify the Director through the Nationwide Mortgage Licensing System and Registry, within 30 days if the Mortgage Loan Originator's information contained in the initial application or any renewal application is no longer current and must file accurate supplemental information. The Director may take disciplinary action against a Mortgage Loan Originator who fails to notify the Director as required by this subsection (b)(1)(D).

2) Inactive or Inoperative Status and Reactivation; Transfers
The Director may create categories of inactive or inoperative status. A Mortgage Loan Originator License shall be considered on inactive or inoperative status at any time a Mortgage Loan Originator is not actively employed by a licensee prior to the expiration date of the license. A Mortgage Loan Originator shall apply to the Director through the Nationwide Mortgage Licensing System and Registry, and include the transfer fee set forth in Section 1050.210, in order to transfer the sponsorship of his or her license to another employing licensee. A Mortgage Loan Originator cannot conduct licensable activities while on inactive or inoperative status or any time prior to the Director accepting the new sponsor in the Nationwide Mortgage Licensing System and Registry. When a Mortgage Loan Originator has been on inactive or inoperative status for more than 90 calendar days, prior to resuming active status, the Mortgage Loan Originator shall pay to the Director a Mortgage Loan Originator Reactivation Fee in the amount set forth in Section 1050.210. A Mortgage Loan Originator's inactive or inoperative status
expires with the expiration of the license and any subsequent licensing shall require submission of a new license application and fee in the amount set forth in Section 1050.210.

c) Pre-Licensing and Continuing Education of Illinois Laws and Regulations for Mortgage Loan Originators

1) Pre-Licensing Education

An applicant for a Mortgage Loan Originator License shall complete subject matter, in addition to the pre-licensing education hours required by Section 7-4 of the Act, comprising 3 hours of pre-licensing education covering State laws and regulations, including but not limited to, the Act, Rules, Anti-Predatory Lending Database provisions of the Residential Real Property Disclosure Act [765 ILCS 77/1], Homeowner Protection Act [735 ILCS 5/15-1502.5], and High Risk Home Loan Act [815 ILCS 137].

2) Continuing Education

Effective January 1, 2017, a Licensed Mortgage Loan Originator shall annually complete subject matter, in addition to the continuing education hours required by Section 7-7 of the Act, comprising 3 hours of continuing education covering State laws and regulations, including but not limited to, the Act, Rules, Anti-Predatory Lending Database provisions of the Residential Real Property Disclosure Act [765 ILCS 77/1], Homeowner Protection Act [735 ILCS 5/15-1502.5], and High Risk Home Loan Act [815 ILCS 137].

(Source: Amended at 40 Ill. Reg. _____, effective _____________)