

BY: Economic Matters Committee

AMENDMENTS TO HOUSE BILL 363
(First Reading File Bill)

AMENDMENT NO. 1

On page 1, in the sponsor line, strike “and Walker” and substitute “Walker, and Carr”.

AMENDMENT NO. 2

On page 1, in line 5, strike “subprime” and substitute “mortgage”; in line 7, after “loans;” insert “repealing certain provisions of law that establish a certain presumption about a borrower’s ability to repay a loan;”; in line 8, after “include” insert “consideration of a certain debt to income ratio and”; in the same line, after “income” insert “and assets”; strike beginning with “providing” in line 10 down through “credit;” in line 12; and in line 17, after “applicants” insert “and licensees”.

On pages 1 and 2, strike beginning with “requiring” in line 23 on page 1 down through “work;” in line 1 on page 2.

On page 2, in line 3, after “felonies;” insert “requiring the Commissioner to conduct certain studies; requiring the Commissioner to report certain findings and recommendations on or before a certain date;”; in line 4, strike “a certain definition” and substitute “certain definitions; altering a certain definition”; in line 5, after “Act;” insert “providing that certain licensing, examination, and investigation fees shall remain in effect until the fees set by regulation by the Commissioner take effect;”; in line 15, strike “12-905(g);”; in line 31, strike “11-506(a) and (d)” and substitute “11-506(d)”; in the same line, after “11-515(c),” insert “11-603(c)”; in line 32, after “11-609(b),” insert “11-613(b)”; and in line 37, after “11-503.1,” insert “11-508.1”.

AMENDMENT NO. 3

On page 19, after line 28, insert:

(Over)

“11-603.

(c) (1) The Commissioner shall include on each license:

(i) The name of the licensee; and

(ii) The name of the licensee’s employer.

(2) Unless the licensee notifies the Commissioner in writing in advance of a change in the licensee’s name or the licensee’s employer and pays to the Commissioner a license amendment fee [of \$75] SET BY THE COMMISSIONER for each notice provided under this paragraph, an individual may not act as a mortgage originator under a name or for an employer that is different from the name and employer that appear on the license.”.

On page 21, after line 15, insert:

“11-613.

(b) A licensee shall pay to the Commissioner a PER-DAY fee [of not more than \$250 per day] SET BY THE COMMISSIONER for each of the Commissioner’s employees engaged in any investigation conducted under this section that [results in the discovery of a violation of this subtitle by the licensee] THE COMMISSIONER REASONABLY CONSIDERS NECESSARY.”.

AMENDMENT NO. 4

On page 3, in line 12, strike “(1)”; in the same line, after “SECTION” insert a comma; strike beginning with the first “THE” in line 12 down through “(4)” in line 20; and in line 20, strike “MORTGAGE” and substitute “MORTGAGE”.

On pages 3 and 4, strike in their entirety the lines beginning with line 22 on page 3 through line 14 on page 4, inclusive.

On page 5, in line 10, strike “(1)”; in lines 10 and 12, in each instance, strike “SUBPRIME” and substitute “MORTGAGE”; strike in their entirety lines 14 through 18, inclusive; in line 27, strike “APPLICABLE TO A” and substitute “, AS DEFINED IN THE”; in line 28, strike “FOR A RESIDENTIAL REAL PROPERTY” and substitute “DOCUMENTS, PREVAILING”; in the same line, strike “IT IS ORIGINATED” and substitute “THE MORTGAGE LOAN IS APPROVED BY THE LENDER”; in line 31, after “(3)” insert “(I)”; after line 32, insert:

“(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.”;

and strike in their entirety lines 33 through 35, inclusive.

On page 6, in line 1, strike “(1)”; in line 2, after the second “the” insert “MORTGAGE”; strike in their entirety lines 7 through 11, inclusive; in line 17, strike “VERIFICATION” and substitute “:

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION”;

in line 18, after “INCOME” insert “AND ASSETS”; in the same line, after “OF” insert “THIRD-PARTY”; in line 20, after “ACCEPTABLE” insert “THIRD-PARTY”; strike beginning with “A” in line 21 down through “BORROWER” in line 22 and substitute “THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2”; in line 23, strike “FEDERAL”; in line 25, strike “THE BORROWER’S MOST RECENT PAY STUB; AND”

(Over)

and substitute **“PAYROLL RECEIPTS;”**; and strike beginning with **“A”** in line 26 down through **“EMPLOYER”** in line 27 and substitute **“THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER’S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION.

On page 7, in lines 3 and 4, strike **“APPLICABLE TO A”** and substitute **“, AS DEFINED IN THE”**; in line 4, strike **“FOR A RESIDENTIAL REAL PROPERTY”** and substitute **“DOCUMENTS, PREVAILING”**; in lines 4 and 5, strike **“IT IS ORIGINATED”** and substitute **“THE MORTGAGE LOAN IS APPROVED BY THE LENDER”**; in line 10, after **“(5)”** insert **“(I)”**; after line 11, insert:

“(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.”;

and strike in their entirety lines 12 through 14, inclusive.

On page 8, in line 4, strike **“(1)”**; in line 5, after the second **“the”** insert **“MORTGAGE”**; strike in their entirety lines 10 through 14, inclusive; in line 20, strike **“VERIFICATION”** and substitute **“:**

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION;

in line 21, after “INCOME” insert “**AND ASSETS**”; in the same line, after “OF” insert “**THIRD-PARTY**”; in line 23, after “ACCEPTABLE” insert “**THIRD-PARTY**”; strike beginning with “A” in line 24 down through “BORROWER” in line 25 and substitute “**THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2**”; in line 26, strike “FEDERAL”; in line 28, strike “THE BORROWER’S MOST RECENT PAY STUB; AND” and substitute “**PAYROLL RECEIPTS**”; and strike beginning with “A” in line 29 down through “EMPLOYER” in line 30 and substitute “**THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER’S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION”.

On page 9, in lines 14 and 15, strike “APPLICABLE TO A” and substitute “**, AS DEFINED IN THE**”; in line 15, strike “FOR A RESIDENTIAL REAL PROPERTY” and substitute “**DOCUMENTS, PREVAILING**”; in line 16, strike “IT IS ORIGINATED” and substitute “**THE SECONDARY MORTGAGE LOAN IS APPROVED BY THE LENDER**”; strike in their entirety lines 21 through 23, inclusive; in line 24, strike “(1)”; and strike in their entirety lines 30 through 34, inclusive.

On page 10, in line 6, strike “VERIFICATION” and substitute “:

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(Over)

(II) VERIFICATION;

in line 7, after “INCOME” insert “AND ASSETS”; in the same line, after “OF” insert “THIRD-PARTY”; in line 10, after “ACCEPTABLE” insert “THIRD-PARTY”; strike beginning with “A” in line 11 down through “BORROWER” in line 12 and substitute “THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2”; in line 13, strike “FEDERAL”; in line 15, strike “THE BORROWER’S MOST RECENT PAY STUB; AND” and substitute “PAYROLL RECEIPTS”; and strike beginning with “A” in line 16 down through “EMPLOYER” in line 17 and substitute “THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER’S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A SECONDARY MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION”.

On page 11, strike in their entirety lines 20 through 22, inclusive; in lines 26 and 27, strike “APPLICABLE TO A” and substitute “, AS DEFINED IN THE”; in line 27, strike “FOR A RESIDENTIAL REAL PROPERTY” and substitute “DOCUMENTS, PREVAILING”; in lines 27 and 28, strike “IT IS ORIGINATED” and substitute “THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR”; in line 30, after “(3)” insert “(I)”; and after line 31, insert:

“(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.”

On page 12, in line 1, strike “(1)”; strike in their entirety lines 7 through 11, inclusive; in line 13, strike “**VERIFICATION**” and substitute “:

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION”;

in line 14, after “**INCOME**” insert “**AND ASSETS**”; in the same line, after “**OF**” insert “**THIRD-PARTY**”; in line 16, after “**ACCEPTABLE**” insert “**THIRD-PARTY**”; strike beginning with “**A**” in line 17 down through “**BORROWER**” in line 18 and substitute “**THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2**”; in line 19, strike “**FEDERAL**”; in line 21, strike “**THE BORROWER’S MOST RECENT PAY STUB; AND**” and substitute “**PAYROLL RECEIPTS**”; strike beginning with “**A**” in line 22 down through “**EMPLOYER**” in line 23 and substitute “**THE RECORDS OF A FINANCIAL INSTITUTION; OR**

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER’S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION”;

in lines 32 and 33, strike “**APPLICABLE TO A**” and substitute “**, AS DEFINED IN THE**”; and in line 33, strike “**FOR A RESIDENTIAL REAL PROPERTY**” and substitute “**DOCUMENTS, PREVAILING**”.

(Over)

On pages 12 and 13, strike beginning with “IT” in line 33 on page 12 down through “ORIGINATED” in line 1 on page 13 and substitute “THE MORTGAGE LOAN IS APPROVED BY THE CREDIT GRANTOR”.

On page 13, in line 6, after “(5)” insert “(I)”; after line 7, insert:

“(II) “MORTGAGE LOAN” DOES NOT INCLUDE A REVERSE MORTGAGE LOAN.”;

in line 8, strike “(1)”; strike in their entirety lines 14 through 18, inclusive; in line 24, strike “VERIFICATION” and substitute “:

(I) CONSIDERATION OF THE BORROWER’S DEBT TO INCOME RATIO, INCLUDING EXISTING DEBTS AND OTHER OBLIGATIONS; AND

(II) VERIFICATION”;

in line 25, after “INCOME” insert “AND ASSETS”; in the same line, after “OF” insert “THIRD-PARTY”; in line 27, after “ACCEPTABLE” insert “THIRD-PARTY”; strike beginning with “A” in line 28 down through “BORROWER” in line 29 and substitute “THE BORROWER’S INTERNAL REVENUE SERVICE FORM W-2”; in line 30, strike “FEDERAL”; in line 32, strike “THE BORROWER’S MOST RECENT PAY STUB; AND” and substitute “PAYROLL RECEIPTS;”; and strike beginning with “A” in line 33 down through “EMPLOYER” in line 34 and substitute “THE RECORDS OF A FINANCIAL INSTITUTION; OR

(V) OTHER THIRD-PARTY DOCUMENTS THAT PROVIDE REASONABLY RELIABLE EVIDENCE OF THE BORROWER’S INCOME OR ASSETS.

(3) THIS SUBSECTION DOES NOT APPLY TO A MORTGAGE LOAN APPROVED FOR GOVERNMENT GUARANTY BY THE FEDERAL HOUSING ADMINISTRATION, VETERANS ADMINISTRATION, OR COMMUNITY DEVELOPMENT ADMINISTRATION".

AMENDMENT NO. 5

On pages 15 and 16, strike in their entirety the lines beginning with line 9 on page 15 through line 4 on page 16, inclusive.

On page 18, in line 13, strike "\$1,000,000" and substitute "**\$750,000**"; and after line 23, insert:

"11-508.1.

(A) AN APPLICANT FOR A NEW LICENSE OR FOR THE RENEWAL OF A LICENSE SHALL SATISFY THE COMMISSIONER THAT THE APPLICANT OR LICENSEE HAS, AND AT ALL TIMES WILL MAINTAIN, A MINIMUM NET WORTH COMPUTED ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES:

(1) IN THE CASE OF AN APPLICANT OR LICENSEE THAT DOES NOT LEND MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF \$25,000; AND

(2) IN THE CASE OF AN APPLICANT OR LICENSEE THAT LENDS MONEY SECURED BY RESIDENTIAL REAL PROPERTY, IN THE AMOUNT OF:

(I) \$25,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE NOT MORE THAN \$1,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;

(Over)

(II) \$50,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR THE RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$1,000,000 BUT NOT MORE THAN \$5,000,000 SECURED BY RESIDENTIAL REAL PROPERTY;

(III) \$100,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$5,000,000 BUT NOT MORE THAN \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY; AND

(IV) \$250,000, IF THE APPLICANT OR LICENSEE, IN THE 12 MONTHS PRIOR TO THE LICENSE APPLICATION OR RENEWAL APPLICATION, LENT IN THE AGGREGATE MORE THAN \$10,000,000 SECURED BY RESIDENTIAL REAL PROPERTY.

(B) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION MAY BE SATISFIED BY THE APPLICANT OR LICENSEE HAVING:

(I) CASH ON DEPOSIT WITH A BANK OR DEPOSITORY INSTITUTION;

(II) A LINE OF CREDIT FROM A BANK OR DEPOSITORY INSTITUTION;

(III) OTHER ASSETS; OR

(IV) A COMBINATION OF CASH, A LINE OF CREDIT, OR OTHER ASSETS.

(2) IF CASH IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A BANK LETTER VERIFYING:

(I) THE ACCOUNT BALANCE;

(II) THE TYPE OF ACCOUNT IN WHICH THE FUNDS ARE HELD; AND

(III) THAT THE FUNDS ARE NOT ENCUMBERED OR HYPOTHECATED IN ANY WAY.

(3) (I) IF A LINE OF CREDIT IS USED TOWARD SATISFYING THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION, THE APPLICANT OR LICENSEE SHALL SUBMIT TO THE COMMISSIONER A COPY OF THE LINE OF CREDIT AGREEMENT AND PROMISSORY NOTE.

(II) A LINE OF CREDIT MAY NOT BE USED TOWARD SATISFYING MORE THAN 50% OF THE MINIMUM NET WORTH REQUIREMENTS UNDER SUBSECTION (A)(2) OF THIS SECTION.”.

On page 20, in line 7, after “REGULATION;” insert “AND”; and strike beginning with “; AND” in line 10 down through “LICENSEE” in line 13.

AMENDMENT NO. 6

On page 22, after line 15, insert:

“SECTION 4. AND BE IT FURTHER ENACTED, That:

(Over)

(a) The Commissioner of Financial Regulation shall study the feasibility of conducting examinations of mortgage lender licensees using a risk-based approach rather than a fixed schedule approach.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 5. AND BE IT FURTHER ENACTED, That:

(a) The Commissioner of Financial Regulation shall study the use of a call feature in which a mortgage loan contains a provision that permits the lender or credit grantor, in its sole discretion, absent a default or failure of the borrower to abide by the material terms of the mortgage loan, to accelerate the indebtedness of a mortgage loan.

(b) On or before January 1, 2009, the Commissioner shall report the findings of the study and any recommendations, in accordance with § 2-1246 of the State Government Article, to the Senate Finance Committee and the House Economic Matters Committee.

SECTION 6. AND BE IT FURTHER ENACTED, That, notwithstanding Section 2 of this Act, the fees relating to the licensing, examination, and investigation of mortgage lenders and mortgage originators under §§ 11-507(b), 11-511(b), 11-515(c), 11-603(c), 11-606(b), 11-609(b), and 11-613(b) of the Financial Institutions Article that are in effect on June 1, 2008, shall remain in effect until the fees set by regulation by the Commissioner of Financial Regulation, as required under this Act, take effect.”.

and in line 16, strike “4.” and substitute “7.”.