

FREQUENTLY ASKED QUESTIONS

The FAQ answers are provided solely as APLD guidance and are not to be viewed as legal written interpretations of the Illinois Department of Financial and Professional Regulation.

Question: Who is IDFPD working with to protect consumers?

Answer:

IDFPD is working with the Governor, legislators, consumer groups and the lending industry to develop and implement programs that protect consumers while ensuring the continuing vitality of the mortgage industry.

Question: What are the goals of the Anti-Predatory Lending Database Program?

Answer:

The APLD is designed to increase borrowers' knowledge about loans they are considering and to reduce the number of foreclosures resulting from inappropriate loans. The database will collect information about mortgage loans in Cook, Kane, Peoria, and Will Counties and determine whether or not each particular borrower needs to attend housing counseling provided by a HUD-certified/approved housing counselor.

Question: What if the counselor advises against taking a particular loan?

Answer:

The decision whether to proceed with a loan is entirely that of the borrower who may accept or reject the advice of the counselor. The APLD is designed to provide borrowers with the knowledge necessary to make informed financial decisions and thereby protect themselves, their families, and their homes.

Question: How long will a counseling session be?

Answer:

The law does not specify the length of counseling sessions, but sets forth the items that must be covered to ensure that the counseling will be meaningful to the borrower. An average session may last 1 - 2 hours.

Question: Does providing personal confidential data to the State create a security risk?

Answer:

Mortgage brokers typically share borrowers' personal financial information with various lenders through secure electronic systems in order to obtain the best possible mortgage for the borrower. IDFPD will include such security features in the APLD and take all necessary action to protect confidential information. Only specifically designated and trained agency personnel will be granted access to view and evaluate this information.

Question: How can I determine whether a loan is exempt from the APLD due to its application having been taken by an exempt entity or person?

Answer:

Pursuant to 765 ILCS 77/78, mortgages originated by an exempt person or entity are exempt but require a certificate of exemption. Exempt entities are defined in Section 1-4(d)(1) of the Residential Mortgage License Act of 1987 ("RMLA"). See 205 ILCS 635/1-4(d)(1). Mortgage lenders licensed by IDFPFR are not exempt and can be verified at [IDFPFR-Online Services](#) or [Consumer Access \(nmlsconsumeraccess.org\)](#). Banks and credit unions are exempt and may be verified at [Search Institutions - National Information Center](#). Exempt persons are defined by 205 ILCS 635/1-4(d)(1.5) and 205 ILCS 635/1-4(d)(1.8). Loans originated by subsidiaries of out-of-state banks may be exempt if originated by a registered mortgage loan originator as defined by 205 ILCS 635/1-4(tt). Private lenders seeking an exemption pursuant to 205 ILCS 635/1-4(d)(1.8) must follow the procedure set out at [Illinois Department of Financial and Professional Regulation](#). These examples are provided as illustrations and do not cover all provisions of Section 1-4 of RMLA. When requesting a certificate of exemption, it is the responsibility of the person requesting the certificate to ensure the accuracy of the information submitted. Inaccurate certificates of exemption will be investigated as violations of the Residential Real Property Disclosure Act and the Title Insurance Act. See 765 ILCS 77/70(g) and 70(j-2).

Question: Does an exempt entity need to register with the database?

Answer:

Generally, no. However, there is one exception. If the entity plans to close any of its loans in-house, it must obtain a password as a closer in order to generate the required exempt certificate.

Question: Must all loans in which the points and fees exceed 5% be classified as High Cost loans pursuant to the Illinois High Risk Home Loan Act?

Answer:

No. The Illinois High Risk Home Loan Act (HRHLA), 815 ILCS 137, is a separate and distinct statute from the APLD with its own requirements. The APLD points and fees calculation is used solely as a standard for counseling. Definitions for both "high risk home loans" and points and fees can be found in Section 10 of the HRHLA, 815 ILCS 137/10, which is available at [815 ILCS 137/ High Risk Home Loan Act. \(ilga.gov\)](#).

Question: What property is eligible for Government Property exemption?

Answer:

Pursuant to the requirements of the Illinois Anti-Predatory Lending Database Program ("APLD") mortgage loans secured by government property are classified as exempt transactions. However, there appears to be confusion as to the meaning of "Government Property". Government property would be a facility which contains government offices or from which a government function takes place. Examples include, but are not limited to, the Thompson Center, Daley Center, Secretary of State Driver's License facilities, City Hall, court houses, police and fire stations, federal buildings. All levels of buildings from local to federal are included. Residential properties including HUD homes are NOT classified as government property as no government function takes place there. Mortgage loans secured by such properties are subject to all the data entry, counseling, and closing agent requirements set forth by the APLD. Such transactions may be exempt for various reasons such as having been originated by a bank or being purchased by an investor, but the "Government Property" exemption does not apply.

Question: How are points and fees calculated by the broker/originator? How are points and fees calculated by the closing agent?

Answer:

The points and fees calculator that was previously part of the APLD has been removed to avoid confusion. Title companies as a rule run a points and fees calculation when preparing closing documents for the loan closing. To calculate points and fees, refer to the definition in Section 10 of the Illinois High Risk Home Loan Act, 815 ILCS 137/10, which is available at [815 ILCS 137/ High Risk Home Loan Act. \(ilga.gov\)](http://815%20ILCS%20137%2F%20High%20Risk%20Home%20Loan%20Act.%20(ilga.gov)).

Question: How much time do I have to enter my loan into the database?

Answer:

All loans must be entered within a ten business day window after its origination.

Question: What names must appear on the APLD Certificates?

Answer:

Names on the certificates must include the Lender and at least one of the borrowers.

Question: Must I input income when entering an FHA Streamline Loan?

Answer:

FHA Streamline Refinances are not exempt under Illinois law from the requirement to enter borrower income information. It is not acceptable to enter a nominal amount such as \$1.00 as borrower income. You must enter the borrowers actual income (as provided by the borrower or estimated from the borrowers information).

Question: Who is responsible for the cost of counseling?

Answer:

The mortgage broker is responsible for the counseling cost, which cannot exceed \$300.00.

Question: What is the new procedure for filing Lis Pendens with the Illinois Department of Financial and Professional Regulation?

Answer:

Please be advised that pursuant to Public Act SB 2677, all Lis Pendens notices are now required to be filed electronically with the Department of Financial and Professional Regulation. Due to efficiencies and savings realized in filing Lis Pendens notices electronically, most filers had earlier transitioned to this method upon the Department's launch of electronic filing in October 2014. For further information please contact VeritecOps@ILAPLD.com.

Question: May a licensed Illinois Mortgage Broker/Company enter or designate staff, other than the Mortgage Loan Originator (MLO) taking the application, to enter loan information into the APLD?

Answer:

The Residential Real Property Disclosure Act [765 ILCS 77/70] provides that the Broker or MLO are required to enter the prescribed loan information into the APLD within 10 business days of the taking of an Illinois residential mortgage loan application for properties in one of the four designated counties. Since The Residential Mortgage License Act of 1987 [205 ILCS 635] requires the Broker/Company and the individual taking the loan application to each hold a separate Illinois license for that activity, IDFPR views both the Illinois-licensed Broker/Company and MLO as having joint responsibility for the timely and correct entry of loan application information into the APLD. Therefore a broker or a broker's employee, other than the MLO taking the loan application, may enter loan information into the APLD as long as the information is timely and accurately entered into the APLD.

Question: Is there a specific kind of counseling course that is required?

Answer:

There is a "Predatory Lending Education Workshop" being offered by HUD counseling agencies in the APLD four county area. The stated purpose of the law is to reduce predatory lending practices by assisting the borrower in understanding the terms and conditions of the loan for which he or she has applied.

Question: Are any types of mortgage insurance premiums excluded from the calculation of points and fees?

Answer:

Yes. Any insurance premiums "provided by an agency of the federal government or an agency of a state" are excluded in the calculation of points and fees. See 815 ILCS 137/10. For example, mortgage insurance premiums payable to the Department of Housing and Urban Development (HUD), the Federal Housing Administration (FHA), or the funding fee payable to the Department of Veterans Affairs (VA) can be excluded from the calculation of points and fees for the purposes of APLD.

Question: Who are the HUD-certified/approved counseling agencies?

Answer:

Please click on this link for a complete list of [Illinois HUD Approved Housing Counseling Agencies](#).