

ANTI PREDATORY LENDING DATABASE PROGRAM FACT SHEET

Authorizing Act

Public Act 95-0691 (SB1167) as amended by Public Act 096-0856 (SB1894)
765 ILCS 77/70

Effective Date

July 1, 2008 (Cook County)

For any mortgage application on Cook County property taken prior to July 1, 2008, but closed after July 1, 2008, a Certificate of Exemption will need to be recorded with the mortgage (see Recording Requirement) but the originator will enter no information into the database.

July 1, 2010 (Will, Kane and Peoria counties)

For any mortgage application on Will, Kane or Peoria counties property taken prior to July 1, 2010, but closed after July 1, 2010, a Certificate of Exemption will need to be recorded with the mortgage (see Recording Requirement) but the originator will enter no information into the database.

Purpose of the Program

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. The act does not prohibit any type of loan. It is solely the borrower's decision whether to proceed.

Web address of Anti Predatory Lending Database

www.ilapl.com

Program Area

Cook, Will, Kane and Peoria counties, Illinois

(Property located outside of the program area is not subject to the Act)

Property subject to the Act

1-4 unit, owner-occupied residential

Exempt Property

Not subject to the Act:

Non-owner occupied property

Commercial property

Residential property of more than 4 units

Government property

Exempt transactions

Reverse mortgages

Home Equity Lines of Credit (HELOCs)

Recording Requirement

As of July 1, 2008, in order to record any mortgage against Cook County property, a Certificate of Compliance or Certificate of Exemption must be attached to the mortgage. Mortgages executed prior to July 1, 2008 but recorded on or after July 1, 2008 will not require either certificate. Loan applications taken prior to July 1, 2008 but closed after July 1, 2008 will require only a Certificate of Exemption. It is the responsibility of the closing agent to determine which, if any, certificate is required and to print that certificate.

As of July 1, 2010, in order to record any mortgage against Will, Kane or Peoria County property, a Certificate of Compliance or Certificate of Exemption must be attached to the mortgage. Mortgages executed prior to July 1, 2010 but recorded on or after July 1, 2010 will not require either certificate. Loan applications taken prior to July 1, 2010 but closed after July 1, 2010 will require only a Certificate of Exemption. It is the responsibility of the closing agent to determine which, if any, certificate is required and to print that certificate.

Database User Groups

Only the following three groups will be authorized as users pursuant to P.A. 95-0691. All users will need to register, obtain a User ID and PIN, and receive training in the use of the database.

Mortgage Brokers and Loan Originators licensed by the Division of Banking
Housing Counselors (must be HUD-certified agencies)
Closing Agents

Entities Exempt from the Act

Any entity not required to be licensed under the Residential Mortgage License Act, such as banks and other depository financial institutions, as well as certain limited private lenders (such as an individual making a loan to a family member), is exempt from the Act. Exempt entities are not required to enter information into the database but must, however, obtain a Certificate of Exemption from the closing agent to record their mortgages. Loans by these entities may go directly to closing upon approval. If an exempt entity, such as a bank, chooses to close its own loans, it must register as a closer.

Standards for Housing Counseling

Counseling is required if

- A. In a purchase transaction, all borrowers are first time homebuyers
or
The borrower(s) are refinancing a primary residence,
and
- B. The loan is a mortgage that includes one or more of the following
 - 1) The loan permits interest-only payments
 - 2) The loan may result in negative amortization

- 3) The total points and fees payable by the borrower at or before closing will exceed 5%
- 4) The loan includes a prepayment penalty
- 5) The loan is an adjustable rate mortgage which allows adjustments of the interest rate in the first three years.

One standard from group A and at least one standard from group B must be present or counseling will not be required.

Program Overview

A mortgage broker or loan originator takes a loan application and enters required information into the database. The database will first determine whether the property is exempt. If it is not exempt, the database will then determine if it will be necessary for the borrower(s) to obtain counseling.

If counseling is not required, the loan may proceed to closing. If counseling is required, the borrower(s) will be notified and given a list of all participating counseling agencies. The counselor will compare the information entered by the broker/originator with the borrower's loan documents and other information provided by the borrower and enter recommendations. Whatever the counselor's recommendation may be, the borrower will make the decision whether to proceed.

Unless the borrower chooses not to proceed, the loan now moves to closing. The closing agent will have access to the information needed to perform the closing function and will determine whether the loan being closed has similar characteristics to the loan entered by the broker/originator and counselor. If there has been no material change, as defined in the Act, the closing agent will mark the loan "ready to close." The closing agent may make non-material changes to correct errors. A Certificate of Compliance will issue upon closing. In the event that the closing agent discovers material changes in the loan terms such that would meet another standard for counseling the loan cannot close and re-counseling will be required.