

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 390  
PREDATORY LENDING DATABASE PROGRAM

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AUTHORITY: Implementing and authorized by the Illinois Housing Development Act [20 ILCS 3905/7.19] and the Residential Real Property Disclosure Act [765 ILCS 77/80].

SOURCE: Emergency rules adopted at 32 Ill. Reg 16013, effective September 15, 2008, for a maximum of 150 days; adopted at 33 Ill. Reg. 1499, effective January 7, 2009.

## SUBPART A: GENERAL RULES

### **Section 390.101 Authority**

This Part is established to set forth the standards for the distribution of funds by the Illinois Housing Development Authority under Section 80 of the Residential Real Property Disclosure Act [765 ILCS 77/80] for the purpose of making Grants to HUD-certified counseling agencies participating in the Predatory Lending Database Program to assist with implementation and development of that Program. The Illinois Housing Development Authority is the designated administrator for the Predatory Lending Database in Illinois, which was established by the Residential Real Property Disclosure Act, effective July 1, 2008.

### **Section 390.102 Purpose and Objectives**

This Part is established to accomplish the purposes of Section 80 of the Residential Real Property Disclosure Act, and in particular the awarding of Predatory Lending Database Grant Program grants.

### **Section 390.103 Definitions**

As used in this Part, the following words or terms mean:

"Act": Residential Real Property Disclosure Act [765 ILCS 77].

"Agency" or "Agencies": HUD-certified housing counseling agencies selected for participation in the Program.

"Appropriation": The annual Appropriation of funds to the Illinois Department of Revenue for the Authority by the Illinois General Assembly for the Program.

"Authority": The Illinois Housing Development Authority.

"Application": The application for a grant completed by an Agency.

"Commitment": A contract executed by the Authority and an Agency under which the Authority agrees to provide funding to the Agency under the Program. Each Commitment shall contain a provision to the effect that the Authority shall not be obligated to provide funds under the Commitment if the Authority has not received sufficient funds from an Appropriation.

"Department": The Illinois Department of Financial and Professional Regulation.

"File Review": The interview performed by the Agency pursuant to Section 70 of the Act.

"Grant": A portion of the Appropriation distributed to an Agency to administer the Program.

"HUD-certified Counseling" or "Counseling": In-person counseling provided by a counselor employed by a HUD-certified housing counseling agency to all borrowers, or documented telephone counseling when 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-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.

"Initial Distribution": The first portion of the Grant distributed to an Agency as a lump sum.

"Maintenance Distribution": The second portion of the Grant distributed to an Agency quarterly.

"Members": The members of the Authority.

"Pilot Program": The predatory lending database pilot program established by PA 94-280, effective January 1, 2006.

"Program": The Predatory Lending Database Grant Program administered by the Department of Financial and Professional Regulation.

#### **Section 390.104 Compliance with Federal Law**

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal law.

#### **Section 390.105 Forms and Procedures for the Program**

The Authority may prepare, use, supplement and amend forms, agreements and other documents and procedures as may be necessary to implement the Program, all as may be prescribed by the Authority.

#### **Section 390.106 Fees and Charges**

The Authority will charge no application fee for this Program.

#### **Section 390.107 Authority Administrative Expenses**

The Authority shall be entitled to deduct an amount not to exceed 3% of the Appropriation from

each Appropriation for expenses associated with the administration of the Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the Program; expenses incurred in performing outreach activities and providing technical assistance to Agencies; the use of the Authority's equipment for Program purposes; the cost of office space and utilities incurred in connection with the Program; and any other expenses incurred in the administration of the Program.

### **Section 390.108 Amendment**

This Part may be supplemented, amended or repealed by the Members from time to time and in such manner as they may determine consistent with this Part, the Act, including but not limited to Section 80, and other applicable provisions of law. This Part shall not constitute or create any contractual rights.

### **Section 390.109 Severability**

If any clause, sentence, paragraph, subsection, Section or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section or Subpart as to which that judgment is rendered.

### **Section 390.110 Gender and Number**

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

### **Section 390.111 Titles and Captions**

Titles and captions of Subparts, Sections and subsections are used for convenience and reference and are not a part of the text.

## **SUBPART B: DISTRIBUTION OF FUNDS**

### **Section 390.201 Distribution of Appropriated Funds**

The Authority will distribute grants to Agencies providing housing counseling services within the geographic boundaries of Cook County. Grant awards to Agencies under the Program will be based on the Agency's current capacity, qualifications, proposed geographic service area, experience performing File Reviews under the Pilot Program, when applicable, and other requirements outlined in Section 390.304 of this Part and the Application. Agencies need not have performed File Reviews prior to application in order to qualify for a Grant.

### **Section 390.202 Staged Distribution**

Each Agency approved by the Authority under the Program will receive a Grant for a term of up to two years. Each Grant will be distributed in two stages. The Initial Distribution will be a lump sum, determined by the Authority in accordance with Section 390.201 of this Part, to be used to increase the Agency's capacity, as determined by the Authority in conjunction with the Agency. The Maintenance Distribution will be a smaller amount distributed quarterly through the term of the grant, and will be based on the Agency's performance under the grant and continued willingness to perform File Reviews.

## SUBPART C: GRANTS TO HUD-CERTIFIED HOUSING COUNSELING AGENCIES

### **Section 390.301 Agency Eligibility**

Agencies are eligible for funding if they have been certified as a housing counseling agency by the U.S. Department of Housing and Urban Development as set forth in the U.S. Department of Housing and Urban Development Housing Counseling Program Handbook 7610.1, Rev-4, (published October 21, 2004, U.S. Department of Housing and Urban Development, 451 7<sup>th</sup> Street, S.W., Washington DC 20410, no subsequent amendments or editions included). Agencies must also have been certified prior to their application for Program funding, commit to participation in the Program and agree to the terms and conditions of the Program in order to be eligible.

### **Section 390.302 Eligible Grant Activities**

Without limitation, computer and equipment purchases, staff salaries and benefits, office space, utility bills, marketing materials, training, and other activities that support carrying out duties under the Predatory Lending Database Program outlined in Section 80 of the Residential Real Property Disclosure Act are eligible for funding under this Program.

### **Section 390.303 Application Cycle**

The Authority will supply interested qualified applicants with an Application upon request. Applications under this Program will be accepted periodically until the Appropriation is disbursed as outlined in Section 390.202.

### **Section 390.304 Application Requirements**

Each Application for Program funds shall include the information required by this Section and any additional information the Authority may require to promote efficient program administration and quality of performance, provided that those requirements are included in the Application to be completed by the Agency.

- a) **Qualifications:** Each Applicant shall document qualifications to complete the Program activities, including without limitation documentation as a HUD-certified housing counseling agency.

- b) Number of File Reviews: If applicable, each Applicant shall determine and document the number of File Reviews completed for the Predatory Lending Database prior to Application, including any File Reviews performed prior to July 1, 2008.
- c) Documentation of Need: Each Applicant shall determine the projected need for File Reviews for the fiscal year for which grants are requested.
- d) Capacity: Each Applicant will document how capacity shall be expanded to meet the need described in subsection (b) of this Section.
- e) Activities to be Undertaken: Each Application shall list activities to be undertaken with Program funds, including without limitation those activities outlined under this Part and the Act.
- f) Time for Expending: Each Application shall include a budget and timeline schedule for performing the activities outlined in the Application.

#### **Section 390.305 Review of Applications**

- a) Application Screening. The Authority shall screen all Applications to determine that all elements of the Application package have been addressed. Applicants will be notified of deficiencies in Applications and given the opportunity to correct those deficiencies. Complete Applications will be reviewed and evaluated by Authority staff in accordance with criteria listed in subsections (b) through (e) of this Section. This review and evaluation process will be completed within 30 working days after the due date for Applications.
- b) Basic Eligibility Evaluation. Each Application will be reviewed to assure compliance with the Act and this Part.
- c) Willingness to Perform. The Agency must commit to remain ready, willing and able to perform File Reviews throughout the period of the Commitment.
- d) Costs. The Agency must demonstrate that the costs identified in the Application are eligible Program costs under the Act and this Part.
- e) Program Objectives and Methodology. The Applicant must demonstrate that the activities undertaken under the Program can be accomplished, in that:
  - 1) activities are measurable and will benefit the purposes of the Program as described in the Act and this Part; and

- 2) proposed activities logically address the problems or opportunities identified in the Application.

### **Section 390.306 Grant Administration**

- a) **Commitment:** Each Agency shall enter into a Commitment with the Authority; the Grant may be less than the amount requested in the Application. The term of Commitments may be up to two years, subject to the availability of funds from an Appropriation, and may be renewed if Appropriation is made available and the agency performs satisfactorily under the first Grant.
- b) **Record Retention:** Each Agency shall maintain records in connection with administration of the Program, including all records required by the U.S. Department of Housing and Urban Development as part of its continuing compliance with requirements for Agencies. Records shall be retained for five years after the date of termination of the Commitment.
- c) **Agency Monitoring:** The Authority shall have the right to monitor all Agency records relating to the administration of the grant by the Authority. Each Agency shall make all records relating to its Commitment available for inspection by the Authority upon the Authority's request. The required documentation may include a copy of the Agency's Application to the Authority; all records relating to training, equipment purchases, staff salaries and benefits, and other activities undertaken with Program funds; documentation of activities performed under the Program; and any other documentation required by the Authority.

### **Section 390.307 Funding of Grants**

During the term of each Commitment with an Agency, the Authority shall provide funds to Agencies when Appropriation is made available and as outlined in Sections 390.202 and 390.302.

### **Section 390.308 Reporting Requirements for Agencies**

Each Agency shall provide reports to the Authority, on forms provided by the Authority, at the end of each quarter of the term of its Commitment. The report shall identify, at a minimum, certification that the Agency was available to complete File Reviews, the number of File Reviews referred and performed, expenditures incurred and amounts expended for each purchase or expense.

### **Section 390.309 Books and Records**

The books and records of each Agency and each Affordable Housing Project shall be subject to inspection, examination and copying by the Authority and its authorized representatives or agents at such times as the Authority reasonably requires for the purpose of determining whether

the Agency is in compliance with the Act and this Part.