

SB3393



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3393

Introduced 2/16/2018, by Sen. Pamela J. Althoff

SYNOPSIS AS INTRODUCED:

225 ILCS 454/1-10
225 ILCS 454/5-10
225 ILCS 454/5-15
225 ILCS 454/5-27
225 ILCS 454/5-28
225 ILCS 454/5-40
225 ILCS 454/5-50
225 ILCS 454/20-20

Amends the Real Estate License Act of 2000. Removes provisions relating to sponsor cards issued by sponsoring brokers to managing brokers, brokers, or leasing agents. Adds provisions requiring a sponsoring broker to notify the Department of Financial and Professional Regulation within 24 hours of a sponsorship of a licensee in a manner provided by rule. When a licensee's employment with a sponsoring broker is terminated, requires the licensee and sponsoring broker to notify the Department of the termination within 24 hours in a manner provided by rule. Provides that the failure to provide that notification shall subject the sponsoring broker or licensee to discipline. Adds provisions regarding the Department's recognition of a sponsorship by a sponsoring broker. Makes conforming and other changes. Effective immediately.

LRB100 17394 XWW 32560 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Real Estate License Act of 2000 is amended
5 by changing Sections 1-10, 5-10, 5-15, 5-27, 5-28, 5-40, 5-50,
6 and 20-20 as follows:

7 (225 ILCS 454/1-10)

8 (Section scheduled to be repealed on January 1, 2020)

9 Sec. 1-10. Definitions. In this Act, unless the context
10 otherwise requires:

11 "Act" means the Real Estate License Act of 2000.

12 "Address of record" means the designated address recorded
13 by the Department in the applicant's or licensee's application
14 file or license file as maintained by the Department's
15 licensure maintenance unit. It is the duty of the applicant or
16 licensee to inform the Department of any change of address, and
17 those changes must be made either through the Department's
18 website or by contacting the Department.

19 "Agency" means a relationship in which a broker or
20 licensee, whether directly or through an affiliated licensee,
21 represents a consumer by the consumer's consent, whether
22 express or implied, in a real property transaction.

23 "Applicant" means any person, as defined in this Section,

1 who applies to the Department for a valid license as a managing
2 broker, broker, or leasing agent.

3 "Blind advertisement" means any real estate advertisement
4 that does not include the sponsoring broker's business name and
5 that is used by any licensee regarding the sale or lease of
6 real estate, including his or her own, licensed activities, or
7 the hiring of any licensee under this Act. The broker's
8 business name in the case of a franchise shall include the
9 franchise affiliation as well as the name of the individual
10 firm.

11 "Board" means the Real Estate Administration and
12 Disciplinary Board of the Department as created by Section
13 25-10 of this Act.

14 "Branch office" means a sponsoring broker's office other
15 than the sponsoring broker's principal office.

16 "Broker" means an individual, partnership, limited
17 liability company, corporation, or registered limited
18 liability partnership other than a leasing agent who, whether
19 in person or through any media or technology, for another and
20 for compensation, or with the intention or expectation of
21 receiving compensation, either directly or indirectly:

22 (1) Sells, exchanges, purchases, rents, or leases real
23 estate.

24 (2) Offers to sell, exchange, purchase, rent, or lease
25 real estate.

26 (3) Negotiates, offers, attempts, or agrees to

1 negotiate the sale, exchange, purchase, rental, or leasing
2 of real estate.

3 (4) Lists, offers, attempts, or agrees to list real
4 estate for sale, rent, lease, or exchange.

5 (5) Buys, sells, offers to buy or sell, or otherwise
6 deals in options on real estate or improvements thereon.

7 (6) Supervises the collection, offer, attempt, or
8 agreement to collect rent for the use of real estate.

9 (7) Advertises or represents himself or herself as
10 being engaged in the business of buying, selling,
11 exchanging, renting, or leasing real estate.

12 (8) Assists or directs in procuring or referring of
13 leads or prospects, intended to result in the sale,
14 exchange, lease, or rental of real estate.

15 (9) Assists or directs in the negotiation of any
16 transaction intended to result in the sale, exchange,
17 lease, or rental of real estate.

18 (10) Opens real estate to the public for marketing
19 purposes.

20 (11) Sells, rents, leases, or offers for sale or lease
21 real estate at auction.

22 (12) Prepares or provides a broker price opinion or
23 comparative market analysis as those terms are defined in
24 this Act, pursuant to the provisions of Section 10-45 of
25 this Act.

26 "Brokerage agreement" means a written or oral agreement

1 between a sponsoring broker and a consumer for licensed
2 activities to be provided to a consumer in return for
3 compensation or the right to receive compensation from another.
4 Brokerage agreements may constitute either a bilateral or a
5 unilateral agreement between the broker and the broker's client
6 depending upon the content of the brokerage agreement. All
7 exclusive brokerage agreements shall be in writing.

8 "Broker price opinion" means an estimate or analysis of the
9 probable selling price of a particular interest in real estate,
10 which may provide a varying level of detail about the
11 property's condition, market, and neighborhood and information
12 on comparable sales. The activities of a real estate broker or
13 managing broker engaging in the ordinary course of business as
14 a broker, as defined in this Section, shall not be considered a
15 broker price opinion if no compensation is paid to the broker
16 or managing broker, other than compensation based upon the sale
17 or rental of real estate.

18 "Client" means a person who is being represented by a
19 licensee.

20 "Comparative market analysis" is an analysis or opinion
21 regarding pricing, marketing, or financial aspects relating to
22 a specified interest or interests in real estate that may be
23 based upon an analysis of comparative market data, the
24 expertise of the real estate broker or managing broker, and
25 such other factors as the broker or managing broker may deem
26 appropriate in developing or preparing such analysis or

1 opinion. The activities of a real estate broker or managing
2 broker engaging in the ordinary course of business as a broker,
3 as defined in this Section, shall not be considered a
4 comparative market analysis if no compensation is paid to the
5 broker or managing broker, other than compensation based upon
6 the sale or rental of real estate.

7 "Compensation" means the valuable consideration given by
8 one person or entity to another person or entity in exchange
9 for the performance of some activity or service. Compensation
10 shall include the transfer of valuable consideration,
11 including without limitation the following:

- 12 (1) commissions;
- 13 (2) referral fees;
- 14 (3) bonuses;
- 15 (4) prizes;
- 16 (5) merchandise;
- 17 (6) finder fees;
- 18 (7) performance of services;
- 19 (8) coupons or gift certificates;
- 20 (9) discounts;
- 21 (10) rebates;
- 22 (11) a chance to win a raffle, drawing, lottery, or
23 similar game of chance not prohibited by any other law or
24 statute;
- 25 (12) retainer fee; or
- 26 (13) salary.

1 "Confidential information" means information obtained by a
2 licensee from a client during the term of a brokerage agreement
3 that (i) was made confidential by the written request or
4 written instruction of the client, (ii) deals with the
5 negotiating position of the client, or (iii) is information the
6 disclosure of which could materially harm the negotiating
7 position of the client, unless at any time:

8 (1) the client permits the disclosure of information
9 given by that client by word or conduct;

10 (2) the disclosure is required by law; or

11 (3) the information becomes public from a source other
12 than the licensee.

13 "Confidential information" shall not be considered to
14 include material information about the physical condition of
15 the property.

16 "Consumer" means a person or entity seeking or receiving
17 licensed activities.

18 "Coordinator" means the Coordinator of Real Estate created
19 in Section 25-15 of this Act.

20 "Credit hour" means 50 minutes of classroom instruction in
21 course work that meets the requirements set forth in rules
22 adopted by the Department.

23 "Customer" means a consumer who is not being represented by
24 the licensee but for whom the licensee is performing
25 ministerial acts.

26 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Designated agency" means a contractual relationship
3 between a sponsoring broker and a client under Section 15-50 of
4 this Act in which one or more licensees associated with or
5 employed by the broker are designated as agent of the client.

6 "Designated agent" means a sponsored licensee named by a
7 sponsoring broker as the legal agent of a client, as provided
8 for in Section 15-50 of this Act.

9 "Dual agency" means an agency relationship in which a
10 licensee is representing both buyer and seller or both landlord
11 and tenant in the same transaction. When the agency
12 relationship is a designated agency, the question of whether
13 there is a dual agency shall be determined by the agency
14 relationships of the designated agent of the parties and not of
15 the sponsoring broker.

16 "Education provider" means a school licensed by the
17 Department offering courses in pre-license, post-license, or
18 continuing education required by this Act.

19 "Employee" or other derivative of the word "employee", when
20 used to refer to, describe, or delineate the relationship
21 between a sponsoring broker and a managing broker, broker, or a
22 leasing agent, shall be construed to include an independent
23 contractor relationship, provided that a written agreement
24 exists that clearly establishes and states the relationship.
25 All responsibilities of a broker shall remain.

26 "Escrow moneys" means all moneys, promissory notes or any

1 other type or manner of legal tender or financial consideration
2 deposited with any person for the benefit of the parties to the
3 transaction. A transaction exists once an agreement has been
4 reached and an accepted real estate contract signed or lease
5 agreed to by the parties. Escrow moneys includes without
6 limitation earnest moneys and security deposits, except those
7 security deposits in which the person holding the security
8 deposit is also the sole owner of the property being leased and
9 for which the security deposit is being held.

10 "Electronic means of proctoring" means a methodology
11 providing assurance that the person taking a test and
12 completing the answers to questions is the person seeking
13 licensure or credit for continuing education and is doing so
14 without the aid of a third party or other device.

15 "Exclusive brokerage agreement" means a written brokerage
16 agreement that provides that the sponsoring broker has the sole
17 right, through one or more sponsored licensees, to act as the
18 exclusive designated agent or representative of the client and
19 that meets the requirements of Section 15-75 of this Act.

20 "Inoperative" means a status of licensure where the
21 licensee holds a current license under this Act, but the
22 licensee is prohibited from engaging in licensed activities
23 because the licensee is unsponsored or the license of the
24 sponsoring broker with whom the licensee is associated or by
25 whom he or she is employed is currently expired, revoked,
26 suspended, or otherwise rendered invalid under this Act.

1 "Interactive delivery method" means delivery of a course by
2 an instructor through a medium allowing for 2-way communication
3 between the instructor and a student in which either can
4 initiate or respond to questions.

5 "Leads" means the name or names of a potential buyer,
6 seller, lessor, lessee, or client of a licensee.

7 "Leasing Agent" means a person who is employed by a broker
8 to engage in licensed activities limited to leasing residential
9 real estate who has obtained a license as provided for in
10 Section 5-5 of this Act.

11 "License" means the document issued by the Department
12 certifying that the person named thereon has fulfilled all
13 requirements prerequisite to licensure under this Act.

14 "Licensed activities" means those activities listed in the
15 definition of "broker" under this Section.

16 "Licensee" means any person, as defined in this Section,
17 who holds a valid unexpired license as a managing broker,
18 broker, or leasing agent.

19 "Listing presentation" means a communication between a
20 managing broker or broker and a consumer in which the licensee
21 is attempting to secure a brokerage agreement with the consumer
22 to market the consumer's real estate for sale or lease.

23 "Managing broker" means a broker who has supervisory
24 responsibilities for licensees in one or, in the case of a
25 multi-office company, more than one office and who has been
26 appointed as such by the sponsoring broker.

1 "Medium of advertising" means any method of communication
2 intended to influence the general public to use or purchase a
3 particular good or service or real estate.

4 "Ministerial acts" means those acts that a licensee may
5 perform for a consumer that are informative or clerical in
6 nature and do not rise to the level of active representation on
7 behalf of a consumer. Examples of these acts include without
8 limitation (i) responding to phone inquiries by consumers as to
9 the availability and pricing of brokerage services, (ii)
10 responding to phone inquiries from a consumer concerning the
11 price or location of property, (iii) attending an open house
12 and responding to questions about the property from a consumer,
13 (iv) setting an appointment to view property, (v) responding to
14 questions of consumers walking into a licensee's office
15 concerning brokerage services offered or particular
16 properties, (vi) accompanying an appraiser, inspector,
17 contractor, or similar third party on a visit to a property,
18 (vii) describing a property or the property's condition in
19 response to a consumer's inquiry, (viii) completing business or
20 factual information for a consumer on an offer or contract to
21 purchase on behalf of a client, (ix) showing a client through a
22 property being sold by an owner on his or her own behalf, or
23 (x) referral to another broker or service provider.

24 "Office" means a broker's place of business where the
25 general public is invited to transact business and where
26 records may be maintained and licenses displayed, whether or

1 not it is the broker's principal place of business.

2 "Person" means and includes individuals, entities,
3 corporations, limited liability companies, registered limited
4 liability partnerships, and partnerships, foreign or domestic,
5 except that when the context otherwise requires, the term may
6 refer to a single individual or other described entity.

7 "Personal assistant" means a licensed or unlicensed person
8 who has been hired for the purpose of aiding or assisting a
9 sponsored licensee in the performance of the sponsored
10 licensee's job.

11 "Pocket card" means the card issued by the Department to
12 signify that the person named on the card is currently licensed
13 under this Act.

14 "Pre-renewal period" means the period between the date of
15 issue of a currently valid license and the license's expiration
16 date.

17 "Proctor" means any person, including, but not limited to,
18 an instructor, who has a written agreement to administer
19 examinations fairly and impartially with a licensed education
20 provider.

21 "Real estate" means and includes leaseholds as well as any
22 other interest or estate in land, whether corporeal,
23 incorporeal, freehold, or non-freehold and whether the real
24 estate is situated in this State or elsewhere. "Real estate"
25 does not include property sold, exchanged, or leased as a
26 timeshare or similar vacation item or interest, vacation club

1 membership, or other activity formerly regulated under the Real
2 Estate Timeshare Act of 1999 (repealed).

3 "Regular employee" means a person working an average of 20
4 hours per week for a person or entity who would be considered
5 as an employee under the Internal Revenue Service eleven main
6 tests in three categories being behavioral control, financial
7 control and the type of relationship of the parties, formerly
8 the twenty factor test.

9 "Secretary" means the Secretary of the Department of
10 Financial and Professional Regulation, or a person authorized
11 by the Secretary to act in the Secretary's stead.

12 "Sponsoring broker" means the broker who sponsors ~~has~~
13 ~~issued a sponsor card to~~ a licensed managing broker, broker, or
14 ~~a~~ leasing agent.

15 ~~"Sponsor card" means the temporary permit issued by the~~
16 ~~sponsoring broker certifying that the managing broker, broker,~~
17 ~~or leasing agent named thereon is employed by or associated by~~
18 ~~written agreement with the sponsoring broker, as provided for~~
19 ~~in Section 5-40 of this Act.~~

20 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18;
21 100-534, eff. 9-22-17; revised 10-2-17.)

22 (225 ILCS 454/5-10)

23 (Section scheduled to be repealed on January 1, 2020)

24 Sec. 5-10. Requirements for license as leasing agent;
25 continuing education.

1 (a) Every applicant for licensure as a leasing agent must
2 meet the following qualifications:

3 (1) be at least 18 years of age;

4 (2) be of good moral character;

5 (3) successfully complete a 4-year course of study in a
6 high school or secondary school or an equivalent course of
7 study approved by the Illinois State Board of Education;

8 (4) personally take and pass a written examination
9 authorized by the Department sufficient to demonstrate the
10 applicant's knowledge of the provisions of this Act
11 relating to leasing agents and the applicant's competence
12 to engage in the activities of a licensed leasing agent;

13 (5) provide satisfactory evidence of having completed
14 15 hours of instruction in an approved course of study
15 relating to the leasing of residential real property. The
16 Board shall recommend to the Department the number of hours
17 each topic of study shall require. The course of study
18 shall, among other topics, cover the provisions of this Act
19 applicable to leasing agents; fair housing issues relating
20 to residential leasing; advertising and marketing issues;
21 leases, applications, and credit reports; owner-tenant
22 relationships and owner-tenant laws; the handling of
23 funds; and environmental issues relating to residential
24 real property;

25 (6) complete any other requirements as set forth by
26 rule; and

1 (7) present a valid application for issuance of an
2 initial license ~~accompanied by a sponsor card~~ and the fees
3 specified by rule.

4 (b) No applicant shall engage in any of the activities
5 covered by this Act until a valid sponsorship ~~sponsor card~~ has
6 been recognized by the Department ~~issued to such applicant~~. ~~The~~
7 ~~sponsor card shall be valid for a maximum period of 45 days~~
8 ~~after the date of issuance unless extended for good cause as~~
9 ~~provided by rule.~~

10 (c) Successfully completed course work, completed pursuant
11 to the requirements of this Section, may be applied to the
12 course work requirements to obtain a managing broker's or
13 broker's license as provided by rule. The Board may recommend
14 to the Department and the Department may adopt requirements for
15 approved courses, course content, and the approval of courses,
16 instructors, and education providers, as well as education
17 provider and instructor fees. The Department may establish
18 continuing education requirements for licensed leasing agents,
19 by rule, consistent with the language and intent of this Act,
20 with the advice of the Board.

21 (d) The continuing education requirement for leasing
22 agents shall consist of a single core curriculum to be
23 established by the Department as recommended by the Board.
24 Leasing agents shall be required to complete no less than 6
25 hours of continuing education in the core curriculum for each
26 2-year renewal period.

1 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18.)

2 (225 ILCS 454/5-15)

3 (Section scheduled to be repealed on January 1, 2020)

4 Sec. 5-15. Necessity of managing broker, broker, or leasing
5 agent license ~~or sponsor card~~; ownership restrictions.

6 (a) It is unlawful for any person, corporation, limited
7 liability company, registered limited liability partnership,
8 or partnership to act as a managing broker, broker, or leasing
9 agent or to advertise or assume to act as such managing broker,
10 broker or leasing agent until a valid sponsorship has been
11 recognized by the Department ~~without a properly issued sponsor~~
12 ~~card or a license issued under this Act by the Department,~~
13 ~~either directly or through its authorized designee.~~

14 (b) No corporation shall be granted a license or engage in
15 the business or capacity, either directly or indirectly, of a
16 broker, unless every officer of the corporation who actively
17 participates in the real estate activities of the corporation
18 holds a license as a managing broker or broker and unless every
19 employee who acts as a managing broker, broker, or leasing
20 agent for the corporation holds a license as a managing broker,
21 broker, or leasing agent.

22 (c) No partnership shall be granted a license or engage in
23 the business or serve in the capacity, either directly or
24 indirectly, of a broker, unless every general partner in the
25 partnership holds a license as a managing broker or broker and

1 unless every employee who acts as a managing broker, broker, or
2 leasing agent for the partnership holds a license as a managing
3 broker, broker, or leasing agent. In the case of a registered
4 limited liability partnership (LLP), every partner in the LLP
5 must hold a license as a managing broker or broker and every
6 employee who acts as a managing broker, broker, or leasing
7 agent must hold a license as a managing broker, broker, or
8 leasing agent.

9 (d) No limited liability company shall be granted a license
10 or engage in the business or serve in the capacity, either
11 directly or indirectly, of a broker unless every manager in the
12 limited liability company or every member in a member managed
13 limited liability company holds a license as a managing broker
14 or broker and unless every other member and employee who acts
15 as a managing broker, broker, or leasing agent for the limited
16 liability company holds a license as a managing broker, broker,
17 or leasing agent.

18 (e) No partnership, limited liability company, or
19 corporation shall be licensed to conduct a brokerage business
20 where an individual leasing agent, or group of leasing agents,
21 owns or directly or indirectly controls more than 49% of the
22 shares of stock or other ownership in the partnership, limited
23 liability company, or corporation.

24 (Source: P.A. 99-227, eff. 8-3-15.)

25 (225 ILCS 454/5-27)

1 (Section scheduled to be repealed on January 1, 2020)

2 Sec. 5-27. Requirements for licensure as a broker.

3 (a) Every applicant for licensure as a broker must meet the
4 following qualifications:

5 (1) Be at least 21 years of age. The minimum age of 21
6 years shall be waived for any person seeking a license as a
7 broker who has attained the age of 18 and can provide
8 evidence of the successful completion of at least 4
9 semesters of post-secondary school study as a full-time
10 student or the equivalent, with major emphasis on real
11 estate courses, in a school approved by the Department;

12 (2) Be of good moral character;

13 (3) Successfully complete a 4-year course of study in a
14 high school or secondary school approved by the Illinois
15 State Board of Education or an equivalent course of study
16 as determined by an examination conducted by the Illinois
17 State Board of Education which shall be verified under oath
18 by the applicant;

19 (4) (Blank);

20 (5) Provide satisfactory evidence of having completed
21 90 hours of instruction in real estate courses approved by
22 the Department, 15 hours of which must consist of
23 situational and case studies presented in the classroom or
24 by live, interactive webinar or online distance education
25 courses;

26 (6) Personally take and pass a written examination

1 authorized by the Department;

2 (7) Present a valid application for issuance of a
3 license ~~accompanied by a sponsor card~~ and the fees
4 specified by rule.

5 (b) The requirements specified in items (3) and (5) of
6 subsection (a) of this Section do not apply to applicants who
7 are currently admitted to practice law by the Supreme Court of
8 Illinois and are currently in active standing.

9 (c) No applicant shall engage in any of the activities
10 covered by this Act until a valid sponsorship has been
11 recognized by the Department ~~sponsor card has been issued to~~
12 ~~such applicant. The sponsor card shall be valid for a maximum~~
13 ~~period of 45 days after the date of issuance unless extended~~
14 ~~for good cause as provided by rule.~~

15 (d) All licenses should be readily available to the public
16 at their place of business.

17 (e) An individual holding an active license as a managing
18 broker may return the license to the Department along with a
19 form provided by the Department and shall be issued a broker's
20 license in exchange. Any individual obtaining a broker's
21 license under this subsection (e) shall be considered as having
22 obtained a broker's license by education and passing the
23 required test and shall be treated as such in determining
24 compliance with this Act.

25 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18.)

1 (225 ILCS 454/5-28)

2 (Section scheduled to be repealed on January 1, 2020)

3 Sec. 5-28. Requirements for licensure as a managing broker.

4 (a) Every applicant for licensure as a managing broker must
5 meet the following qualifications:

6 (1) be at least 21 years of age;

7 (2) be of good moral character;

8 (3) have been licensed at least 2 out of the preceding
9 3 years as a broker;

10 (4) successfully complete a 4-year course of study in
11 high school or secondary school approved by the Illinois
12 State Board of Education or an equivalent course of study
13 as determined by an examination conducted by the Illinois
14 State Board of Education, which shall be verified under
15 oath by the applicant;

16 (5) provide satisfactory evidence of having completed
17 at least 165 hours, 120 of which shall be those hours
18 required pre and post-licensure to obtain a broker's
19 license, and 45 additional hours completed within the year
20 immediately preceding the filing of an application for a
21 managing broker's license, which hours shall focus on
22 brokerage administration and management and leasing agent
23 management and include at least 15 hours in the classroom
24 or by live, interactive webinar or online distance
25 education courses;

26 (6) personally take and pass a written examination

1 authorized by the Department; and

2 (7) present a valid application for issuance of a
3 license ~~accompanied by a sponsor card, an appointment as a~~
4 ~~managing broker,~~ and the fees specified by rule.

5 (b) The requirements specified in item (5) of subsection
6 (a) of this Section do not apply to applicants who are
7 currently admitted to practice law by the Supreme Court of
8 Illinois and are currently in active standing.

9 (c) No applicant shall act as a managing broker for more
10 than 90 days after an appointment as a managing broker has been
11 filed with the Department without obtaining a managing broker's
12 license.

13 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18.)

14 (225 ILCS 454/5-40)

15 (Section scheduled to be repealed on January 1, 2020)

16 Sec. 5-40. Sponsorship and ~~Sponsor card; termination~~
17 ~~indicated by license endorsement;~~ association with new broker.

18 (a) The sponsoring broker shall notify ~~prepare upon forms~~
19 ~~provided by~~ the Department of ~~and deliver to~~ each licensee
20 employed by or associated with the sponsoring broker within 24
21 hours of sponsorship in a manner provided by rule. ~~a sponsor~~
22 ~~card certifying that the person whose name appears thereon is~~
23 ~~in fact employed by or associated with the sponsoring broker.~~
24 ~~The sponsoring broker shall send a duplicate of each sponsor~~
25 ~~card, along with a valid license or other authorization as~~

1 ~~provided by rule and the appropriate fee, to the Department~~
2 ~~within 24 hours of issuance of the sponsor card. It is a~~
3 ~~violation of this Act for any broker to issue a sponsor card to~~
4 ~~any licensee or applicant unless the licensee or applicant~~
5 ~~presents in hand a valid license or other authorization as~~
6 ~~provided by rule.~~

7 (b) When a licensee terminates his or her employment or
8 association with a sponsoring broker or the employment is
9 terminated by the sponsoring broker, the licensee and
10 sponsoring broker shall ~~obtain from the sponsoring broker his~~
11 ~~or her license endorsed by the sponsoring broker indicating the~~
12 ~~termination. The sponsoring broker shall surrender to the~~
13 ~~Department a copy of the license of the licensee within 2 days~~
14 ~~of the termination or shall~~ notify the Department ~~in writing~~ of
15 the termination within 24 hours in a manner provided by rule
16 ~~and explain why a copy of the license is not surrendered.~~
17 Failure of the sponsoring broker or licensee to notify the
18 Department of the termination within 24 hours ~~surrender the~~
19 ~~license~~ shall subject the sponsoring broker or licensee to
20 discipline under Section 20-20 of this Act. The license of any
21 licensee whose association with a sponsoring broker is
22 terminated shall automatically become inoperative immediately
23 upon the termination and the licensee shall not be authorized
24 to practice until a new valid sponsorship has been recognized
25 by the Department ~~unless the licensee accepts employment or~~
26 ~~becomes associated with a new sponsoring broker pursuant to~~

1 ~~subsection (c) of this Section.~~

2 (c) (Blank). ~~When a licensee accepts employment or~~
3 ~~association with a new sponsoring broker, the new sponsoring~~
4 ~~broker shall send to the Department a duplicate sponsor card,~~
5 ~~along with the licensee's endorsed license or an affidavit of~~
6 ~~the licensee of why the endorsed license is not surrendered,~~
7 ~~and shall pay the appropriate fee prescribed by rule to cover~~
8 ~~administrative expenses attendant to the changes in the~~
9 ~~registration of the licensee.~~

10 (Source: P.A. 96-856, eff. 12-31-09.)

11 (225 ILCS 454/5-50)

12 (Section scheduled to be repealed on January 1, 2020)

13 Sec. 5-50. Expiration and renewal of managing broker,
14 broker, or leasing agent license; sponsoring broker; register
15 of licensees; pocket card.

16 (a) The expiration date and renewal period for each license
17 issued under this Act shall be set by rule. Except as otherwise
18 provided in this Section, the holder of a license may renew the
19 license within 90 days preceding the expiration date thereof by
20 completing the continuing education required by this Act and
21 paying the fees specified by rule.

22 (b) An individual whose first license is that of a broker
23 received on or after the effective date of this amendatory Act
24 of the 100th General Assembly, must provide evidence of having
25 completed 30 hours of post-license education in courses

1 recommended by the Board and approved by the Department, 15
2 hours of which must consist of situational and case studies
3 presented in a classroom or a live, interactive webinar, online
4 distance education course, or home study course. Credit for
5 courses taken through a home study course shall require passage
6 of an examination approved by the Department prior to the first
7 renewal of their broker's license.

8 (c) Any managing broker, broker, or leasing agent whose
9 license under this Act has expired shall be eligible to renew
10 the license during the 2-year period following the expiration
11 date, provided the managing broker, broker, or leasing agent
12 pays the fees as prescribed by rule and completes continuing
13 education and other requirements provided for by the Act or by
14 rule. Beginning on May 1, 2012, a managing broker licensee,
15 broker, or leasing agent whose license has been expired for
16 more than 2 years but less than 5 years may have it restored by
17 (i) applying to the Department, (ii) paying the required fee,
18 (iii) completing the continuing education requirements for the
19 most recent pre-renewal period that ended prior to the date of
20 the application for reinstatement, and (iv) filing acceptable
21 proof of fitness to have his or her license restored, as set by
22 rule. A managing broker, broker, or leasing agent whose license
23 has been expired for more than 5 years shall be required to
24 meet the requirements for a new license.

25 (d) Notwithstanding any other provisions of this Act to the
26 contrary, any managing broker, broker, or leasing agent whose

1 license expired while he or she was (i) on active duty with the
2 Armed Forces of the United States or called into service or
3 training by the state militia, (ii) engaged in training or
4 education under the supervision of the United States
5 preliminary to induction into military service, or (iii)
6 serving as the Coordinator of Real Estate in the State of
7 Illinois or as an employee of the Department may have his or
8 her license renewed, reinstated or restored without paying any
9 lapsed renewal fees if within 2 years after the termination of
10 the service, training or education by furnishing the Department
11 with satisfactory evidence of service, training, or education
12 and it has been terminated under honorable conditions.

13 (e) The Department shall establish and maintain a register
14 of all persons currently licensed by the State and shall issue
15 and prescribe a form of pocket card. Upon payment by a licensee
16 of the appropriate fee as prescribed by rule for engagement in
17 the activity for which the licensee is qualified and holds a
18 license for the current period, the Department shall issue a
19 pocket card to the licensee. The pocket card shall be
20 verification that the required fee for the current period has
21 been paid and shall indicate that the person named thereon is
22 licensed for the current renewal period as a managing broker,
23 broker, or leasing agent as the case may be. The pocket card
24 shall further indicate that the person named thereon is
25 authorized by the Department to engage in the licensed activity
26 appropriate for his or her status (managing broker, broker, or

1 leasing agent). Each licensee shall carry on his or her person
2 his or her pocket card ~~or, if such pocket card has not yet been~~
3 ~~issued, a properly issued sponsor card when engaging in any~~
4 ~~licensed activity~~ and shall display the same on demand.

5 (f) The Department shall provide to the sponsoring broker a
6 notice of renewal for all sponsored licensees by mailing the
7 notice to the sponsoring broker's address of record, or, at the
8 Department's discretion, by an electronic means as provided for
9 by rule.

10 (g) Upon request from the sponsoring broker, the Department
11 shall make available to the sponsoring broker, either by mail
12 or by an electronic means at the discretion of the Department,
13 a listing of licensees under this Act who, according to the
14 records of the Department, are sponsored by that broker. Every
15 licensee associated with or employed by a broker whose license
16 is revoked, suspended, terminated, or expired shall be
17 considered as inoperative until such time as the sponsoring
18 broker's license is reinstated or renewed or a new valid
19 sponsorship has been recognized by the Department, ~~or the~~
20 ~~licensee changes employment as set forth in subsection (c) of~~
21 ~~Section 5-40 of this Act.~~

22 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18.)

23 (225 ILCS 454/20-20)

24 (Section scheduled to be repealed on January 1, 2020)

25 Sec. 20-20. Grounds for discipline.

1 (a) The Department may refuse to issue or renew a license,
2 may place on probation, suspend, or revoke any license,
3 reprimand, or take any other disciplinary or non-disciplinary
4 action as the Department may deem proper and impose a fine not
5 to exceed \$25,000 upon any licensee or applicant under this Act
6 or any person who holds himself or herself out as an applicant
7 or licensee or against a licensee in handling his or her own
8 property, whether held by deed, option, or otherwise, for any
9 one or any combination of the following causes:

10 (1) Fraud or misrepresentation in applying for, or
11 procuring, a license under this Act or in connection with
12 applying for renewal of a license under this Act.

13 (2) The conviction of or plea of guilty or plea of nolo
14 contendere to a felony or misdemeanor in this State or any
15 other jurisdiction; or the entry of an administrative
16 sanction by a government agency in this State or any other
17 jurisdiction. Action taken under this paragraph (2) for a
18 misdemeanor or an administrative sanction is limited to a
19 misdemeanor or administrative sanction that has as an
20 essential element dishonesty or fraud or involves larceny,
21 embezzlement, or obtaining money, property, or credit by
22 false pretenses or by means of a confidence game.

23 (3) Inability to practice the profession with
24 reasonable judgment, skill, or safety as a result of a
25 physical illness, including, but not limited to,
26 deterioration through the aging process or loss of motor

1 skill, or a mental illness or disability.

2 (4) Practice under this Act as a licensee in a retail
3 sales establishment from an office, desk, or space that is
4 not separated from the main retail business by a separate
5 and distinct area within the establishment.

6 (5) Having been disciplined by another state, the
7 District of Columbia, a territory, a foreign nation, or a
8 governmental agency authorized to impose discipline if at
9 least one of the grounds for that discipline is the same as
10 or the equivalent of one of the grounds for which a
11 licensee may be disciplined under this Act. A certified
12 copy of the record of the action by the other state or
13 jurisdiction shall be prima facie evidence thereof.

14 (6) Engaging in the practice of real estate brokerage
15 without a license or after the licensee's license or
16 temporary permit was expired or while the license was
17 inoperative.

18 (7) Cheating on or attempting to subvert the Real
19 Estate License Exam or continuing education exam.

20 (8) Aiding or abetting an applicant to subvert or cheat
21 on the Real Estate License Exam or continuing education
22 exam administered pursuant to this Act.

23 (9) Advertising that is inaccurate, misleading, or
24 contrary to the provisions of the Act.

25 (10) Making any substantial misrepresentation or
26 untruthful advertising.

1 (11) Making any false promises of a character likely to
2 influence, persuade, or induce.

3 (12) Pursuing a continued and flagrant course of
4 misrepresentation or the making of false promises through
5 licensees, employees, agents, advertising, or otherwise.

6 (13) Any misleading or untruthful advertising, or
7 using any trade name or insignia of membership in any real
8 estate organization of which the licensee is not a member.

9 (14) Acting for more than one party in a transaction
10 without providing written notice to all parties for whom
11 the licensee acts.

12 (15) Representing or attempting to represent a broker
13 other than the sponsoring broker.

14 (16) Failure to account for or to remit any moneys or
15 documents coming into his or her possession that belong to
16 others.

17 (17) Failure to maintain and deposit in a special
18 account, separate and apart from personal and other
19 business accounts, all escrow moneys belonging to others
20 entrusted to a licensee while acting as a broker, escrow
21 agent, or temporary custodian of the funds of others or
22 failure to maintain all escrow moneys on deposit in the
23 account until the transactions are consummated or
24 terminated, except to the extent that the moneys, or any
25 part thereof, shall be:

26 (A) disbursed prior to the consummation or

1 termination (i) in accordance with the written
2 direction of the principals to the transaction or their
3 duly authorized agents, (ii) in accordance with
4 directions providing for the release, payment, or
5 distribution of escrow moneys contained in any written
6 contract signed by the principals to the transaction or
7 their duly authorized agents, or (iii) pursuant to an
8 order of a court of competent jurisdiction; or

9 (B) deemed abandoned and transferred to the Office
10 of the State Treasurer to be handled as unclaimed
11 property pursuant to the Revised Uniform Unclaimed
12 Property Act. Escrow moneys may be deemed abandoned
13 under this subparagraph (B) only: (i) in the absence of
14 disbursement under subparagraph (A); (ii) in the
15 absence of notice of the filing of any claim in a court
16 of competent jurisdiction; and (iii) if 6 months have
17 elapsed after the receipt of a written demand for the
18 escrow moneys from one of the principals to the
19 transaction or the principal's duly authorized agent.

20 The account shall be noninterest bearing, unless the
21 character of the deposit is such that payment of interest
22 thereon is otherwise required by law or unless the
23 principals to the transaction specifically require, in
24 writing, that the deposit be placed in an interest bearing
25 account.

26 (18) Failure to make available to the Department all

1 escrow records and related documents maintained in
2 connection with the practice of real estate within 24 hours
3 of a request for those documents by Department personnel.

4 (19) Failing to furnish copies upon request of
5 documents relating to a real estate transaction to a party
6 who has executed that document.

7 (20) Failure of a sponsoring broker or licensee to
8 timely provide sponsorship or termination of sponsorship
9 ~~information, sponsor cards, or termination of licenses~~ to
10 the Department.

11 (21) Engaging in dishonorable, unethical, or
12 unprofessional conduct of a character likely to deceive,
13 defraud, or harm the public.

14 (22) Commingling the money or property of others with
15 his or her own money or property.

16 (23) Employing any person on a purely temporary or
17 single deal basis as a means of evading the law regarding
18 payment of commission to nonlicensees on some contemplated
19 transactions.

20 (24) Permitting the use of his or her license as a
21 broker to enable a leasing agent or unlicensed person to
22 operate a real estate business without actual
23 participation therein and control thereof by the broker.

24 (25) Any other conduct, whether of the same or a
25 different character from that specified in this Section,
26 that constitutes dishonest dealing.

1 (26) Displaying a "for rent" or "for sale" sign on any
2 property without the written consent of an owner or his or
3 her duly authorized agent or advertising by any means that
4 any property is for sale or for rent without the written
5 consent of the owner or his or her authorized agent.

6 (27) Failing to provide information requested by the
7 Department, or otherwise respond to that request, within 30
8 days of the request.

9 (28) Advertising by means of a blind advertisement,
10 except as otherwise permitted in Section 10-30 of this Act.

11 (29) Offering guaranteed sales plans, as defined in
12 clause (A) of this subdivision (29), except to the extent
13 hereinafter set forth:

14 (A) A "guaranteed sales plan" is any real estate
15 purchase or sales plan whereby a licensee enters into a
16 conditional or unconditional written contract with a
17 seller, prior to entering into a brokerage agreement
18 with the seller, by the terms of which a licensee
19 agrees to purchase a property of the seller within a
20 specified period of time at a specific price in the
21 event the property is not sold in accordance with the
22 terms of a brokerage agreement to be entered into
23 between the sponsoring broker and the seller.

24 (B) A licensee offering a guaranteed sales plan
25 shall provide the details and conditions of the plan in
26 writing to the party to whom the plan is offered.

1 (C) A licensee offering a guaranteed sales plan
2 shall provide to the party to whom the plan is offered
3 evidence of sufficient financial resources to satisfy
4 the commitment to purchase undertaken by the broker in
5 the plan.

6 (D) Any licensee offering a guaranteed sales plan
7 shall undertake to market the property of the seller
8 subject to the plan in the same manner in which the
9 broker would market any other property, unless the
10 agreement with the seller provides otherwise.

11 (E) The licensee cannot purchase seller's property
12 until the brokerage agreement has ended according to
13 its terms or is otherwise terminated.

14 (F) Any licensee who fails to perform on a
15 guaranteed sales plan in strict accordance with its
16 terms shall be subject to all the penalties provided in
17 this Act for violations thereof and, in addition, shall
18 be subject to a civil fine payable to the party injured
19 by the default in an amount of up to \$25,000.

20 (30) Influencing or attempting to influence, by any
21 words or acts, a prospective seller, purchaser, occupant,
22 landlord, or tenant of real estate, in connection with
23 viewing, buying, or leasing real estate, so as to promote
24 or tend to promote the continuance or maintenance of
25 racially and religiously segregated housing or so as to
26 retard, obstruct, or discourage racially integrated

1 housing on or in any street, block, neighborhood, or
2 community.

3 (31) Engaging in any act that constitutes a violation
4 of any provision of Article 3 of the Illinois Human Rights
5 Act, whether or not a complaint has been filed with or
6 adjudicated by the Human Rights Commission.

7 (32) Inducing any party to a contract of sale or lease
8 or brokerage agreement to break the contract of sale or
9 lease or brokerage agreement for the purpose of
10 substituting, in lieu thereof, a new contract for sale or
11 lease or brokerage agreement with a third party.

12 (33) Negotiating a sale, exchange, or lease of real
13 estate directly with any person if the licensee knows that
14 the person has an exclusive brokerage agreement with
15 another broker, unless specifically authorized by that
16 broker.

17 (34) When a licensee is also an attorney, acting as the
18 attorney for either the buyer or the seller in the same
19 transaction in which the licensee is acting or has acted as
20 a managing broker or broker.

21 (35) Advertising or offering merchandise or services
22 as free if any conditions or obligations necessary for
23 receiving the merchandise or services are not disclosed in
24 the same advertisement or offer. These conditions or
25 obligations include without limitation the requirement
26 that the recipient attend a promotional activity or visit a

1 real estate site. As used in this subdivision (35), "free"
2 includes terms such as "award", "prize", "no charge", "free
3 of charge", "without charge", and similar words or phrases
4 that reasonably lead a person to believe that he or she may
5 receive or has been selected to receive something of value,
6 without any conditions or obligations on the part of the
7 recipient.

8 (36) (Blank).

9 (37) Violating the terms of a disciplinary order issued
10 by the Department.

11 (38) Paying or failing to disclose compensation in
12 violation of Article 10 of this Act.

13 (39) Requiring a party to a transaction who is not a
14 client of the licensee to allow the licensee to retain a
15 portion of the escrow moneys for payment of the licensee's
16 commission or expenses as a condition for release of the
17 escrow moneys to that party.

18 (40) Disregarding or violating any provision of this
19 Act or the published rules promulgated by the Department to
20 enforce this Act or aiding or abetting any individual,
21 partnership, registered limited liability partnership,
22 limited liability company, or corporation in disregarding
23 any provision of this Act or the published rules
24 promulgated by the Department to enforce this Act.

25 (41) Failing to provide the minimum services required
26 by Section 15-75 of this Act when acting under an exclusive

1 brokerage agreement.

2 (42) Habitual or excessive use or addiction to alcohol,
3 narcotics, stimulants, or any other chemical agent or drug
4 that results in a managing broker, broker, or leasing
5 agent's inability to practice with reasonable skill or
6 safety.

7 (43) Enabling, aiding, or abetting an auctioneer, as
8 defined in the Auction License Act, to conduct a real
9 estate auction in a manner that is in violation of this
10 Act.

11 (44) Permitting any leasing agent or temporary leasing
12 agent permit holder to engage in activities that require a
13 broker's or managing broker's license.

14 (b) The Department may refuse to issue or renew or may
15 suspend the license of any person who fails to file a return,
16 pay the tax, penalty or interest shown in a filed return, or
17 pay any final assessment of tax, penalty, or interest, as
18 required by any tax Act administered by the Department of
19 Revenue, until such time as the requirements of that tax Act
20 are satisfied in accordance with subsection (g) of Section
21 2105-15 of the Civil Administrative Code of Illinois.

22 (c) The Department shall deny a license or renewal
23 authorized by this Act to a person who has defaulted on an
24 educational loan or scholarship provided or guaranteed by the
25 Illinois Student Assistance Commission or any governmental
26 agency of this State in accordance with item (5) of subsection

1 (a) of Section 2105-15 of the Civil Administrative Code of
2 Illinois.

3 (d) In cases where the Department of Healthcare and Family
4 Services (formerly Department of Public Aid) has previously
5 determined that a licensee or a potential licensee is more than
6 30 days delinquent in the payment of child support and has
7 subsequently certified the delinquency to the Department may
8 refuse to issue or renew or may revoke or suspend that person's
9 license or may take other disciplinary action against that
10 person based solely upon the certification of delinquency made
11 by the Department of Healthcare and Family Services in
12 accordance with item (5) of subsection (a) of Section 2105-15
13 of the Civil Administrative Code of Illinois.

14 (e) In enforcing this Section, the Department or Board upon
15 a showing of a possible violation may compel an individual
16 licensed to practice under this Act, or who has applied for
17 licensure under this Act, to submit to a mental or physical
18 examination, or both, as required by and at the expense of the
19 Department. The Department or Board may order the examining
20 physician to present testimony concerning the mental or
21 physical examination of the licensee or applicant. No
22 information shall be excluded by reason of any common law or
23 statutory privilege relating to communications between the
24 licensee or applicant and the examining physician. The
25 examining physicians shall be specifically designated by the
26 Board or Department. The individual to be examined may have, at

1 his or her own expense, another physician of his or her choice
2 present during all aspects of this examination. Failure of an
3 individual to submit to a mental or physical examination, when
4 directed, shall be grounds for suspension of his or her license
5 until the individual submits to the examination if the
6 Department finds, after notice and hearing, that the refusal to
7 submit to the examination was without reasonable cause.

8 If the Department or Board finds an individual unable to
9 practice because of the reasons set forth in this Section, the
10 Department or Board may require that individual to submit to
11 care, counseling, or treatment by physicians approved or
12 designated by the Department or Board, as a condition, term, or
13 restriction for continued, reinstated, or renewed licensure to
14 practice; or, in lieu of care, counseling, or treatment, the
15 Department may file, or the Board may recommend to the
16 Department to file, a complaint to immediately suspend, revoke,
17 or otherwise discipline the license of the individual. An
18 individual whose license was granted, continued, reinstated,
19 renewed, disciplined or supervised subject to such terms,
20 conditions, or restrictions, and who fails to comply with such
21 terms, conditions, or restrictions, shall be referred to the
22 Secretary for a determination as to whether the individual
23 shall have his or her license suspended immediately, pending a
24 hearing by the Department.

25 In instances in which the Secretary immediately suspends a
26 person's license under this Section, a hearing on that person's

1 license must be convened by the Department within 30 days after
2 the suspension and completed without appreciable delay. The
3 Department and Board shall have the authority to review the
4 subject individual's record of treatment and counseling
5 regarding the impairment to the extent permitted by applicable
6 federal statutes and regulations safeguarding the
7 confidentiality of medical records.

8 An individual licensed under this Act and affected under
9 this Section shall be afforded an opportunity to demonstrate to
10 the Department or Board that he or she can resume practice in
11 compliance with acceptable and prevailing standards under the
12 provisions of his or her license.

13 (Source: P.A. 99-227, eff. 8-3-15; 100-22, eff. 1-1-18;
14 100-188, eff. 1-1-18; 100-534, eff. 9-22-17; revised 10-2-17.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.