



Sen. James A. DeLeo

**Filed: 4/26/2004**

09300HB4960sam001

LRB093 19967 AMC 50019 a

1 AMENDMENT TO HOUSE BILL 4960

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 4960 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Real Estate License Act of 2000 is amended  
5 by changing Sections 1-10, 5-30, 5-50, 5-70, and 20-20 and by  
6 adding Section 15-75 as follows:

7 (225 ILCS 454/1-10)

8 (Section scheduled to be repealed on January 1, 2010)

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 "Advisory Council" means the Real Estate Education  
13 Advisory Council created under Section 30-10 of this Act.

14 "Agency" means a relationship in which a real estate broker  
15 or licensee, whether directly or through an affiliated  
16 licensee, represents a consumer by the consumer's consent,  
17 whether express or implied, in a real property transaction.

18 "Applicant" means any person, as defined in this Section,  
19 who applies to OBRE for a valid license as a real estate  
20 broker, real estate salesperson, or leasing agent.

21 "Blind advertisement" means any real estate advertisement  
22 that does not include the sponsoring broker's business name and  
23 that is used by any licensee regarding the sale or lease of  
24 real estate, including his or her own, licensed activities, or

1 the hiring of any licensee under this Act. The broker's  
2 business name in the case of a franchise shall include the  
3 franchise affiliation as well as the name of the individual  
4 firm.

5 "Board" means the Real Estate Administration and  
6 Disciplinary Board of OBRE.

7 "Branch office" means a sponsoring broker's office other  
8 than the sponsoring broker's principal office.

9 "Broker" means an individual, partnership, limited  
10 liability company, corporation, or registered limited  
11 liability partnership other than a real estate salesperson or  
12 leasing agent who for another and for compensation, or with the  
13 intention or expectation of receiving compensation, either  
14 directly or indirectly:

15 (1) Sells, exchanges, purchases, rents, or leases real  
16 estate.

17 (2) Offers to sell, exchange, purchase, rent, or lease  
18 real estate.

19 (3) Negotiates, offers, attempts, or agrees to  
20 negotiate the sale, exchange, purchase, rental, or leasing  
21 of real estate.

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

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

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

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

31 (8) Assists or directs in procuring or referring of  
32 prospects, intended to result in the sale, exchange, lease,  
33 or rental of real estate.

34 (9) Assists or directs in the negotiation of any

1 transaction intended to result in the sale, exchange,  
2 lease, or rental of real estate.

3 (10) Opens real estate to the public for marketing  
4 purposes.

5 (11) Sells, leases, or offers for sale or lease real  
6 estate at auction.

7 "Brokerage agreement" means a written or oral agreement  
8 between a sponsoring broker and a consumer for licensed  
9 activities to be provided to a consumer in return for  
10 compensation or the right to receive compensation from another.  
11 Brokerage agreements may constitute either a bilateral or a  
12 unilateral agreement between the broker and the broker's client  
13 depending upon the content of the brokerage agreement. All  
14 exclusive brokerage agreements shall be in writing.

15 "Client" means a person who is being represented by a  
16 licensee.

17 "Commissioner" means the Commissioner of Banks and Real  
18 Estate or a person authorized by the Commissioner, the Office  
19 of Banks and Real Estate Act, or this Act to act in the  
20 Commissioner's stead.

21 "Compensation" means the valuable consideration given by  
22 one person or entity to another person or entity in exchange  
23 for the performance of some activity or service. Compensation  
24 shall include the transfer of valuable consideration,  
25 including without limitation the following:

- 26 (1) commissions;
- 27 (2) referral fees;
- 28 (3) bonuses;
- 29 (4) prizes;
- 30 (5) merchandise;
- 31 (6) finder fees;
- 32 (7) performance of services;
- 33 (8) coupons or gift certificates;
- 34 (9) discounts;

1 (10) rebates;

2 (11) a chance to win a raffle, drawing, lottery, or  
3 similar game of chance not prohibited by any other law or  
4 statute;

5 (12) retainer fee; or

6 (13) salary.

7 "Confidential information" means information obtained by a  
8 licensee from a client during the term of a brokerage agreement  
9 that (i) was made confidential by the written request or  
10 written instruction of the client, (ii) deals with the  
11 negotiating position of the client, or (iii) is information the  
12 disclosure of which could materially harm the negotiating  
13 position of the client, unless at any time:

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

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

17 (3) the information becomes public from a source other  
18 than the licensee.

19 "Confidential information" shall not be considered to  
20 include material information about the physical condition of  
21 the property.

22 "Consumer" means a person or entity seeking or receiving  
23 licensed activities.

24 "Continuing education school" means any person licensed by  
25 OBRE as a school for continuing education in accordance with  
26 Section 30-15 of this Act.

27 "Credit hour" means 50 minutes of classroom instruction in  
28 course work that meets the requirements set forth in rules  
29 adopted by OBRE.

30 "Customer" means a consumer who is not being represented by  
31 the licensee but for whom the licensee is performing  
32 ministerial acts.

33 "Designated agency" means a contractual relationship  
34 between a sponsoring broker and a client under Section 15-50 of

1 this Act in which one or more licensees associated with or  
2 employed by the broker are designated as agent of the client.

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

6 "Director" means the Director of the Real Estate Division,  
7 OBRE.

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

15 "Employee" or other derivative of the word "employee", when  
16 used to refer to, describe, or delineate the relationship  
17 between a real estate broker and a real estate salesperson,  
18 another real estate broker, or a leasing agent, shall be  
19 construed to include an independent contractor relationship,  
20 provided that a written agreement exists that clearly  
21 establishes and states the relationship. All responsibilities  
22 of a broker shall remain.

23 "Escrow moneys" means all moneys, promissory notes or any  
24 other type or manner of legal tender or financial consideration  
25 deposited with any person for the benefit of the parties to the  
26 transaction. A transaction exists once an agreement has been  
27 reached and an accepted real estate contract signed or lease  
28 agreed to by the parties. Escrow moneys includes without  
29 limitation earnest moneys and security deposits, except those  
30 security deposits in which the person holding the security  
31 deposit is also the sole owner of the property being leased and  
32 for which the security deposit is being held.

33 "Exclusive brokerage agreement" means a written brokerage  
34 agreement that provides that the sponsoring broker has the sole

1 right, through one or more sponsored licensees, to act as the  
2 exclusive designated agent or representative of the client and  
3 that meets the requirements of Section 15-75 of this Act.

4 "Inoperative" means a status of licensure where the  
5 licensee holds a current license under this Act, but the  
6 licensee is prohibited from engaging in licensed activities  
7 because the licensee is unsponsored or the license of the  
8 sponsoring broker with whom the licensee is associated or by  
9 whom he or she is employed is currently expired, revoked,  
10 suspended, or otherwise rendered invalid under this Act.

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

15 "License" means the document issued by OBRE certifying that  
16 the person named thereon has fulfilled all requirements  
17 prerequisite to licensure under this Act.

18 "Licensed activities" means those activities listed in the  
19 definition of "broker" under this Section.

20 "Licensee" means any person, as defined in this Section,  
21 who holds a valid unexpired license as a real estate broker,  
22 real estate salesperson, or leasing agent.

23 "Listing presentation" means a communication between a  
24 real estate broker or salesperson and a consumer in which the  
25 licensee is attempting to secure a brokerage agreement with the  
26 consumer to market the consumer's real estate for sale or  
27 lease.

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

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

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

21 "OBRE" means the Office of Banks and Real Estate.

22 "Office" means a real estate broker's place of business  
23 where the general public is invited to transact business and  
24 where records may be maintained and licenses displayed, whether  
25 or not it is the broker's principal place of business.

26 "Person" means and includes individuals, entities,  
27 corporations, limited liability companies, registered limited  
28 liability partnerships, and partnerships, foreign or domestic,  
29 except that when the context otherwise requires, the term may  
30 refer to a single individual or other described entity.

31 "Personal assistant" means a licensed or unlicensed person  
32 who has been hired for the purpose of aiding or assisting a  
33 sponsored licensee in the performance of the sponsored  
34 licensee's job.

1 "Pocket card" means the card issued by OBRE to signify that  
2 the person named on the card is currently licensed under this  
3 Act.

4 "Pre-license school" means a school licensed by OBRE  
5 offering courses in subjects related to real estate  
6 transactions, including the subjects upon which an applicant is  
7 examined in determining fitness to receive a license.

8 "Pre-renewal period" means the period between the date of  
9 issue of a currently valid license and the license's expiration  
10 date.

11 "Real estate" means and includes leaseholds as well as any  
12 other interest or estate in land, whether corporeal,  
13 incorporeal, freehold, or non-freehold, including timeshare  
14 interests, and whether the real estate is situated in this  
15 State or elsewhere.

16 "Real Estate Administration and Disciplinary Board" or  
17 "Board" means the Real Estate Administration and Disciplinary  
18 Board created by Section 25-10 of this Act.

19 "Salesperson" means any individual, other than a real  
20 estate broker or leasing agent, who is employed by a real  
21 estate broker or is associated by written agreement with a real  
22 estate broker as an independent contractor and participates in  
23 any activity described in the definition of "broker" under this  
24 Section.

25 "Sponsoring broker" means the broker who has issued a  
26 sponsor card to a licensed salesperson, another licensed  
27 broker, or a leasing agent.

28 "Sponsor card" means the temporary permit issued by the  
29 sponsoring real estate broker certifying that the real estate  
30 broker, real estate salesperson, or leasing agent named thereon  
31 is employed by or associated by written agreement with the  
32 sponsoring real estate broker, as provided for in Section 5-40  
33 of this Act.

34 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;



1 91-603, eff. 1-1-00; 91-702, eff. 5-12-00; 92-217, eff.  
2 8-2-01.)

3 (225 ILCS 454/5-30)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 5-30. Education requirements to obtain an original  
6 broker or salesperson license.

7 (a) All applicants for a broker's license, except  
8 applicants who meet the criteria set forth in subsection (c) of  
9 this Section shall (i) give satisfactory evidence of having  
10 completed at least 120 classroom hours, 45 of which shall be  
11 those hours required to obtain a salesperson's license plus 15  
12 hours in brokerage administration courses, in real estate  
13 courses approved by the Advisory Council or (ii) for applicants  
14 who currently hold a valid real estate salesperson's license,  
15 give satisfactory evidence of having completed at least 75  
16 hours in real estate courses, not including the courses that  
17 are required to obtain a salesperson's license, approved by the  
18 Advisory Council.

19 (b) All applicants for a salesperson's license, except  
20 applicants who meet the criteria set forth in subsection (c) of  
21 this Section shall give satisfactory evidence that they have  
22 completed at least 45 hours of instruction in real estate  
23 courses approved by the Advisory Council.

24 (c) The requirements specified in subsections (a) and (b)  
25 of this Section do not apply to applicants who ~~(1) are~~  
26 currently admitted to practice law by the Supreme Court of  
27 Illinois and are currently in active standing, ~~or (2) show~~  
28 ~~evidence of receiving a baccalaureate degree including courses~~  
29 ~~involving real estate or related material from a college or~~  
30 ~~university approved by the Advisory Council.~~

31 (d) A minimum of 15 of the required hours of pre-license  
32 education shall be in the areas of Article 15 of this Act,  
33 disclosure and environmental issues, or any other currently

1 topical areas that are determined by the Advisory Council.

2 (Source: P.A. 91-245, eff. 12-31-99.)

3 (225 ILCS 454/5-50)

4 (Section scheduled to be repealed on January 1, 2010)

5 Sec. 5-50. Expiration date and renewal period of broker,  
6 salesperson, or leasing agent license; sponsoring broker;  
7 register of licensees; pocket card.

8 (a) The expiration date and renewal period for each license  
9 issued under this Act shall be set by rule. Except as otherwise  
10 provided in Section 5-55 of this Act, the holder of a license  
11 may renew the license within 90 days preceding the expiration  
12 date thereof by paying the fees specified by rule. Upon written  
13 request from the sponsoring broker, OBRE shall prepare and mail  
14 to the sponsoring broker a listing of licensees under this Act  
15 who, according to the records of OBRE, are sponsored by that  
16 broker. Every licensee associated with or employed by a broker  
17 whose license is revoked, suspended, terminated, or expired  
18 shall be considered as inoperative until such time as the  
19 sponsoring broker's license is reinstated or renewed, or the  
20 licensee changes employment as set forth in subsection (c) of  
21 Section 5-40 of this Act.

22 (b) OBRE shall establish and maintain a register of all  
23 persons currently licensed by the State and shall issue and  
24 prescribe a form of pocket card. Upon payment by a licensee of  
25 the appropriate fee as prescribed by rule for engagement in the  
26 activity for which the licensee is qualified and holds a  
27 license for the current period, OBRE shall issue a pocket card  
28 to the licensee. The pocket card shall be verification that the  
29 required fee for the current period has been paid and shall  
30 indicate that the person named thereon is licensed for the  
31 current renewal period as a broker, salesperson, or leasing  
32 agent as the case may be. The pocket card shall further  
33 indicate that the person named thereon is authorized by OBRE to

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

7 (c) Any person licensed as a broker shall be entitled at  
8 any renewal date to change his or her license status from  
9 broker to salesperson.

10 (Source: P.A. 91-245, eff. 12-31-99.)

11 (225 ILCS 454/5-70)

12 (Section scheduled to be repealed on January 1, 2010)

13 Sec. 5-70. Continuing education requirement; broker or  
14 salesperson.

15 (a) The requirements of this Section apply to all licensees  
16 ~~who have had a license for less than 15 years as of January 1,~~  
17 ~~1992.~~

18 (b) Except as otherwise provided in this Section, each  
19 person who applies for renewal of his or her license as a real  
20 estate broker or real estate salesperson must successfully  
21 complete real estate continuing education courses approved by  
22 the Advisory Council at the rate of 6 hours per year or its  
23 equivalent. In addition, beginning with the pre-renewal period  
24 for broker licensees that begins after the effective date of  
25 this amendatory Act of the 93rd General Assembly, to renew a  
26 real estate broker's license, the licensee must successfully  
27 complete a 6-hour broker management continuing education  
28 course approved by OBRE. Successful completion of the course  
29 shall include achieving a passing score as provided by rule on  
30 a test developed and administered in accordance with rules  
31 adopted by the OBRE. Beginning on the first day of the  
32 pre-renewal period for broker licensees that begins after the  
33 effective date of this amendatory Act of the 93rd General

1 Assembly, the 6-hour broker management continuing education  
2 course must be completed by all persons receiving their initial  
3 broker's license within 180 days after the date of initial  
4 licensure as a broker. No license may be renewed except upon  
5 the successful completion of the required courses or their  
6 equivalent or upon a waiver of those requirements for good  
7 cause shown as determined by the Commissioner with the  
8 recommendation of the Advisory Council. The requirements of  
9 this Article are applicable to all brokers and salespersons  
10 except those brokers and salespersons who, during the  
11 pre-renewal period:

- 12 (1) serve in the armed services of the United States;
- 13 (2) serve as an elected State or federal official;
- 14 (3) serve as a full-time employee of OBRE; or
- 15 (4) are admitted to practice law pursuant to Illinois  
16 Supreme Court rule.

17 (c) A person who is issued an initial license as a real  
18 estate salesperson less than one year prior to the expiration  
19 date of that license shall not be required to complete  
20 continuing education as a condition of license renewal. A  
21 person who is issued an initial license as a real estate broker  
22 less than one year prior to the expiration date of that license  
23 and who has not been licensed as a real estate salesperson  
24 during the pre-renewal period shall not be required to complete  
25 continuing education as a condition of license renewal. A  
26 person receiving an initial license as a real estate broker  
27 during the 90 days before the broker renewal date shall not be  
28 required to complete the broker management continuing  
29 education course provided for in subsection (b) of this Section  
30 as a condition of initial license renewal.

31 (d) The continuing education requirement for salespersons  
32 and brokers shall consist of a core curriculum and an elective  
33 curriculum, to be established by the Advisory Council. In  
34 meeting the continuing education requirements of this Act, at

1 least 3 hours per year or their equivalent shall be required to  
2 be completed in the core curriculum. In establishing the core  
3 curriculum, the Advisory Council shall consider subjects that  
4 will educate licensees on recent changes in applicable laws and  
5 new laws and refresh the licensee on areas of the license law  
6 and OBRE policy that the Advisory Council deems appropriate,  
7 and any other areas that the Advisory Council deems timely and  
8 applicable in order to prevent violations of this Act and to  
9 protect the public. In establishing the elective curriculum,  
10 the Advisory Council shall consider subjects that cover the  
11 various aspects of the practice of real estate that are covered  
12 under the scope of this Act. However, the elective curriculum  
13 shall not include any offerings referred to in Section 5-85 of  
14 this Act.

15 (e) The subject areas of continuing education courses  
16 approved by the Advisory Council may include without limitation  
17 the following:

- 18 (1) license law and escrow;
- 19 (2) antitrust;
- 20 (3) fair housing;
- 21 (4) agency;
- 22 (5) appraisal;
- 23 (6) property management;
- 24 (7) residential brokerage;
- 25 (8) farm property management;
- 26 (9) rights and duties of sellers, buyers, and brokers;
- 27 (10) commercial brokerage and leasing; and
- 28 (11) real estate financing.

29 (f) In lieu of credit for those courses listed in  
30 subsection (e) of this Section, credit may be earned for  
31 serving as a licensed instructor in an approved course of  
32 continuing education. The amount of credit earned for teaching  
33 a course shall be the amount of continuing education credit for  
34 which the course is approved for licensees taking the course.

1 (g) Credit hours may be earned for self-study programs  
2 approved by the Advisory Council.

3 (h) A broker or salesperson may earn credit for a specific  
4 continuing education course only once during the prerenewal  
5 period.

6 (i) No more than 6 hours of continuing education credit may  
7 be earned in one calendar day.

8 (j) To promote the offering of a uniform and consistent  
9 course content, the OBRE may provide for the development of a  
10 single broker management course to be offered by all continuing  
11 education providers who choose to offer the broker management  
12 continuing education course. The OBRE may contract for the  
13 development of the 6-hour broker management continuing  
14 education course with an outside vendor and, if the course is  
15 developed in this manner, the OBRE shall license the use of  
16 that course to all approved continuing education providers who  
17 wish to provide the course.

18 (Source: P.A. 91-245, eff. 12-31-99.)

19 (225 ILCS 454/15-75 new)

20 (Section scheduled to be repealed on January 1, 2010)

21 Sec. 15-75. Exclusive brokerage agreements. All exclusive  
22 brokerage agreements must specify that the sponsoring broker,  
23 through one or more sponsored licensees, must provide, at a  
24 minimum, the following services:

25 (1) accept delivery of and present to the client offers  
26 and counteroffers to buy, sell, or lease the client's  
27 property or the property the client seeks to purchase or  
28 lease;

29 (2) assist the client in developing, communicating,  
30 negotiating, and presenting offers, counteroffers, and  
31 notices that relate to the offers and counteroffers until a  
32 lease or purchase agreement is signed and all contingencies  
33 are satisfied or waived; and

1           (3) answer the client's questions relating to the  
2           offers, counteroffers, notices, and contingencies.

3           (225 ILCS 454/20-20)

4           (Section scheduled to be repealed on January 1, 2010)

5           Sec. 20-20. Disciplinary actions; causes. OBRE may refuse  
6           to issue or renew a license, may place on probation, suspend,  
7           or revoke any license, or may censure, reprimand, or otherwise  
8           discipline or impose a civil fine not to exceed \$25,000 upon  
9           any licensee hereunder for any one or any combination of the  
10          following causes:

11          (a) When the applicant or licensee has, by false or  
12          fraudulent representation, obtained or sought to obtain a  
13          license.

14          (b) When the applicant or licensee has been convicted of  
15          any crime, an essential element of which is dishonesty or fraud  
16          or larceny, embezzlement, or obtaining money, property, or  
17          credit by false pretenses or by means of a confidence game, has  
18          been convicted in this or another state of a crime that is a  
19          felony under the laws of this State, or has been convicted of a  
20          felony in a federal court.

21          (c) When the applicant or licensee has been adjudged to be  
22          a person under legal disability or subject to involuntary  
23          admission or to meet the standard for judicial admission as  
24          provided in the Mental Health and Developmental Disabilities  
25          Code.

26          (d) When the licensee performs or attempts to perform any  
27          act as a broker or salesperson in a retail sales establishment  
28          from an office, desk, or space that is not separated from the  
29          main retail business by a separate and distinct area within the  
30          establishment.

31          (e) Discipline of a licensee by another state, the District  
32          of Columbia, a territory, a foreign nation, a governmental  
33          agency, or any other entity authorized to impose discipline if

1 at least one of the grounds for that discipline is the same as  
2 or the equivalent of one of the grounds for discipline set  
3 forth in this Act, in which case the only issue will be whether  
4 one of the grounds for that discipline is the same or  
5 equivalent to one of the grounds for discipline under this Act.

6 (f) When the applicant or licensee has engaged in real  
7 estate activity without a license or after the licensee's  
8 license was expired or while the license was inoperative.

9 (g) When the applicant or licensee attempts to subvert or  
10 cheat on the Real Estate License Exam or continuing education  
11 exam or aids and abets an applicant to subvert or cheat on the  
12 Real Estate License Exam or continuing education exam  
13 administered pursuant to this Act.

14 (h) When the licensee in performing, attempting to perform,  
15 or pretending to perform any act as a broker, salesperson, or  
16 leasing agent or when the licensee in handling his or her own  
17 property, whether held by deed, option, or otherwise, is found  
18 guilty of:

19 (1) Making any substantial misrepresentation or  
20 untruthful advertising.

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

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

26 (4) Any misleading or untruthful advertising, or using  
27 any trade name or insignia of membership in any real estate  
28 organization of which the licensee is not a member.

29 (5) Acting for more than one party in a transaction  
30 without providing written notice to all parties for whom  
31 the licensee acts.

32 (6) Representing or attempting to represent a broker  
33 other than the sponsoring broker.

34 (7) Failure to account for or to remit any moneys or



1 documents coming into his or her possession that belong to  
2 others.

3 (8) Failure to maintain and deposit in a special  
4 account, separate and apart from personal and other  
5 business accounts, all escrow moneys belonging to others  
6 entrusted to a licensee while acting as a real estate  
7 broker, escrow agent, or temporary custodian of the funds  
8 of others or failure to maintain all escrow moneys on  
9 deposit in the account until the transactions are  
10 consummated or terminated, except to the extent that the  
11 moneys, or any part thereof, shall be disbursed prior to  
12 the consummation or termination in accordance with (i) the  
13 written direction of the principals to the transaction or  
14 their duly authorized agents, (ii) directions providing  
15 for the release, payment, or distribution of escrow moneys  
16 contained in any written contract signed by the principals  
17 to the transaction or their duly authorized agents, or  
18 (iii) pursuant to an order of a court of competent  
19 jurisdiction. The account shall be noninterest bearing,  
20 unless the character of the deposit is such that payment of  
21 interest thereon is otherwise required by law or unless the  
22 principals to the transaction specifically require, in  
23 writing, that the deposit be placed in an interest bearing  
24 account.

25 (9) Failure to make available to the real estate  
26 enforcement personnel of OBRE during normal business hours  
27 all escrow records and related documents maintained in  
28 connection with the practice of real estate within 24 hours  
29 of a request for those documents by OBRE personnel.

30 (10) Failing to furnish copies upon request of all  
31 documents relating to a real estate transaction to all  
32 parties executing them.

33 (11) Failure of a sponsoring broker to timely provide  
34 information, sponsor cards, or termination of licenses to

1 OBRE.

2 (12) Engaging in dishonorable, unethical, or  
3 unprofessional conduct of a character likely to deceive,  
4 defraud, or harm the public.

5 (13) Commingling the money or property of others with  
6 his or her own.

7 (14) Employing any person on a purely temporary or  
8 single deal basis as a means of evading the law regarding  
9 payment of commission to nonlicensees on some contemplated  
10 transactions.

11 (15) Permitting the use of his or her license as a  
12 broker to enable a salesperson or unlicensed person to  
13 operate a real estate business without actual  
14 participation therein and control thereof by the broker.

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

18 (17) Displaying a "for rent" or "for sale" sign on any  
19 property without the written consent of an owner or his or  
20 her duly authorized agent or advertising by any means that  
21 any property is for sale or for rent without the written  
22 consent of the owner or his or her authorized agent.

23 (18) Failing to provide information requested by OBRE,  
24 within 30 days of the request, either as the result of a  
25 formal or informal complaint to OBRE or as a result of a  
26 random audit conducted by OBRE, which would indicate a  
27 violation of this Act.

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

30 (20) Offering guaranteed sales plans, as defined in  
31 clause (A) of this subdivision (20), except to the extent  
32 hereinafter set forth:

33 (A) A "guaranteed sales plan" is any real estate  
34 purchase or sales plan whereby a licensee enters into a

1 conditional or unconditional written contract with a  
2 seller by the terms of which a licensee agrees to  
3 purchase a property of the seller within a specified  
4 period of time at a specific price in the event the  
5 property is not sold in accordance with the terms of a  
6 listing contract between the sponsoring broker and the  
7 seller or on other terms acceptable to the seller.

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

11 (C) A licensee offering a guaranteed sales plan  
12 shall provide to the party to whom the plan is offered  
13 evidence of sufficient financial resources to satisfy  
14 the commitment to purchase undertaken by the broker in  
15 the plan.

16 (D) Any licensee offering a guaranteed sales plan  
17 shall undertake to market the property of the seller  
18 subject to the plan in the same manner in which the  
19 broker would market any other property, unless the  
20 agreement with the seller provides otherwise.

21 (E) Any licensee who fails to perform on a  
22 guaranteed sales plan in strict accordance with its  
23 terms shall be subject to all the penalties provided in  
24 this Act for violations thereof and, in addition, shall  
25 be subject to a civil fine payable to the party injured  
26 by the default in an amount of up to \$25,000.

27 (21) Influencing or attempting to influence, by any  
28 words or acts, a prospective seller, purchaser, occupant,  
29 landlord, or tenant of real estate, in connection with  
30 viewing, buying, or leasing real estate, so as to promote  
31 or tend to promote the continuance or maintenance of  
32 racially and religiously segregated housing or so as to  
33 retard, obstruct, or discourage racially integrated  
34 housing on or in any street, block, neighborhood, or

1 community.

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

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

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

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

20 (26) Advertising or offering merchandise or services  
21 as free if any conditions or obligations necessary for  
22 receiving the merchandise or services are not disclosed in  
23 the same advertisement or offer. These conditions or  
24 obligations include without limitation the requirement  
25 that the recipient attend a promotional activity or visit a  
26 real estate site. As used in this subdivision (26), "free"  
27 includes terms such as "award", "prize", "no charge", "free  
28 of charge", "without charge", and similar words or phrases  
29 that reasonably lead a person to believe that he or she may  
30 receive or has been selected to receive something of value,  
31 without any conditions or obligations on the part of the  
32 recipient.

33 (27) Disregarding or violating any provision of the  
34 Land Sales Registration Act of 1989, the Illinois Real

1 Estate Time-Share Act, or the published rules promulgated  
2 by OBRE to enforce those Acts.

3 (28) Violating the terms of a disciplinary order issued  
4 by OBRE.

5 (29) Paying compensation in violation of Article 10 of  
6 this Act.

7 (30) Requiring a party to a transaction who is not a  
8 client of the licensee to allow the licensee to retain a  
9 portion of the escrow moneys for payment of the licensee's  
10 commission or expenses as a condition for release of the  
11 escrow moneys to that party.

12 (31) Disregarding or violating any provision of this  
13 Act or the published rules promulgated by OBRE to enforce  
14 this Act or aiding or abetting any individual, partnership,  
15 registered limited liability partnership, limited  
16 liability company, or corporation in disregarding any  
17 provision of this Act or the published rules promulgated by  
18 OBRE to enforce this Act.

19 (32) Failing to provide the minimum services required  
20 by Section 15-75 of this Act when acting under an exclusive  
21 brokerage agreement.

22 (Source: P.A. 91-245, eff. 12-31-99.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law."