

AN ACT concerning regulation.

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

Section 5. The Real Estate License Act of 2000 is amended by changing Sections 1-10, 5-27, 5-28, 5-50, 5-70, and 10-25 as follows:

(225 ILCS 454/1-10)

(Section scheduled to be repealed on January 1, 2020)

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

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

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

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

"Agency" means a relationship in which a real estate broker or licensee, whether directly or through an affiliated licensee, represents a consumer by the consumer's consent,

whether express or implied, in a real property transaction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Brokerage agreement" means a written or oral agreement between a sponsoring broker and a consumer for licensed

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

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

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

- (1) commissions;
- (2) referral fees;
- (3) bonuses;
- (4) prizes;
- (5) merchandise;
- (6) finder fees;
- (7) performance of services;
- (8) coupons or gift certificates;
- (9) discounts;
- (10) rebates;
- (11) a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

(12) retainer fee; or

(13) salary.

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

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

(2) the disclosure is required by law; or

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

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

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

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

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

"Credit hour" means 50 minutes of classroom instruction in course work that meets the requirements set forth in rules

adopted by the Department.

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

"Department" means the Department of Financial and Professional Regulation.

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

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

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

"Employee" or other derivative of the word "employee", when used to refer to, describe, or delineate the relationship between a real estate broker and a real estate salesperson, another real estate broker, or a leasing agent, shall be construed to include an independent contractor relationship, provided that a written agreement exists that clearly

establishes and states the relationship. All responsibilities of a broker shall remain.

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

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

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

"Inoperative" means a status of licensure where the licensee holds a current license under this Act, but the licensee is prohibited from engaging in licensed activities because the licensee is unsponsored or the license of the

sponsoring broker with whom the licensee is associated or by whom he or she is employed is currently expired, revoked, suspended, or otherwise rendered invalid under this Act.

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

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

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

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

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

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

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

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

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

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

(x) referral to another broker or service provider.

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

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

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

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

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

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

"Proctor" means any person, including, but not limited to, an instructor, who has a written agreement to administer

examinations fairly and impartially with a licensed pre-license school or a licensed continuing education school.

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

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

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

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

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

"Sponsor card" means the temporary permit issued by the

sponsoring real estate broker certifying that the real estate broker, real estate salesperson, or leasing agent named thereon is employed by or associated by written agreement with the sponsoring real estate broker, as provided for in Section 5-40 of this Act.

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

(225 ILCS 454/5-27)

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

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

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

(1) Be at least 21 years of age. After April 30, 2011, the minimum age of 21 years shall be waived for any person seeking a license as a broker who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department;

(2) Be of good moral character;

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

by the applicant;

(4) Prior to May 1, 2011, provide (i) satisfactory evidence of having completed at least 120 classroom hours, 45 of which shall be those hours required to obtain a salesperson's license plus 15 hours in brokerage administration courses, in real estate courses approved by the Advisory Council or (ii) for applicants who currently hold a valid real estate salesperson's license, give satisfactory evidence of having completed at least 75 hours in real estate courses, not including the courses that are required to obtain a salesperson's license, approved by the Advisory Council;

(5) After April 30, 2011, provide satisfactory evidence of having completed 90 hours of instruction in real estate courses approved by the Advisory Council, 15 hours of which must consist of situational and case studies presented in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students;

(6) Personally take and pass a written examination authorized by the Department;

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

(b) The requirements specified in items (4) and (5) of subsection (a) of this Section do not apply to applicants who

are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

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

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

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

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

(225 ILCS 454/5-28)

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

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

(a) Effective May 1, 2012, every applicant for licensure as a managing broker must meet the following qualifications:

- (1) be at least 21 years of age;
- (2) be of good moral character;

(3) have been licensed at least 2 out of the preceding 3 years as a real estate broker or salesperson;

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

(5) provide satisfactory evidence of having completed at least 165 hours, 120 of which shall be those hours required pre and post-licensure to obtain a broker's license, and 45 additional hours completed within the year immediately preceding the filing of an application for a managing broker's license, which hours shall focus on brokerage administration and management and include at least 15 hours in the classroom or by other interactive delivery method ~~presenting instructional and real time discussion~~ between the instructor and the students;

(6) personally take and pass a written examination authorized by the Department; and

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

(b) The requirements specified in item (5) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of

Illinois and are currently in active standing.

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

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

(225 ILCS 454/5-50)

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

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

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule, except that the first renewal period ending after the effective date of this Act for those licensed as a salesperson shall be extended through April 30, 2012. Except as otherwise provided in this Section, the holder of a license may renew the license within 90 days preceding the expiration date thereof by completing the continuing education required by this Act and paying the fees specified by rule.

(b) An individual whose first license is that of a broker received after April 30, 2011, must provide evidence of having completed 30 hours of post-license education in courses approved by the Advisory Council, 15 hours of which must consist of situational and case studies presented in the

classroom or by other interactive delivery method ~~presenting instruction and real time discussion~~ between the instructor and the students, and personally take and pass an examination approved by the Department prior to the first renewal of their broker's license.

(c) Any salesperson until April 30, 2011 or any managing broker, broker, or leasing agent whose license under this Act has expired shall be eligible to renew the license during the 2-year period following the expiration date, provided the managing broker, broker, salesperson, or leasing agent pays the fees as prescribed by rule and completes continuing education and other requirements provided for by the Act or by rule. Beginning on May 1, 2012, a managing broker licensee, broker, or leasing agent whose license has been expired for more than 2 years but less than 5 years may have it restored by (i) applying to the Department, (ii) paying the required fee, (iii) completing the continuing education requirements for the most recent pre-renewal period that ended prior to the date of the application for reinstatement, and (iv) filing acceptable proof of fitness to have his or her license restored, as set by rule. A managing broker, broker, or leasing agent whose license has been expired for more than 5 years shall be required to meet the requirements for a new license.

(d) Notwithstanding any other provisions of this Act to the contrary, any managing broker, broker, salesperson, or leasing agent whose license expired while he or she was (i) on active

duty with the Armed Forces of the United States or called into service or training by the state militia, (ii) engaged in training or education under the supervision of the United States preliminary to induction into military service, or (iii) serving as the Coordinator of Real Estate in the State of Illinois or as an employee of the Department may have his or her license renewed, reinstated or restored without paying any lapsed renewal fees if within 2 years after the termination of the service, training or education by furnishing the Department with satisfactory evidence of service, training, or education and it has been terminated under honorable conditions.

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

shall carry on his or her person his or her pocket card or, if such pocket card has not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

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

(g) Upon request from the sponsoring broker, the Department shall make available to the sponsoring broker, either by mail or by an electronic means at the discretion of the Department, a listing of licensees under this Act who, according to the records of the Department, are sponsored by that broker. Every licensee associated with or employed by a broker whose license is revoked, suspended, terminated, or expired shall be considered as inoperative until such time as the sponsoring broker's license is reinstated or renewed, or the licensee changes employment as set forth in subsection (c) of Section 5-40 of this Act.

(Source: P.A. 96-856, eff. 12-31-09; 96-989, eff. 1-1-11.)

(225 ILCS 454/5-70)

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

Sec. 5-70. Continuing education requirement; managing broker, broker, or salesperson.

(a) The requirements of this Section apply to all managing brokers, brokers, and salespersons.

(b) Except as otherwise provided in this Section, each person who applies for renewal of his or her license as a managing broker, real estate broker, or real estate salesperson must successfully complete 6 hours of real estate continuing education courses approved by the Advisory Council for each year of the pre-renewal period. Broker licensees must successfully complete a 6-hour broker management continuing education course approved by the Department for the pre-renewal period ending April 30, 2010. In addition, beginning with the pre-renewal period for managing broker licensees that begins after the effective date of this Act, those licensees renewing or obtaining a managing broker's license must successfully complete a 12-hour broker management continuing education course approved by the Department each pre-renewal period. The broker management continuing education course must be completed in the classroom or by other interactive delivery method ~~presenting instruction and real time discussion~~ between the instructor and the students. Successful completion of the course shall include achieving a passing score as provided by rule on a test developed and administered in accordance with rules adopted by the Department. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the Secretary with the

recommendation of the Advisory Council. The requirements of this Article are applicable to all managing brokers, brokers, and salespersons except those brokers and salespersons who, during the pre-renewal period:

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

(c) A person licensed as a salesperson as of April 30, 2011 shall not be required to complete the 18 hours of continuing education for the pre-renewal period ending April 30, 2012 if that person takes the 30-hour post-licensing course to obtain a broker's license. A person licensed as a broker as of April 30, 2011 shall not be required to complete the 12 hours of broker management continuing education for the pre-renewal period ending April 30, 2012, unless that person passes the proficiency exam provided for in Section 5-47 of this Act to qualify for a managing broker's license.

(d) A person receiving an initial license during the 90 days before the renewal date shall not be required to complete the continuing education courses provided for in subsection (b) of this Section as a condition of initial license renewal.

(e) The continuing education requirement for salespersons, brokers and managing brokers shall consist of a core curriculum and an elective curriculum, to be established by the Advisory

Council. In meeting the continuing education requirements of this Act, at least 3 hours per year or their equivalent, 6 hours for each two-year pre-renewal period, shall be required to be completed in the core curriculum. In establishing the core curriculum, the Advisory Council shall consider subjects that will educate licensees on recent changes in applicable laws and new laws and refresh the licensee on areas of the license law and the Department policy that the Advisory Council deems appropriate, and any other areas that the Advisory Council deems timely and applicable in order to prevent violations of this Act and to protect the public. In establishing the elective curriculum, the Advisory Council shall consider subjects that cover the various aspects of the practice of real estate that are covered under the scope of this Act. However, the elective curriculum shall not include any offerings referred to in Section 5-85 of this Act.

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

- (1) license law and escrow;
- (2) antitrust;
- (3) fair housing;
- (4) agency;
- (5) appraisal;
- (6) property management;
- (7) residential brokerage;

- (8) farm property management;
- (9) rights and duties of sellers, buyers, and brokers;
- (10) commercial brokerage and leasing; and
- (11) real estate financing.

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

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

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

(j) No more than 6 hours of continuing education credit may be taken or earned in one calendar day.

(k) To promote the offering of a uniform and consistent course content, the Department may provide for the development of a single broker management course to be offered by all continuing education providers who choose to offer the broker management continuing education course. The Department may contract for the development of the 12-hour broker management continuing education course with an outside vendor or consultant and, if the course is developed in this manner, the Department or the outside consultant shall license the use of

that course to all approved continuing education providers who wish to provide the course.

(1) Except as specifically provided in this Act, continuing education credit hours may not be earned for completion of pre or post-license courses. The approved 30-hour post-license course for broker licensees shall satisfy the continuing education requirement for the pre-renewal period in which the course is taken. The approved 45-hour brokerage administration and management course shall satisfy the 12-hour broker management continuing education requirement for the pre-renewal period in which the course is taken.

(Source: P.A. 96-856, eff. 12-31-09; 97-1002, eff. 8-17-12.)

(225 ILCS 454/10-25)

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

Sec. 10-25. Expiration of brokerage agreement. No licensee shall obtain any written brokerage agreement that does not either provide for automatic expiration within a definite period of time or provide the client with a right to terminate the agreement annually by giving no more than 30 days' prior written notice. ~~No notice of termination at the final expiration thereof shall be required.~~ Any written brokerage agreement not containing such a provision ~~for automatic expiration~~ shall be void. When the license of any sponsoring broker is suspended or revoked, any brokerage agreement with the sponsoring broker shall be deemed to expire upon the

Public Act 098-0531

SB1655 Enrolled

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effective date of the suspension or revocation.

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

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