

Rep. Mary E. Flowers

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Filed: 3/10/2023

10300HB1020ham003 LRB103 04710 SPS 58966 a 1 AMENDMENT TO HOUSE BILL 1020 2 AMENDMENT NO. . Amend House Bill 1020 by replacing everything after the enacting clause with the following: 3 "Section 5. The Real Estate License Act of 2000 is amended 4 5 by changing Sections 10-45 and 20-20 as follows: 6 (225 ILCS 454/10-45) 7 (Section scheduled to be repealed on January 1, 2030) Sec. 10-45. Broker price opinions and comparative market 8 9 analyses. 10 (a) A broker price opinion or comparative market analysis may be prepared or provided by a real estate broker or managing 11 broker for any of the following: 12 13 (1) an existing or potential buyer or seller of an interest in real estate; 14 15 (2) an existing or potential lessor or lessee of an interest in real estate;

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L	(3) a third party making decisions or performing due
2	diligence related to the potential listing, offering,
3	sale, option, lease, or acquisition price of an interest
4	in real estate; or

- (4) an existing or potential lienholder or other third party for any purpose other than as the primary basis to determine the market value of an interest in real estate for the purpose of a mortgage loan origination by a financial institution secured by such real estate.
- (b) A broker price opinion or comparative market analysis shall be in writing either on paper or electronically and shall include the following provisions:
 - (1) a statement of the intended purpose of the broker price opinion or comparative market analysis;
 - (2) a brief description of the interest in real estate that is the subject of the broker price opinion or comparative market analysis;
 - (3) a brief description of the methodology used to develop the broker price opinion or comparative market analysis;
 - (4) any assumptions or limiting conditions;
 - (5) a disclosure of any existing or contemplated interest of the broker or managing broker in the interest in real estate that is the subject of the broker price opinion or comparative market analysis;
 - (6) the name, license number, and signature of the

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broker or managing broker that developed the broker price

opinion or comparative market analysis;

- (7) a statement in substantially the following form:
- "This is a broker price opinion/comparative market analysis, not an appraisal of the market value of the real estate, and was prepared by a licensed real estate broker or managing broker who was not acting as a State certified real estate appraiser."; and
- (8) such other items as the broker or managing broker may deem appropriate.
- (c) A real estate broker or managing broker shall not discriminate when preparing a broker price opinion or comparative market analysis for residential real estate. For the purposes of this Section, a real estate broker or managing broker discriminates when the broker considers the actual or perceived race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, pregnancy, unfavorable discharge from military service, familial status, source of income, or arrest record of the owner of the real estate or the residents of the geographic area in which the real estate is located when determining the market value of the real estate. In addition to the disciplinary procedures set forth in Section 20-20, an aggrieved party may commence a civil action alleging discrimination in an appropriate circuit court not later than

- 1 2 years after the occurrence that constitutes discrimination under this subsection. Such a civil action shall be subject to 2 the same procedures, rights, and remedies as a civil action 3 4 alleging a civil rights violation under Section 10-102 of the 5 Illinois Human Rights Act. A circuit court action may also be initiated by the Illinois Attorney General whenever the 6 Illinois Attorney General has reasonable cause to believe that 7 8 a real estate broker or managing broker is engaged in a pattern 9 and practice of discrimination prohibited by this subsection. 10 Such a civil action shall be subject to the same procedures, 11 rights, and remedies as a civil action alleging a civil rights violation under Section 10-104 of the Illinois Human Rights 12
- 14 (Source: P.A. 101-71, eff. 7-12-19.)
- 15 (225 ILCS 454/20-20)

Act.

- 16 (Section scheduled to be repealed on January 1, 2030)
- 17 Sec. 20-20. Nature of and grounds for discipline.
- (a) The Department may refuse to issue or renew a license, 18 19 may place on probation, suspend, or revoke any license, 20 reprimand, or take any other disciplinary or non-disciplinary 21 action as the Department may deem proper and impose a fine not 22 to exceed \$25,000 upon any licensee or applicant under this 23 Act or any person who holds oneself out as an applicant or 24 licensee or against a licensee in handling one's own property, 25 whether held by deed, option, or otherwise, for any one or any

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combination of the following causes:

- (1) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.
- (2) The licensee's conviction of or plea of guilty or plea of nolo contendere, as set forth in subsection (e) of Section 5-25, to: (A) a felony or misdemeanor in this State or any other jurisdiction; (B) the entry of an administrative sanction by a government agency in this State or any other jurisdiction; or (C) any crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.
- (3) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, mental illness, or disability.
- (4) Practice under this Act as a licensee in a retail sales establishment from an office, desk, or space that is not separated from the main retail business and located within a separate and distinct area within the establishment.
- (5) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, or a governmental agency authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under this Act. A certified

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copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof.

- (6) Engaging in the practice of real estate brokerage without a license or after the licensee's license or temporary permit was expired or while the license was inactive, revoked, or suspended.
- (7) Cheating on or attempting to subvert the Real Estate License Exam or a continuing education course or examination.
- (8) Aiding or abetting an applicant to subvert or cheat on the Real Estate License Exam or continuing education exam administered pursuant to this Act.
- (9) Advertising that is inaccurate, misleading, or contrary to the provisions of the Act.
- (10) Making any substantial misrepresentation or untruthful advertising.
- (11) Making any false promises of a character likely to influence, persuade, or induce.
- (12) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through licensees, employees, agents, advertising, or otherwise.
- (13) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any real estate organization of which the licensee is not a member.
- (14) Acting for more than one party in a transaction without providing written notice to all parties for whom

1 the licensee acts.

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- (15) Representing or attempting to represent, or performing licensed activities for, a broker other than the sponsoring broker.
- (16) Failure to account for or to remit any moneys or documents coming into the licensee's possession that belong to others.
- (17) Failure to maintain and deposit in a special account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a broker, escrow agent, or temporary custodian of the funds of others or failure to maintain all escrow moneys on deposit in the account until the transactions are consummated or terminated, except to the extent that the moneys, or any part thereof, shall be:
 - (A) disbursed prior to the consummation or termination (i) in accordance with the written direction of the principals to the transaction or their duly authorized agents, (ii) in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents, or (iii) pursuant to an order of a court of competent jurisdiction; or
 - (B) deemed abandoned and transferred to the Office

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

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

- (18) Failure to make available to the Department all escrow records and related documents maintained in connection with the practice of real estate within 24 hours of a request for those documents by Department personnel.
- (19) Failing to furnish copies upon request of documents relating to a real estate transaction to a party who has executed that document.
- (20) Failure of a sponsoring broker or licensee to timely provide sponsorship or termination of sponsorship

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information to the Department.

- (21) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public, including, but not limited to, conduct set forth in rules adopted by the Department.
- (22) Commingling the money or property of others with the licensee's own money or property.
- (23) Employing any person on a purely temporary or single deal basis as a means of evading the law regarding payment of commission to nonlicensees on some contemplated transactions.
- (24) Permitting the use of one's license as a broker to enable a residential leasing agent or unlicensed person to operate a real estate business without actual participation therein and control thereof by the broker.
- (25) Any other conduct, whether of the same or a different character from that specified in this Section, that constitutes dishonest dealing.
- (26) Displaying a "for rent" or "for sale" sign on any property without the written consent of an owner or the owner's duly authorized agent or advertising by any means that any property is for sale or for rent without the written consent of the owner or the owner's authorized agent.
- (27) Failing to provide information requested by the Department, or otherwise respond to that request, within

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- 1 30 days of the request.
 - (28) Advertising by means of a blind advertisement, except as otherwise permitted in Section 10-30 of this Act.
 - (29) A licensee under this Act or an unlicensed individual offering guaranteed sales plans, as defined in Section 10-50, except to the extent set forth in Section 10-50.
 - (30) Influencing or attempting to influence, by any words or acts, a prospective seller, purchaser, occupant, landlord, or tenant of real estate, in connection with viewing, buying, or leasing real estate, so as to promote or tend to promote the continuance or maintenance of racially and religiously segregated housing or so as to retard, obstruct, or discourage racially integrated housing on or in any street, block, neighborhood, or community.
 - (31) Engaging in any act that constitutes a violation of any provision of Article 3 of the Illinois Human Rights Act, whether or not a complaint has been filed with or adjudicated by the Human Rights Commission.
 - (32) Inducing any party to a contract of sale or lease or brokerage agreement to break the contract of sale or lease or brokerage agreement for the purpose of substituting, in lieu thereof, a new contract for sale or lease or brokerage agreement with a third party.

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- (33) Negotiating a sale, exchange, or lease of real estate directly with any person if the licensee knows that the person has an exclusive brokerage agreement with another broker, unless specifically authorized by that broker.
- (34) When a licensee is also an attorney, acting as the attorney for either the buyer or the seller in the same transaction in which the licensee is acting or has acted as a managing broker or broker.
- (35) Advertising or offering merchandise or services as free if any conditions or obligations necessary for receiving the merchandise or services are not disclosed in the same advertisement or offer. These conditions or obligations include without limitation the requirement that the recipient attend a promotional activity or visit a real estate site. As used in this subdivision (35), "free" includes terms such as "award", "prize", "no charge", "free of charge", "without charge", and similar words or phrases that reasonably lead a person to believe that one may receive or has been selected to receive something of value, without any conditions or obligations on the part of the recipient.
 - (36) (Blank).
- (37) Violating the terms of a disciplinary order issued by the Department.
 - (38) Paying or failing to disclose compensation in

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violation of Article 10 of this Act.

- (39) Requiring a party to a transaction who is not a client of the licensee to allow the licensee to retain a portion of the escrow moneys for payment of the licensee's commission or expenses as a condition for release of the escrow moneys to that party.
- (40) Disregarding or violating any provision of this Act or the published rules adopted by the Department to enforce this Act or aiding or abetting any individual, foreign or domestic partnership, registered limited liability partnership, limited liability company, corporation, or other business entity in disregarding any provision of this Act or the published rules adopted by the Department to enforce this Act.
- (41) Failing to provide the minimum services required by Section 15-75 of this Act when acting under an exclusive brokerage agreement.
- (42) Habitual or excessive use of or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a managing broker, broker, or residential leasing agent's inability to practice with reasonable skill or safety.
- (43) Enabling, aiding, or abetting an auctioneer, as defined in the Auction License Act, to conduct a real estate auction in a manner that is in violation of this Act.

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- 1 (44) Permitting any residential leasing agent or temporary residential leasing agent permit holder to 2 engage in activities that require a broker's or managing 3 4 broker's license.
 - (45) Failing to notify the Department, within 30 days after the occurrence, of the information required in subsection (e) of Section 5-25.
 - (46) A designated managing broker's failure to provide an appropriate written company policy or failure to perform any of the duties set forth in Section 10-55.

(47) Engaging in discrimination as provided in subsection (b) of Section 10-45.

- (b) The Department may refuse to issue or renew or may suspend the license of any person who fails to file a return, pay the tax, penalty or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of that tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.
 - (c) (Blank).
- (d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has

- 1 subsequently certified the delinquency to the Department may
- 2 refuse to issue or renew or may revoke or suspend that person's
- 3 license or may take other disciplinary action against that
- 4 person based solely upon the certification of delinquency made
- 5 by the Department of Healthcare and Family Services in
- accordance with item (5) of subsection (a) of Section 2105-15 6
- of the Department of Professional Regulation Law of the Civil 7
- Administrative Code of Illinois. 8
- 9 (e) (Blank).
- 10 (Source: P.A. 101-81, eff. 7-12-19; 101-357, eff. 8-9-19;
- 102-970, eff. 5-27-22.) 11
- 12 Section 10. The Real Estate Appraiser Licensing Act of
- 2002 is amended by changing Section 15-10 and by adding 13
- 14 Section 10-25 as follows:
- (225 ILCS 458/10-25 new) 15
- 16 Sec. 10-25. Discrimination prohibited. An appraiser shall
- 17 not discriminate when preparing a comparative market analysis
- 18 for residential real estate. For the purposes of this Section,
- an appraiser discriminates when the appraiser considers the 19
- actual or perceived race, color, religion, sex, national 20
- origin, ancestry, age, order of protection status, marital 21
- 22 status, physical or mental disability, military status, sexual
- 23 orientation, pregnancy, unfavorable discharge from military
- service, familial status, source of income, or arrest record 24

1 of the owner of the real estate or the residents of the geographic area in which the real estate is located when 2 determining the market value of the real estate. In addition 3 4 to the disciplinary procedures set forth in Section 15-10, an 5 aggrieved party may commence a civil action alleging 6 discrimination in an appropriate circuit court not later than 2 years after the occurrence that constitutes discrimination 7 under this Section. Such a civil action shall be subject to the 8 9 same procedures, rights, and remedies as a civil action 10 alleging a civil rights violation under Section 10-102 of the Illinois Human Rights Act. A circuit court action may also be 11 initiated by the Illinois Attorney General whenever the 12 13 Illinois Attorney General has reasonable cause to believe that 14 an appraiser is engaged in a pattern and practice of 15 discrimination prohibited by this Section. Such a civil action shall be subject to the same procedures, rights, and remedies 16 as a civil action alleging a civil rights violation under 17 Section 10-104 of the Illinois Human Rights Act. 18

- 19 (225 ILCS 458/15-10)
- (Section scheduled to be repealed on January 1, 2027) 20
- 21 Sec. 15-10. Grounds for disciplinary action.
- (a) The Department may suspend, revoke, refuse to issue, 22 23 renew, or restore a license and may reprimand place on 24 probation or administrative supervision, or take 25 disciplinary or non-disciplinary action, including imposing

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- conditions limiting the scope, nature, or extent of the real 1 estate appraisal practice of a licensee or reducing the 2 3 appraisal rank of a licensee, and may impose an administrative 4 fine not to exceed \$25,000 for each violation upon a licensee 5 for any one or combination of the following:
 - (1) Procuring or attempting to procure a license by knowingly making a false statement, submitting false information, engaging in any form of fraud misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.
 - (2) Failing to meet the minimum qualifications for licensure as an appraiser established by this Act.
 - (3) Paying money, other than for the fees provided for by this Act, or anything of value to a member or employee of the Board or the Department to procure licensure under this Act.
 - (4) Conviction of, or plea of guilty or nolo contendere, as enumerated in subsection (e) of Section 5-22, under the laws of any jurisdiction of the United States: (i) that is a felony, misdemeanor, administrative sanction or (ii) that is a crime that subjects the licensee to compliance with the requirements of the Sex Offender Registration Act.
 - Committing an act or omission involving (5) dishonesty, fraud, or misrepresentation with the intent to

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substantially benefit the licensee or another person or with intent to substantially injure another person as defined by rule.

- (6) Violating a provision or standard for the development or communication of real estate appraisals as provided in Section 10-10 of this Act or as defined by rule.
- (7) Failing or refusing without good cause to exercise reasonable diligence in developing, reporting, or communicating an appraisal, as defined by this Act or by rule.
- (8) Violating a provision of this Act or the rules adopted pursuant to this Act.
- (9) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under this Act.
- (10) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (11) Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined estimate, analysis, or opinion

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or when the fee to be paid is contingent upon the opinion, conclusion, or valuation reached or upon the consequences resulting from the appraisal assignment.

- (12) Developing valuation conclusions based on the race, color, religion, sex, national origin, ancestry, age, marital status, family status, physical or mental disability, sexual orientation, pregnancy, order of protection status, military status, or unfavorable military discharge, as defined under the Illinois Human Rights Act, of the prospective or present owners or occupants of the area or property under appraisal.
- (13) Violating the confidential nature of government records to which the licensee gained access through employment or engagement as an appraiser by a government agency.
- (14) Being adjudicated liable in a civil proceeding on grounds of fraud, misrepresentation, or deceit. In a disciplinary proceeding based upon a finding of civil liability, the appraiser shall be afforded an opportunity to present mitigating and extenuating circumstances, but may not collaterally attack the civil adjudication.
- (15) Being adjudicated liable in a civil proceeding for violation of a state or federal fair housing law.
- (16) Engaging in misleading or untruthful advertising or using a trade name or insignia of membership in a real estate appraisal or real estate organization of which the

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1 licensee is not a member.

- (17) Failing to fully cooperate with a Department investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.
- (18) Failing to include within the certificate of appraisal for all written appraisal reports the appraiser's license number and licensure title. All appraisers providing significant contribution to the development and reporting of an appraisal must be disclosed in the appraisal report. It is a violation of this Act for an appraiser to sign a report, transmittal letter, or appraisal certification knowing that a person providing a significant contribution to the report has not been disclosed in the appraisal report.
- (19) Violating the terms of a disciplinary order or consent to administrative supervision order.
- (20) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a licensee's inability to practice with reasonable judgment, skill, or safety.
- (21) A physical or mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill, or safety.

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L	(22) Gross negligence in developing an appraisal or in
2	communicating an appraisal or failing to observe one or
3	more of the Uniform Standards of Professional Appraisal
4	Practice.

- (23) A pattern of practice or other behavior that demonstrates incapacity or incompetence to practice under this Act.
- (24) Using or attempting to use the seal, certificate, or license of another as one's own; falsely impersonating any duly licensed appraiser; using or attempting to use an inactive, expired, suspended, or revoked license; or aiding or abetting any of the foregoing.
- (25) Solicitation of professional services by using false, misleading, or deceptive advertising.
- (26) Making a material misstatement in furnishing information to the Department.
- (27) Failure to furnish information to the Department upon written request.

(28) Engaging in discrimination as provided in Section 10-25.

(b) The Department may reprimand suspend, revoke, or refuse to issue or renew an education provider's license, may reprimand, place on probation, or otherwise discipline an education provider and may suspend or revoke the course approval of any course offered by an education provider and may impose an administrative fine not to exceed \$25,000 upon

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- an education provider, for any of the following: 1
 - (1) Procuring or attempting to procure licensure by knowingly making a false statement, submitting false information, engaging in any form of fraud misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.
 - (2) Failing to comply with the covenants certified to on the application for licensure as an education provider.
 - Committing an or omission involving (3) act dishonesty, fraud, or misrepresentation or allowing any such act or omission by any employee or contractor under the control of the provider.
 - (4) Engaging in misleading or untruthful advertising.
 - Failing to retain competent instructors in accordance with rules adopted under this Act.
 - (6) Failing to meet the topic or time requirements for course approval as the provider of a qualifying curriculum course or a continuing education course.
 - (7) Failing to administer an approved course using the course materials, syllabus, and examinations submitted as the basis of the course approval.
 - Failing to provide an appropriate classroom environment for presentation of courses, consideration for student comfort, acoustics, lighting, seating, workspace, and visual aid material.

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- 1 (9) Failing to maintain student records in compliance 2 with the rules adopted under this Act.
 - (10) Failing to provide a certificate, transcript, or other student record to the Department or to a student as may be required by rule.
 - (11) Failing to fully cooperate with an investigation by the Department by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.
 - (c) In appropriate cases, the Department may resolve a complaint against a licensee through the issuance of a Consent to Administrative Supervision order. A licensee subject to a Consent to Administrative Supervision order shall be considered by the Department as an active licensee in good standing. This order shall not be reported or considered by the Department to be a discipline of the licensee. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by the Department except as mandated by law. A complainant shall be notified if the complaint has been resolved by a Consent to Administrative Supervision order.
- 24 (Source: P.A. 102-20, eff. 1-1-22.)".