

1 AMENDMENT TO SENATE BILL 688

2 AMENDMENT NO. _____. Amend Senate Bill 688, AS AMENDED,
3 as follows:
4 by replacing all the clauses between the title and the
5 enacting clause with the following:

6 "WHEREAS, It is the finding of the General Assembly that
7 legislation is necessary to protect the safety and welfare of
8 the people of the State of Illinois from the unauthorized
9 practice of law by those persons or entities not licensed to
10 practice law by the Illinois Supreme Court; and

11 WHEREAS, A regulatory scheme already exists or will exist
12 with regard to entities and individuals licensed under the
13 Real Estate License Act of 2000 that more appropriately deals
14 with the unique situation concerning the real estate
15 brokerage industry as it has evolved after applicable
16 Illinois Supreme Court decisions; and

17 WHEREAS, It is the finding of the General Assembly that
18 the large volunteer membership bar associations incorporated
19 as not-for-profit corporations under the laws of the State of
20 Illinois have historically and properly been the
21 organizations that have protected the public from the harm
22 caused by the unauthorized practice of law; and

1 WHEREAS, By bringing actions in court to enjoin and
2 otherwise prevent those not licensed by the Illinois Supreme
3 Court from practicing law, these bar associations have acted
4 on behalf of their volunteer lawyer members and to the
5 benefit of the public; and

6 WHEREAS, Because of their size, they possess the
7 diversity of membership to represent a broad spectrum of
8 members and diversity of practice areas; and

9 WHEREAS, It is the intent of the General Assembly to
10 ensure that bar associations incorporated as not-for-profit
11 corporations under the laws of the State of Illinois with
12 members of 20,000 or more licensed Illinois attorneys have
13 legislative authority to continue to have legal standing to
14 bring actions for the unauthorized practice of law and have
15 remedies available under this Act in such actions;
16 therefore"; and

17 by replacing everything after the enacting clause with the
18 following:

19 "Section 5. The Attorney Act is amended by changing
20 Section 1 as follows:

21 (705 ILCS 205/1) (from Ch. 13, par. 1)

22 Sec. 1. No person or entity shall be permitted to
23 practice as an attorney or counselor at law within this State
24 without having previously obtained a license for that purpose
25 from the Supreme Court of this State.

26 No person or entity shall receive any compensation
27 directly or indirectly for any legal services other than a
28 regularly licensed attorney, nor may an unlicensed person or
29 entity advertise or hold itself out to practice law, give
30 legal advice, or own, conduct, or maintain a facility to
31 practice law or give legal advice.

1 A license, as provided for herein, constitutes the person
 2 receiving the same an attorney and counselor at law,
 3 according to the law and customs thereof, for and during his
 4 good behavior in the practice and authorizes him to demand
 5 and receive fees for any services which he may render as an
 6 attorney and counselor at law in this State. No person shall
 7 be granted a license or renewal authorized by this Act who
 8 has defaulted on an educational loan guaranteed by the
 9 Illinois Student Assistance Commission; however, a license or
 10 renewal may be issued to the aforementioned persons who have
 11 established a satisfactory repayment record as determined by
 12 the Illinois Student Assistance Commission. No person shall
 13 be granted a license or renewal authorized by this Act who is
 14 more than 30 days delinquent in complying with a child
 15 support order; a license or renewal may be issued, however,
 16 if the person has established a satisfactory repayment record
 17 as determined (i) by the Illinois Department of Public Aid
 18 for cases being enforced under Article X of the Illinois
 19 Public Aid Code or (ii) in all other cases by order of court
 20 or by written agreement between the custodial parent and
 21 non-custodial parent. No person shall be refused a license
 22 under this Act on account of sex.

23 Any person or entity found by the court to provide legal
 24 services practicing, charging or receiving fees for legal
 25 services within this State, either directly or indirectly,
 26 without being licensed to practice as herein required, is
 27 guilty of contempt of court and shall be punished
 28 accordingly, upon complaint being filed in any Circuit Court
 29 of this State. Such proceedings shall be conducted in the
 30 Courts of the respective counties where the alleged contempt
 31 has been committed in the same manner as in cases of indirect
 32 contempt and with the right of review by the parties thereto.

33 Any person or entity that suffers actual damage as a
 34 result of a violation of this Section committed by any other

1 person or entity, or any Bar Association incorporated as a
2 not-for-profit corporation under the laws of the State of
3 Illinois with 20,000 or more members who are attorneys
4 licensed to practice law by the Illinois Supreme Court,
5 acting on behalf of its members, may bring an action against
6 that person or entity. The remedies available for the
7 unauthorized practice of law include, but are not limited to:
8 (i) appropriate equitable relief; (ii) a civil penalty not to
9 exceed \$5,000 if the person or entity has previously been
10 found by a court to have engaged in conduct described in the
11 Act and if the person or entity is not licensed under the
12 Real Estate License Act of 2000; (iii) actual damages; (iv)
13 reasonable attorney's fees and costs if the person or entity
14 is not licensed under the Real Estate License Act of 2000;
15 (v) punitive damages if the conduct was willful, intentional,
16 or done with reckless disregard to the rights of others and
17 if the person or entity is not licensed under the Real Estate
18 License Act of 2000; and (vi) other relief deemed necessary
19 to remedy the wrongdoing.

20 An action under this Section may be commenced in the
21 county in which the person or entity against which it is
22 brought resides, has a principal place of business, or is
23 doing business, or in the county in which the transaction or
24 any substantial portion of the transaction occurred.

25 The provisions of this Act shall be in addition to other
26 remedies permitted by law and shall not be construed to
27 deprive courts of this State of their inherent right to
28 punish for contempt or to restrain the unauthorized practice
29 of law.

30 Nothing in this Act shall be construed to conflict with,
31 amend, or modify Section 5 of the Corporate Practice of Law
32 Prohibition Act, or to prohibit representation of a party by
33 a person who is not an attorney in a proceeding before either
34 panel of the Illinois Labor Relations Board under the

1 Illinois Public Labor Relations Act, as now or hereafter
2 amended, the Illinois Educational Labor Relations Board under
3 the Illinois Educational Labor Relations Act, as now or
4 hereafter amended, the State Civil Service Commission, the
5 local Civil Service Commissions, or the University Civil
6 Service Merit Board, to the extent allowed pursuant to rules
7 and regulations promulgated by those Boards and Commissions
8 or the giving of information, training, or advocacy or
9 assistance in any meetings or administrative proceedings held
10 pursuant to the federal Individuals with Disabilities
11 Education Act, the federal Rehabilitation Act, the federal
12 Americans with Disabilities Act and the federal Social
13 Security Act, to the extent allowed by those laws or the
14 federal regulations or State laws implementing those laws.

15 If any provision of this amendatory Act of the 93rd
16 General Assembly or application thereof to any person or
17 circumstance is held invalid, such invalidity does not affect
18 other provisions or applications of this amendatory Act of
19 the 93rd General Assembly which can be given effect without
20 the invalid application or provision, and to this end the
21 provisions of this amendatory Act of the 93rd General
22 Assembly are declared to be severable.

23 (Source: P.A. 91-798, eff. 7-9-00.)"