

1 AN ACT concerning professional regulation.

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

4 Section 5. The Real Estate License Act of 2000 is amended  
5 by changing Sections 1-10, 5-30, 5-50, and 5-70 and adding  
6 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8 (Section scheduled to be repealed on January 1, 2010)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  
25 the hiring of any licensee under this Act. The broker's  
26 business name in the case of a franchise shall include the  
27 franchise affiliation as well as the name of the individual  
28 firm.

29 "Board" means the Real Estate Administration and  
30 Disciplinary Board of OBRE.

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

1 "Broker" means an individual, partnership, limited  
2 liability company, corporation, or registered limited  
3 liability partnership other than a real estate salesperson or  
4 leasing agent who for another and for compensation, or with the  
5 intention or expectation of receiving compensation, either  
6 directly or indirectly:

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

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

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

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

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

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

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

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

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

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

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

33 "Brokerage agreement" means a written or oral agreement  
34 between a sponsoring broker and a consumer for licensed  
35 activities to be provided to a consumer in return for  
36 compensation or the right to receive compensation from another.

1 Brokerage agreements may constitute either a bilateral or a  
2 unilateral agreement between the broker and the broker's client  
3 depending upon the content of the brokerage agreement. All  
4 exclusive brokerage agreements shall be in writing.

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

7 "Commissioner" means the Commissioner of Banks and Real  
8 Estate or a person authorized by the Commissioner, the Office  
9 of Banks and Real Estate Act, or this Act to act in the  
10 Commissioner's stead.

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

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

31 "Confidential information" means information obtained by a  
32 licensee from a client during the term of a brokerage agreement  
33 that (i) was made confidential by the written request or  
34 written instruction of the client, (ii) deals with the  
35 negotiating position of the client, or (iii) is information the  
36 disclosure of which could materially harm the negotiating

1 position of the client, unless at any time:

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

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

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

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

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

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

15 "Credit hour" means 50 minutes of classroom instruction in  
16 course work that meets the requirements set forth in rules  
17 adopted by OBRE.

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

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

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

28 "Director" means the Director of the Real Estate Division,  
29 OBRE.

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

1 "Employee" or other derivative of the word "employee", when  
2 used to refer to, describe, or delineate the relationship  
3 between a real estate broker and a real estate salesperson,  
4 another real estate broker, or a leasing agent, shall be  
5 construed to include an independent contractor relationship,  
6 provided that a written agreement exists that clearly  
7 establishes and states the relationship. All responsibilities  
8 of a broker shall remain.

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

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

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

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

35 "License" means the document issued by OBRE certifying that  
36 the person named thereon has fulfilled all requirements

1 prerequisite to licensure under this Act.

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

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

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

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

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

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

1 property being sold by an owner on his or her own behalf, or  
2 (x) referral to another broker or service provider.

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

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

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

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

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

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

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

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

32 "Real Estate Administration and Disciplinary Board" or  
33 "Board" means the Real Estate Administration and Disciplinary  
34 Board created by Section 25-10 of this Act.

35 "Salesperson" means any individual, other than a real  
36 estate broker or leasing agent, who is employed by a real

1 estate broker or is associated by written agreement with a real  
2 estate broker as an independent contractor and participates in  
3 any activity described in the definition of "broker" under this  
4 Section.

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

8 "Sponsor card" means the temporary permit issued by the  
9 sponsoring real estate broker certifying that the real estate  
10 broker, real estate salesperson, or leasing agent named thereon  
11 is employed by or associated by written agreement with the  
12 sponsoring real estate broker, as provided for in Section 5-40  
13 of this Act.

14 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;  
15 91-603, eff. 1-1-00; 91-702, eff. 5-12-00; 92-217, eff.  
16 8-2-01.)

17 (225 ILCS 454/5-30)

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

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

21 (a) All applicants for a broker's license, except  
22 applicants who meet the criteria set forth in subsection (c) of  
23 this Section shall (i) give satisfactory evidence of having  
24 completed at least 120 classroom hours, 45 of which shall be  
25 those hours required to obtain a salesperson's license plus 15  
26 hours in brokerage administration courses, in real estate  
27 courses approved by the Advisory Council or (ii) for applicants  
28 who currently hold a valid real estate salesperson's license,  
29 give satisfactory evidence of having completed at least 75  
30 hours in real estate courses, not including the courses that  
31 are required to obtain a salesperson's license, approved by the  
32 Advisory Council.

33 (b) All applicants for a salesperson's license, except  
34 applicants who meet the criteria set forth in subsection (c) of  
35 this Section shall give satisfactory evidence that they have



1 completed at least 45 hours of instruction in real estate  
2 courses approved by the Advisory Council.

3 (c) The requirements specified in subsections (a) and (b)  
4 of this Section do not apply to applicants who+

5 ~~(1)~~ are currently admitted to practice law by the  
6 Supreme Court of Illinois and are currently in active  
7 standing, ~~or~~

8 ~~(2) show evidence of receiving a baccalaureate degree~~  
9 ~~including courses involving real estate or related~~  
10 ~~material from a college or university approved by the~~  
11 ~~Advisory Council.~~

12 (d) A minimum of 15 of the required hours of pre-license  
13 education shall be in the areas of Article 15 of this Act,  
14 disclosure and environmental issues, or any other currently  
15 topical areas that are determined by the Advisory Council.

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

17 (225 ILCS 454/5-50)

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

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

22 (a) The expiration date and renewal period for each license  
23 issued under this Act shall be set by rule. Except as otherwise  
24 provided in Section 5-55 of this Act, the holder of a license  
25 may renew the license within 90 days preceding the expiration  
26 date thereof by paying the fees specified by rule. Upon written  
27 request from the sponsoring broker, OBRE shall prepare and mail  
28 to the sponsoring broker a listing of licensees under this Act  
29 who, according to the records of OBRE, are sponsored by that  
30 broker. Every licensee associated with or employed by a broker  
31 whose license is revoked, suspended, terminated, or expired  
32 shall be considered as inoperative until such time as the  
33 sponsoring broker's license is reinstated or renewed, or the  
34 licensee changes employment as set forth in subsection (c) of  
35 Section 5-40 of this Act.

1 (b) OBRE shall establish and maintain a register of all  
2 persons currently licensed by the State and shall issue and  
3 prescribe a form of pocket card. Upon payment by a licensee of  
4 the appropriate fee as prescribed by rule for engagement in the  
5 activity for which the licensee is qualified and holds a  
6 license for the current period, OBRE shall issue a pocket card  
7 to the licensee. The pocket card shall be verification that the  
8 required fee for the current period has been paid and shall  
9 indicate that the person named thereon is licensed for the  
10 current renewal period as a broker, salesperson, or leasing  
11 agent as the case may be. The pocket card shall further  
12 indicate that the person named thereon is authorized by OBRE to  
13 engage in the licensed activity appropriate for his or her  
14 status (broker, salesperson, or leasing agent). Each licensee  
15 shall carry on his or her person his or her pocket card or, if  
16 such pocket card has not yet been issued, a properly issued  
17 sponsor card when engaging in any licensed activity and shall  
18 display the same on demand.

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

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

23 (225 ILCS 454/5-70)

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

25 Sec. 5-70. Continuing education requirement; broker or  
26 salesperson.

27 (a) The requirements of this Section apply to all licensees  
28 ~~who have had a license for less than 15 years as of January 1,~~  
29 ~~1992.~~

30 (b) Except as otherwise provided in this Section, each  
31 person who applies for renewal of his or her license as a real  
32 estate broker or real estate salesperson must successfully  
33 complete real estate continuing education courses approved by  
34 the Advisory Council at the rate of 6 hours per year or its  
35 equivalent. In addition, effective with the pre-renewal period

1 beginning April 1, 2006, in order to renew a real estate  
2 broker's license, the licensee must successfully complete, by  
3 achieving an 85% passing score, a 6-hour broker management  
4 continuing education course approved by OBRE. The 6-hour broker  
5 management continuing education course must be completed by all  
6 persons receiving their initial broker's license within 180  
7 days after the date of initial licensure as a broker. No  
8 license may be renewed except upon the successful completion of  
9 the required courses or their equivalent or upon a waiver of  
10 those requirements for good cause shown as determined by the  
11 Commissioner with the recommendation of the Advisory Council.  
12 The requirements of this Article are applicable to all brokers  
13 and salespersons except those brokers and salespersons who,  
14 during the pre-renewal period:

15 (1) serve in the armed services of the United States;

16 (2) serve as an elected State or federal official;

17 (3) serve as a full-time employee of OBRE; or

18 (4) are admitted to practice law pursuant to Illinois  
19 Supreme Court rule.

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

34 (d) The continuing education requirement for salespersons  
35 and brokers shall consist of a core curriculum and an elective  
36 curriculum, to be established by the Advisory Council. In

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

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

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

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

36 (g) Credit hours may be earned for self-study programs

1 approved by the Advisory Council.

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

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

7 (j) OBRE shall contract with the Illinois Real Estate  
8 Education Foundation to develop the 6-hour broker management  
9 continuing education course and may license the use of that  
10 course to all approved continuing education providers. In  
11 addition, OBRE shall contract with the provider of the testing  
12 service for licensure as a broker or salesperson to develop and  
13 administer an appropriate test to be taken in connection with  
14 the 6-hour broker management continuing education course.

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

16 (225 ILCS 454/15-75 new)

17 Sec. 15-75. Exclusive brokerage agreements. All exclusive  
18 brokerage agreements must specify that the sponsoring broker  
19 must, at a minimum, do the following:

20 (1) accept delivery of and present to the client offers  
21 and counteroffers to buy, sell, or lease the client's  
22 property or the property the client seeks to purchase or  
23 lease;

24 (2) assist the client in developing, communicating,  
25 negotiating, and presenting offers, counteroffers, and  
26 notices that relate to the offers and counteroffers until a  
27 lease or purchase agreement is signed and all contingencies  
28 are satisfied or waived; and

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

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