



Sen. Antonio Munoz

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LRB093 20864 WGH 48896 a

1 AMENDMENT TO SENATE BILL 2887

2 AMENDMENT NO. _____. Amend Senate Bill 2887 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Real Estate License Act of 2000 is amended
5 by changing Sections 1-10, 5-30, 5-50, 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8 (Section scheduled to be repealed on January 1, 2010)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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (10) rebates;

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

5 (12) retainer fee; or

6 (13) salary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 (225 ILCS 454/5-30)

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

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

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

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

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

26 ~~(1)~~ are currently admitted to practice law by the
27 Supreme Court of Illinois and are currently in active
28 standing, ~~or~~

29 ~~(2) show evidence of receiving a baccalaureate degree~~
30 ~~including courses involving real estate or related~~
31 ~~material from a college or university approved by the~~
32 ~~Advisory Council.~~

33 (d) A minimum of 15 of the required hours of pre-license

1 education shall be in the areas of Article 15 of this Act,
2 disclosure and environmental issues, or any other currently
3 topical areas that are determined by the Advisory Council.

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

5 (225 ILCS 454/5-50)

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

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

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

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

1 agent as the case may be. The pocket card shall further
2 indicate that the person named thereon is authorized by OBRE to
3 engage in the licensed activity appropriate for his or her
4 status (broker, salesperson, or leasing agent). Each licensee
5 shall carry on his or her person his or her pocket card or, if
6 such pocket card has not yet been issued, a properly issued
7 sponsor card when engaging in any licensed activity and shall
8 display the same on demand.

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

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

13 (225 ILCS 454/5-70)

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

15 Sec. 5-70. Continuing education requirement; broker or
16 salesperson.

17 (a) The requirements of this Section apply to all licensees
18 ~~who have had a license for less than 15 years as of January 1,~~
19 ~~1992.~~

20 (b) Except as otherwise provided in this Section, each
21 person who applies for renewal of his or her license as a real
22 estate broker or real estate salesperson must successfully
23 complete real estate continuing education courses approved by
24 the Advisory Council at the rate of 6 hours per year or its
25 equivalent. In addition, effective with the pre-renewal period
26 beginning April 1, 2006, in order to renew a real estate
27 broker's license, the licensee must successfully complete, by
28 achieving an 85% passing score, a 6-hour broker management
29 continuing education course approved by OBRE. The 6-hour broker
30 management continuing education course must be completed by all
31 persons receiving their initial broker's license within 180
32 days after the date of initial licensure as a broker. No
33 license may be renewed except upon the successful completion of

1 the required courses or their equivalent or upon a waiver of
2 those requirements for good cause shown as determined by the
3 Commissioner with the recommendation of the Advisory Council.
4 The requirements of this Article are applicable to all brokers
5 and salespersons except those brokers and salespersons who,
6 during the pre-renewal period:

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

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

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

10 (4) are admitted to practice law pursuant to Illinois
11 Supreme Court rule.

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

26 (d) The continuing education requirement for salespersons
27 and brokers shall consist of a core curriculum and an elective
28 curriculum, to be established by the Advisory Council. In
29 meeting the continuing education requirements of this Act, at
30 least 3 hours per year or their equivalent shall be required to
31 be completed in the core curriculum. In establishing the core
32 curriculum, the Advisory Council shall consider subjects that
33 will educate licensees on recent changes in applicable laws and
34 new laws and refresh the licensee on areas of the license law

1 and OBRE policy that the Advisory Council deems appropriate,
2 and any other areas that the Advisory Council deems timely and
3 applicable in order to prevent violations of this Act and to
4 protect the public. In establishing the elective curriculum,
5 the Advisory Council shall consider subjects that cover the
6 various aspects of the practice of real estate that are covered
7 under the scope of this Act. However, the elective curriculum
8 shall not include any offerings referred to in Section 5-85 of
9 this Act.

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

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

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

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

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

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

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

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

12 (225 ILCS 454/15-75 new)

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

16 (1) accept delivery of and present to the client offers
17 and counteroffers to buy, sell, or lease the client's
18 property or the property the client seeks to purchase or
19 lease;

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

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

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