



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB5358

by Rep. Kevin Joyce

SYNOPSIS AS INTRODUCED:

See Index

Amends the Regulatory Sunset Act to change the repeal date of the Real Estate License Act of 2000 from January 1, 2010 to January 1, 2019. Amends the Real Estate License Act of 2000. Replaces references to "OBRE" with "Department of Professional Regulation" and references to "Commissioner" with "Secretary of Financial and Professional Regulation" throughout the Act. Adds provisions concerning an applicant's social security number or tax identification number; the application and requirements for licensure as a leasing agent; the requirements for licensure as a salesperson; the requirements for licensure as a broker; good moral character; change of address; injunctions, criminal offenses, and cease and desist orders; and criminal violations. Makes changes in provisions concerning definitions; exemptions from the licensure requirements; licensure examination; sponsor cards and associations with new brokers; expiration and renewal periods; fees; continuing education requirements; disciplinary actions; the Real Estate Administration and Disciplinary Board and its duties; the duties of the Real Estate Coordinator; the Advisory Council and its powers and duties; the licensure of continuing education schools and approval of courses; and the licensure of continuing education instructors. Repeals Sections concerning the application for leasing agent licensure; the application for and issuance of broker or salesperson licensure; the education requirements for original broker or salesperson licensure; the expiration and renewal of broker or salesperson licensure; penalties and injunctions; and actions to enjoin. Makes other changes. Effective immediately.

LRB095 18363 RAS 44448 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Regulatory Sunset Act is amended by changing
5 Sections 4.20 and by adding Section 4.29 as follows:

6 (5 ILCS 80/4.20)

7 Sec. 4.20. Acts repealed on January 1, 2010. The following
8 Acts are repealed on January 1, 2010:

9 The Auction License Act.

10 The Illinois Architecture Practice Act of 1989.

11 The Illinois Landscape Architecture Act of 1989.

12 The Illinois Professional Land Surveyor Act of 1989.

13 The Land Sales Registration Act of 1999.

14 The Orthotics, Prosthetics, and Pedorthics Practice Act.

15 The Perfusionist Practice Act.

16 The Professional Engineering Practice Act of 1989.

17 ~~The Real Estate License Act of 2000.~~

18 The Structural Engineering Practice Act of 1989.

19 (Source: P.A. 91-91, eff. 7-9-99; 91-92, eff. 7-9-99; 91-132,
20 eff. 7-16-99; 91-133, eff. 7-16-99; 91-245, eff. 12-31-99;
21 91-255, eff. 12-30-99; 91-338, eff. 12-30-99; 91-580, eff.
22 1-1-00; 91-590, eff. 1-1-00; 91-603, eff. 1-1-00; 92-16, eff.
23 6-28-01.)

1 (5 ILCS 80/4.29 new)

2 Sec. 4.29. Act repealed on January 1, 2019. The following
3 Act is repealed on January 1, 2019:

4 The Real Estate License Act of 2000.

5 Section 10. The Real Estate License Act of 2000 is amended
6 by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-35, 5-40,
7 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-5, 15-65, 20-5,
8 20-10, 20-20, 20-25, 20-30, 20-35, 20-40, 20-45, 20-50, 20-60,
9 20-65, 20-75, 20-85, 20-90, 20-95, 20-100, 20-110, 20-115,
10 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25, 25-30, 25-35,
11 25-37, 30-5, 30-10, 30-15, 30-25, and 35-5 and by adding
12 Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 20-21 and 20-22 as
13 follows:

14 (225 ILCS 454/1-10)

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

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

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

19 "Address of Record" shall be the designated address
20 recorded by the Department in the applicant's or licensee's
21 application file or license file as maintained by the
22 Department's licensure maintenance unit. It is the duty of the
23 applicant or licensee to inform the Department of any change of

1 address, and such changes must be made either through the
2 Department's website or by contacting the Department's
3 licensure maintenance unit.

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

6 "Agency" means a relationship in which a real estate broker
7 or licensee, whether directly or through an affiliated
8 licensee, represents a consumer by the consumer's consent,
9 whether express or implied, in a real property transaction.

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

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

21 "Board" means the Real Estate Administration and
22 Disciplinary Board of the Department ~~OBRE~~.

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

25 "Broker" means an individual, partnership, limited
26 liability company, corporation, or registered limited

1 liability partnership other than a real estate salesperson or
2 leasing agent who, whether in person or through any media or
3 technology, for another and for compensation, or with the
4 intention or expectation of receiving compensation, either
5 directly or indirectly:

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

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

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

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

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

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

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

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

25 (9) Assists or directs in the negotiation of any
26 transaction intended to result in the sale, exchange,

1 lease, or rental of real estate.

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

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

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

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

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

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

25 (1) commissions;

26 (2) referral fees;

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

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

- 21 (1) the client permits the disclosure of information
- 22 given by that client by word or conduct;
- 23 (2) the disclosure is required by law; or
- 24 (3) the information becomes public from a source other
- 25 than the licensee.

26 "Confidential information" shall not be considered to

1 include material information about the physical condition of
2 the property.

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

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

8 "Credit hour" means 50 minutes of classroom instruction in
9 course work that meets the requirements set forth in rules
10 adopted by the Department ~~OBRE~~.

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

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

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

21 ~~"Director" means the Director of the Real Estate Division,~~
22 ~~OBRE.~~

23 "Dual agency" means an agency relationship in which a
24 licensee is representing both buyer and seller or both landlord
25 and tenant in the same transaction. When the agency
26 relationship is a designated agency, the question of whether

1 there is a dual agency shall be determined by the agency
2 relationships of the designated agent of the parties and not of
3 the sponsoring broker.

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

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

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

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

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

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

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

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

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

25 "Managing broker" means a broker who has supervisory
26 responsibilities for licensees in one or, in the case of a

1 multi-office company, more than one office and who has been
2 appointed as such by the sponsoring broker.

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

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

26 ~~"OBRE" means the Office of Banks and Real Estate.~~

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

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

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

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

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

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

25 "Proctor" means any person, including without limitation
26 an instructor, who has a written agreement to administer

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

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

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

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

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

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

23 "Sponsor card" means the temporary permit issued by the
24 sponsoring real estate broker certifying that the real estate
25 broker, real estate salesperson, or leasing agent named thereon
26 is employed by or associated by written agreement with the

1 sponsoring real estate broker, as provided for in Section 5-40
2 of this Act.

3 (Source: P.A. 92-217, eff. 8-2-01; 93-957, eff. 8-19-04.)

4 (225 ILCS 454/5-5)

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

6 Sec. 5-5. Leasing agent license.

7 (a) The purpose of this Section is to provide for a limited
8 scope license to enable persons who wish to engage in
9 activities limited to the leasing of residential real property
10 for which a license is required under this Act, and only those
11 activities, to do so by obtaining the license provided for
12 under this Section.

13 (b) Notwithstanding the other provisions of this Act, there
14 is hereby created a leasing agent license that shall enable the
15 licensee to engage only in residential leasing activities for
16 which a license is required under this Act. Such activities
17 include without limitation leasing or renting residential real
18 property, or attempting, offering, or negotiating to lease or
19 rent residential real property, or supervising the collection,
20 offer, attempt, or agreement to collect rent for the use of
21 residential real property. Nothing in this Section shall be
22 construed to require a licensed real estate broker or
23 salesperson to obtain a leasing agent license in order to
24 perform leasing activities for which a license is required
25 under this Act. Licensed leasing agents must be sponsored and

1 employed by a sponsoring broker.

2 (c) The Department ~~OBRE~~, by rule, with the advice of the
3 Board, shall provide for the licensing of leasing agents,
4 including the issuance, renewal, and administration of
5 licenses.

6 (d) Notwithstanding any other provisions of this Act to the
7 contrary, a person may engage in residential leasing activities
8 for which a license is required under this Act, for a period of
9 120 consecutive days without being licensed, so long as the
10 person is acting under the supervision of a licensed real
11 estate broker and the broker has notified the Department ~~OBRE~~
12 that the person is pursuing licensure under this Section.
13 During the 120 day period all requirements of Sections 5-10 and
14 5-65 of this Act with respect to education, successful
15 completion of an examination, and the payment of all required
16 fees must be satisfied. The Department ~~OBRE~~ may adopt rules to
17 ensure that the provisions of this subsection are not used in a
18 manner that enables an unlicensed person to repeatedly or
19 continually engage in activities for which a license is
20 required under this Act.

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

22 (225 ILCS 454/5-6 new)

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

24 Sec. 5-6. Social Security Number or Tax Identification
25 Number on license application. In addition to any other

1 information required to be contained in the application, every
2 application for an original or renewal license under this Act
3 must include the applicant's Social Security Number or Tax
4 Identification Number.

5 (225 ILCS 454/5-7 new)

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

7 Sec. 5-7. Application for leasing agent license. Every
8 applicant for licensure as a leasing agent must apply to the
9 Department on forms provided by the Department and submit the
10 required fee, which shall be non-refundable. Application forms
11 shall require such information that, in the judgment of the
12 Department, shall enable the Department to pass on the
13 qualifications of the applicant.

14 (225 ILCS 454/5-10)

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

16 Sec. 5-10. Requirements for leasing agent licensure.
17 ~~Application for leasing agent license.~~

18 (a) Every applicant for licensure as a leasing agent must
19 meet each of the following qualifications:

20 (1) He or she must be at least 18 years of age.

21 (2) He or she must be of good moral character.

22 (3) He or she must have successfully completed a 4-year
23 course of study in a high school or secondary school or an
24 equivalent course of study approved by the State Board of

1 Education.

2 (4) He or she must successfully complete a written
3 examination authorized by the Department sufficient to
4 demonstrate the applicant's knowledge of the provisions of
5 this Act relating to leasing agents and the applicant's
6 competence to engage in the activities of a licensed
7 leasing agent.

8 (5) He or she must successfully complete 15 hours of
9 instruction in an approved course of study relating to the
10 leasing of residential real property. The course of study
11 shall, among other topics, cover the provisions of this Act
12 applicable to leasing agents; fair housing issues relating
13 to residential leasing; advertising and marketing issues;
14 leases, applications, and credit reports; owner tenant
15 relationships and owner tenant laws; the handling of funds;
16 and environmental issues relating to residential real
17 property.

18 (6) He or she must complete any other requirements as
19 set forth by the Department by rule.

20 (b) Every valid application for initial licensure must be
21 accompanied by a sponsor card and the fees specified by rule.
22 No applicant may engage in any of the activities covered by
23 this Act until a valid sponsor card has been issued to such
24 applicant. The sponsor card shall be valid for a maximum period
25 of 45 days after the date of issuance unless extended for good
26 cause, as provided by rule.

1 (c) Course work that is completed successfully and pursuant
2 to the requirements of this Section, may be applied to the
3 course work requirements needed to obtain a real estate
4 broker's or salesperson's license, as provided by rule. The
5 Advisory Council may recommend through the Board to the
6 Department and the Department may adopt requirements for
7 approved courses, course content, and the approval of courses,
8 instructors, and schools, as well as school and instructor
9 fees. The Department may establish continuing education
10 requirements for licensed leasing agents by rule ~~Every person~~
11 ~~who desires to obtain a leasing agent license shall apply to~~
12 ~~OBRE in writing on forms provided by OBRE. In addition to any~~
13 ~~other information required to be contained in the application,~~
14 ~~every application for an original or renewed leasing agent~~
15 ~~license shall include the applicant's Social Security number.~~
16 ~~All application or license fees must accompany the application.~~
17 ~~Each applicant must be at least 18 years of age, must be of~~
18 ~~good moral character, shall have successfully completed a~~
19 ~~4 year course of study in a high school or secondary school or~~
20 ~~an equivalent course of study approved by the Illinois State~~
21 ~~Board of Education, and shall successfully complete a written~~
22 ~~examination authorized by OBRE sufficient to demonstrate the~~
23 ~~applicant's knowledge of the provisions of this Act relating to~~
24 ~~leasing agents and the applicant's competence to engage in the~~
25 ~~activities of a licensed leasing agent. Applicants must~~
26 ~~successfully complete 15 hours of instruction in an approved~~

1 ~~course of study relating to the leasing of residential real~~
2 ~~property. The course of study shall, among other topics, cover~~
3 ~~the provisions of this Act applicable to leasing agents; fair~~
4 ~~housing issues relating to residential leasing; advertising~~
5 ~~and marketing issues; leases, applications, and credit~~
6 ~~reports; owner tenant relationships and owner tenant laws; the~~
7 ~~handling of funds; and environmental issues relating to~~
8 ~~residential real property. Successfully completed course work,~~
9 ~~completed pursuant to the requirements of this Section, may be~~
10 ~~applied to the course work requirements to obtain a real estate~~
11 ~~broker's or salesperson's license as provided by rule. The~~
12 ~~Advisory Council shall recommend through the Board to OBRE and~~
13 ~~OBRE shall adopt requirements for approved courses, course~~
14 ~~content, and the approval of courses, instructors, and schools,~~
15 ~~as well as school and instructor fees. OBRE may establish~~
16 ~~continuing education requirements for licensed leasing agents,~~
17 ~~by rule, with the advice of the Advisory Council and Board.~~

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

19 (225 ILCS 454/5-15)

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

21 Sec. 5-15. Necessity of broker, salesperson, or leasing
22 agent license or sponsor card; ownership restrictions.

23 (a) It is unlawful for any person, corporation, limited
24 liability company, registered limited liability partnership,
25 or partnership to act as a real estate broker, real estate

1 salesperson, or leasing agent or to advertise or assume to act
2 as such broker, salesperson, or leasing agent without a
3 properly issued sponsor card or a license issued under this Act
4 by the Department ~~OBRE~~, either directly or through its
5 authorized designee.

6 (b) No corporation shall be granted a license or engage in
7 the business or capacity, either directly or indirectly, of a
8 real estate broker, unless every officer of the corporation who
9 actively participates in the real estate activities of the
10 corporation holds a license as a real estate broker and unless
11 every employee who acts as a salesperson, or leasing agent for
12 the corporation holds a license as a real estate broker,
13 salesperson, or leasing agent.

14 (c) No partnership shall be granted a license or engage in
15 the business or serve in the capacity, either directly or
16 indirectly, of a real estate broker, unless every general
17 partner in the partnership holds a license as a real estate
18 broker and unless every employee who acts as a salesperson or
19 leasing agent for the partnership holds a license as a real
20 estate broker, salesperson, or leasing agent. In the case of a
21 registered limited liability partnership (LLP), every partner
22 in the LLP must hold a license as a real estate broker and
23 every employee who acts as a salesperson or leasing agent must
24 hold a license as a real estate broker, salesperson, or leasing
25 agent.

26 (d) No limited liability company shall be granted a license

1 or engage in the business or serve in the capacity, either
2 directly or indirectly, of a real estate broker unless every
3 manager in the limited liability company holds a license as a
4 real estate broker and unless every member and employee who
5 acts as a salesperson or leasing agent for the limited
6 liability company holds a license as a real estate broker,
7 salesperson, or leasing agent.

8 (e) No partnership, limited liability company, or
9 corporation shall be licensed to conduct a brokerage business
10 where an individual salesperson or leasing agent, or group of
11 salespersons or leasing agents, owns or directly or indirectly
12 controls more than 49% of the shares of stock or other
13 ownership in the partnership, limited liability company, or
14 corporation.

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

16 (225 ILCS 454/5-20)

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

18 Sec. 5-20. Exemptions from broker, salesperson, or leasing
19 agent license requirement. The requirement for holding a
20 license under this Article 5 shall not apply to:

21 (1) Any person, partnership, or corporation that as owner
22 or lessor performs any of the acts described in the definition
23 of "broker" under Section 1-10 of this Act with reference to
24 property owned or leased by it, or to the regular employees
25 thereof with respect to the property so owned or leased, where

1 such acts are performed in the regular course of or as an
2 incident to the management, sale, or other disposition of such
3 property and the investment therein, provided that such regular
4 employees do not perform any of the acts described in the
5 definition of "broker" under Section 1-10 of this Act in
6 connection with a vocation of selling or leasing any real
7 estate or the improvements thereon not so owned or leased.

8 (2) An attorney in fact acting under a duly executed and
9 recorded power of attorney to convey real estate from the owner
10 or lessor or the services rendered by an attorney at law in the
11 performance of the attorney's duty as an attorney at law.

12 (3) Any person acting as receiver, trustee in bankruptcy,
13 administrator, executor, or guardian or while acting under a
14 court order or under the authority of a will or testamentary
15 trust.

16 (4) Any person acting as a resident manager for the owner
17 or any employee acting as the resident manager for a broker
18 managing an apartment building, duplex, or apartment complex,
19 when the resident manager resides on the premises, the premises
20 is his or her primary residence, and the resident manager is
21 engaged in the leasing of the property of which he or she is
22 the resident manager.

23 (5) Any officer or employee of a federal agency in the
24 conduct of official duties.

25 (6) Any officer or employee of the State government or any
26 political subdivision thereof performing official duties.

1 (7) Any multiple listing service or other similar
2 information exchange that is engaged in the collection and
3 dissemination of information concerning real estate available
4 for sale, purchase, lease, or exchange along with which no
5 other brokerage services, as described in the definition of
6 "broker" set forth in Section 1-10 of this Act, ~~licensed~~
7 ~~activities~~ are provided.

8 (8) Railroads and other public utilities regulated by the
9 State of Illinois, or the officers or full time employees
10 thereof, unless the performance of any licensed activities is
11 in connection with the sale, purchase, lease, or other
12 disposition of real estate or investment therein not needing
13 the approval of the appropriate State regulatory authority.

14 (9) Any medium of advertising in the routine course of
15 selling or publishing advertising along with which no other
16 brokerage services, as described in the definition of "broker"
17 set forth in Section 1-10 of this Act, ~~licensed activities~~ are
18 provided.

19 (10) Any resident lessee of a residential dwelling unit who
20 refers for compensation to the owner of the dwelling unit, or
21 to the owner's agent, prospective lessees of dwelling units in
22 the same building or complex as the resident lessee's unit, but
23 only if the resident lessee (i) refers no more than 3
24 prospective lessees in any 12-month period, (ii) receives
25 compensation of no more than \$1,000 or the equivalent of one
26 month's rent, whichever is less, in any 12-month period, and

1 (iii) limits his or her activities to referring prospective
2 lessees to the owner, or the owner's agent, and does not show a
3 residential dwelling unit to a prospective lessee, discuss
4 terms or conditions of leasing a dwelling unit with a
5 prospective lessee, or otherwise participate in the
6 negotiation of the leasing of a dwelling unit.

7 (11) An exchange company registered under the Real Estate
8 Timeshare Act of 1999 and the regular employees of that
9 registered exchange company but only when conducting an
10 exchange program as defined in that Act.

11 (12) An existing timeshare owner who, for compensation,
12 refers prospective purchasers, but only if the existing
13 timeshare owner (i) refers no more than 20 prospective
14 purchasers in any calendar year, (ii) receives no more than
15 \$1,000, or its equivalent, for referrals in any calendar year
16 and (iii) limits his or her activities to referring prospective
17 purchasers of timeshare interests to the developer or the
18 developer's employees or agents, and does not show, discuss
19 terms or conditions of purchase or otherwise participate in
20 negotiations with regard to timeshare interests.

21 (13) Any person who is licensed without examination under
22 Section 10-25 of the Auction License Act is exempt from holding
23 a broker's or salesperson's license under this Act for the
24 limited purpose of selling or leasing real estate at auction,
25 so long as:

26 (A) that person has made application for said

1 exemption by July 1, 2000;

2 (B) that person verifies to the Department ~~OBRE~~
3 that he or she has sold real estate at auction for a
4 period of 5 years prior to licensure as an auctioneer;

5 (C) the person has had no lapse in his or her
6 license as an auctioneer; and

7 (D) the license issued under the Auction License
8 Act has not been disciplined for violation of those
9 provisions of Article 20 of the Auction License Act
10 dealing with or related to the sale or lease of real
11 estate at auction.

12 (14) A hotel operator who is registered with the Illinois
13 Department of Revenue and pays taxes under the Hotel Operators'
14 Occupation Tax Act and rents a room or rooms in a hotel as
15 defined in the Hotel Operators' Occupation Tax Act for a period
16 of not more than 30 consecutive days and not more than 60 days
17 in a calendar year.

18 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;
19 91-603, eff. 1-1-00; 92-16, eff. 6-28-01; 92-217, eff. 8-2-01.)

20 (225 ILCS 454/5-26 new)

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

22 Sec. 5-26. Requirements for salesperson licensure.

23 (a) Every applicant for licensure as a salesperson must
24 meet each of the following qualifications:

25 (1) He or she must be at least 21 years of age;

1 however, the minimum age of 21 years may be waived for any
2 person seeking a license as a real estate salesperson who
3 has attained the age of 18 and can provide evidence of the
4 successful completion of at least 4 semesters of post
5 secondary school study as a full-time student or the
6 equivalent, with major emphasis on real estate courses in a
7 school approved by the Department.

8 (2) He or she must be of good moral character.

9 (3) He or she must have successfully completed a 4 year
10 course of study in a high school or secondary school
11 approved by the State Board of Education or an equivalent
12 course of study, as determined by an examination conducted
13 by the State Board of Education and verified under oath by
14 the applicant.

15 (b) All applicants for licensure as a salesperson, except
16 for applicants who meet the criteria set forth in subsection
17 (c) of this Section must give satisfactory evidence of the
18 completion, prior to May 1, 2009, of at least 45 hours and, on
19 or after April 30, 2009, at least 90 hours of instruction in
20 real estate courses approved by the Advisory Council.

21 (c) The requirements set forth in subsection (b) of this
22 Section do not apply to applicants who are currently admitted
23 to practice law by the Supreme Court of Illinois and are
24 currently in active standing.

25 (d) A minimum of 15 of the required hours of pre-license
26 education must be in the areas of Article 15 of this Act,

1 disclosure and environmental issues, or any other currently
2 topical areas that are determined by the Advisory Council. In
3 addition, on or after April 30, 2009, 15 of the required hours
4 must be devoted to situational problems and case studies, which
5 hours must be classroom hours, as opposed to self-study or
6 distance learning.

7 (e) Every person who makes application for original
8 licensure under this Section must personally take and pass a
9 written examination authorized by the Department.

10 (f) Every valid application for initial salesperson
11 licensure must be accompanied by a sponsor card and the fees
12 specified by rule. No applicant may engage in any of the
13 activities covered by this Act until a valid sponsor card has
14 been issued to such applicant. The sponsor card shall be valid
15 for a maximum period of 45 days after the date of issuance,
16 unless extended for good cause as provided by rule.

17 (g) Each person licensed under this Section shall display
18 his or her license conspicuously in his or her place of
19 business.

20 (225 ILCS 454/5-27 new)

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

22 Sec. 5-27. Requirements for broker licensure.

23 (a) Every applicant for licensure as a broker must meet
24 each of the following qualifications:

25 (1) He or she must be at least 21 years of age;

1 however, the minimum age of 21 years shall be waived for
2 any person seeking a license as a real estate salesperson
3 who has attained the age of 18 and can provide evidence of
4 the successful completion of at least 4 semesters of post
5 secondary school study as a full-time student or the
6 equivalent, with major emphasis on real estate courses in a
7 school approved by the Department.

8 (2) He or she must be of good moral character.

9 (3) He or she must successfully complete a 4 year
10 course of study in a high school or secondary school
11 approved by the State Board of Education or an equivalent
12 course of study as determined by an examination conducted
13 by the State Board of Education and verified under oath by
14 the applicant.

15 (b) All applicants for licensure as a broker, except for
16 applicants who meet the criteria set forth in subsection (c) of
17 this Section shall give satisfactory evidence of the
18 completion, prior to May 1, 2009, of at least 120 classroom
19 hours, 45 of which shall be those hours required to obtain a
20 salesperson's license plus 15 hours in brokerage
21 administration courses, and on or after April 30, 2009, at
22 least 135 classroom hours, 90 of which shall be those hours
23 required to obtain a salesperson's license plus 15 hours in
24 brokerage administration courses, in real estate courses
25 approved by the Advisory Council.

26 (c) The requirements set forth in subsection (b) of this

1 Section do not apply to applicants who are currently admitted
2 to practice law by the Supreme Court of Illinois and are
3 currently in active standing.

4 (d) Every person who makes application for original
5 licensure under this Section must have been licensed and
6 engaged in licensed real estate brokerage activities in the
7 applicant's state of domicile for at least 2 years out of the 3
8 years immediately preceding the date of application.

9 (e) Every person who makes application for original
10 licensure under this Section must personally take and pass a
11 written examination authorized by the Department.

12 (f) Every valid application for initial broker licensure
13 must be accompanied by a sponsor card and the fees specified by
14 rule. No applicant may engage in any of the activities covered
15 by this Act until a valid sponsor card has been issued to such
16 applicant. The sponsor card shall be valid for a maximum period
17 of 45 days after the date of issuance, unless extended for good
18 cause as provided by rule.

19 (g) Each person licensed under this Section shall display
20 his or her license conspicuously in his or her place of
21 business.

22 (225 ILCS 454/5-28 new)

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

24 Sec. 5-28. Good moral character. When an applicant (i) has
25 had his or her license revoked on a prior occasion or when an

1 applicant, (ii) is found to have committed any of the practices
2 enumerated in Section 20-20 of this Act, (iii) has been
3 convicted of forgery, embezzlement, obtaining money under
4 false pretenses, larceny, extortion, conspiracy to defraud, or
5 any other similar offense or offenses, or (iv) has been
6 convicted of a felony involving moral turpitude in any court of
7 competent jurisdiction in this or any other state, district, or
8 territory of the United States or of a foreign country, the
9 Board may consider the prior revocation, conduct, or conviction
10 in its determination of the applicant's moral character and
11 decision of whether or not to grant the applicant a license. In
12 its consideration of the prior revocation, conduct, or
13 conviction, the Board shall take into account the nature of the
14 conduct, any aggravating or extenuating circumstances, the
15 time elapsed since the revocation, conduct, or conviction, the
16 rehabilitation or restitution performed by the applicant, and
17 any other factors that the Board deems relevant. When an
18 applicant has made a false statement of material fact on his or
19 her application, the false statement may, in itself, be
20 sufficient grounds to revoke or refuse to issue a license.

21 (225 ILCS 454/5-35)

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

23 Sec. 5-35. Examination; broker, ~~or~~ salesperson, and
24 leasing agent.

25 (a) The Department shall authorize examinations at least

1 annually and at such time and place as it may designate. The
2 examination shall be of a character to give a fair test of the
3 qualifications of the applicant to practice as a real estate
4 salesperson, real estate broker, or leasing agent.

5 Applicants for examination as a real estate salesperson,
6 real estate broker, or leasing agent shall be required to pay,
7 either to the Department or the designated testing service, a
8 fee covering the cost of the provision of the examination.

9 Failure to appear for the examination on the scheduled date, at
10 the time and place specified, after the applicant's application
11 for examination has been received and acknowledged by the
12 Department or the designated testing service, shall result in
13 the forfeiture of the examination fee. The Department may

14 employ consultants for the purposes of preparing and conducting
15 examinations. ~~Every person who makes application for an~~

16 ~~original license as a broker or salesperson shall personally~~
17 ~~take and pass a written examination authorized by OBRE and~~

18 ~~answer any questions that may be required to determine the good~~
19 ~~moral character of the applicant and the applicant's competency~~

20 ~~to transact the business of broker or salesperson, as the case~~
21 ~~may be, in such a manner as to safeguard the interests of the~~

22 ~~public. In determining this competency, OBRE shall require~~
23 ~~proof that the applicant has a good understanding and the~~

24 ~~knowledge to conduct real estate brokerage and of the~~
25 ~~provisions of this Act. The examination shall be prepared by an~~

26 ~~independent testing service designated by OBRE, subject to the~~

1 ~~approval of the examinations by the Board. The designated~~
2 ~~independent testing service shall conduct the examinations at~~
3 ~~such times and places as OBRE shall approve. In addition, every~~
4 ~~person who desires to take the written examination shall make~~
5 ~~application to do so to OBRE or to the designated independent~~
6 ~~testing service in writing upon forms approved by OBRE. An~~
7 applicant shall be eligible to take the examination only after
8 successfully completing the education requirements, set forth
9 in this Article Section 5-30 of this Act, and attaining the
10 minimum age specified in this Act. Each applicant shall be
11 required to establish compliance with the eligibility
12 requirements in the manner provided by the rules promulgated
13 for the administration of this Act.

14 (b) If a person who has received a passing score on the
15 written examination described in this Section fails to file an
16 application and meet all requirements for a license under this
17 Act within one year after receiving a passing score on the
18 examination, credit for the examination shall terminate. The
19 person thereafter may make a new application for examination.

20 (c) If an applicant has failed an examination 3 times, the
21 applicant must repeat the pre-license education required to sit
22 for the examination. For the purposes of this Section, the
23 fourth attempt shall be the same as the first. Approved
24 education, as prescribed by this Act for licensure as a
25 salesperson or broker, shall be valid for 3 years after the
26 date of satisfactory completion of the education.

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

2 (225 ILCS 454/5-40)

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

4 Sec. 5-40. Sponsor card; termination indicated by license
5 endorsement; association with new broker.

6 (a) The sponsoring broker shall prepare upon forms provided
7 by the Department ~~OBRE~~ and deliver to each licensee employed by
8 or associated with the sponsoring broker a sponsor card
9 certifying that the person whose name appears thereon is in
10 fact employed by or associated with the sponsoring broker. The
11 sponsoring broker shall send, ~~by certified mail, return receipt~~
12 ~~requested, or other delivery service requiring a signature upon~~
13 ~~delivery,~~ a duplicate of each sponsor card, along with a valid
14 license or other authorization as provided by rule and the
15 appropriate fee, to the Department ~~OBRE~~ within 24 hours of
16 issuance of the sponsor card. It is a violation of this Act for
17 any broker to issue a sponsor card to any licensee or applicant
18 unless the licensee or applicant presents in hand a valid
19 license or other authorization as provided by rule.

20 (b) When a licensee terminates his or her employment or
21 association with a sponsoring broker or the employment is
22 terminated by the sponsoring broker, the licensee shall obtain
23 from the sponsoring broker his or her license endorsed by the
24 sponsoring broker indicating the termination. The sponsoring
25 broker shall surrender to the Department ~~OBRE~~ a copy of the

1 license of the licensee within 2 days of the termination or
2 shall notify the Department ~~OBRE~~ in writing of the termination
3 and explain why a copy of the license is not surrendered.
4 Failure of the sponsoring broker to surrender the license shall
5 subject the sponsoring broker to discipline under Section 20-20
6 of this Act. The license of any licensee whose association with
7 a sponsoring broker is terminated shall automatically become
8 inoperative immediately upon the termination unless the
9 licensee accepts employment or becomes associated with a new
10 sponsoring broker pursuant to subsection (c) of this Section.

11 (c) When a licensee accepts employment or association with
12 a new sponsoring broker, the new sponsoring broker shall send,
13 ~~by certified mail, return receipt requested, or other delivery~~
14 ~~service requiring a signature upon delivery,~~ to the Department
15 ~~OBRE~~ a duplicate sponsor card, along with the licensee's
16 endorsed license or an affidavit of the licensee of why the
17 endorsed license is not surrendered, and shall pay the
18 appropriate fee prescribed by rule to cover administrative
19 expenses attendant to the changes in the registration of the
20 licensee.

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

22 (225 ILCS 454/5-41 new)

23 Sec. 5-41. Change of address. A licensee shall, whenever
24 requested, exhibit his or her license to any representative of
25 the Department and shall notify the Department of the address

1 or addresses and of every change of address where the licensee
2 practices as a real estate broker, real estate salesperson, or
3 leasing agent.

4 (225 ILCS 454/5-45)

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

6 Sec. 5-45. Offices.

7 (a) If a sponsoring broker maintains more than one office
8 within the State, the sponsoring broker shall apply for a
9 branch office license for each office other than the sponsoring
10 broker's principal place of business. The branch office license
11 shall be displayed conspicuously in each branch office. The
12 name of each branch office shall be the same as that of the
13 sponsoring broker's principal office or shall clearly
14 delineate the branch office's relationship with the principal
15 office.

16 (b) The sponsoring broker shall name a managing broker for
17 each branch office and the sponsoring broker shall be
18 responsible for supervising all managing brokers. The
19 sponsoring broker shall notify the Department ~~OBRE~~ in writing
20 of the name of all managing brokers of the sponsoring broker.
21 Any changes in managing brokers shall be reported to the
22 Department ~~OBRE~~ in writing within 15 days of the change.
23 Failure to do so shall subject the sponsoring broker to
24 discipline under Section 20-20 of this Act.

25 (c) The sponsoring broker shall immediately notify the

1 Department ~~OBRE~~ in writing of any opening, closing, or change
2 in location of any principal or branch office.

3 (d) Except as provided in this Section, each sponsoring
4 broker shall maintain a definite office, or place of business
5 within this State for the transaction of real estate business,
6 shall conspicuously display an identification sign on the
7 outside of his or her office of adequate size and visibility,
8 and shall conspicuously display his or her license in his or
9 her office or place of business and also the licenses of all
10 persons associated with or employed by the sponsoring broker
11 who primarily work at that location. The office or place of
12 business shall not be located in any retail or financial
13 business establishment unless it is separated from the other
14 business by a separate and distinct area within the
15 establishment. A broker who is licensed in this State by
16 examination or pursuant to the provisions of Section 5-60 of
17 this Act shall not be required to maintain a definite office or
18 place of business in this State provided all of the following
19 conditions are met:

20 (1) the broker maintains an active broker's license in
21 the broker's state of domicile;

22 (2) the broker maintains an office in the broker's
23 state of domicile; and

24 (3) the broker has filed with the Department ~~OBRE~~
25 written statements appointing the Commissioner to act as
26 the broker's agent upon whom all judicial and other process

1 or legal notices directed to the licensee may be served and
2 agreeing to abide by all of the provisions of this Act with
3 respect to his or her real estate activities within the
4 State of Illinois and submitting to the jurisdiction of the
5 Department ~~OBRE~~.

6 The statements under subdivision (3) of this Section shall
7 be in form and substance the same as those statements required
8 under Section 5-60 of this Act and shall operate to the same
9 extent.

10 (e) Upon the loss of a managing broker who is not replaced
11 by the sponsoring broker or in the event of the death or
12 adjudicated disability of the sole proprietor of an office, a
13 written request for authorization allowing the continued
14 operation of the office may be submitted to the Department ~~OBRE~~
15 within 15 days of the loss. The Department ~~OBRE~~ may issue a
16 written authorization allowing the continued operation,
17 provided that a licensed broker, or in the case of the death or
18 adjudicated disability of a sole proprietor, the
19 representative of the estate, assumes responsibility, in
20 writing, for the operation of the office and agrees to
21 personally supervise the operation of the office. No such
22 written authorization shall be valid for more than 60 days
23 unless extended by the Department ~~OBRE~~ for good cause shown and
24 upon written request by the broker or representative.

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

1 (225 ILCS 454/5-50)

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

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

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

23 (b) The Department ~~OBRE~~ shall establish and maintain a
24 register of all persons currently licensed by the State and
25 shall issue and prescribe a form of pocket card. Upon payment
26 by a licensee of the appropriate fee as prescribed by rule for

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

16 (c) Any person licensed as a broker shall be entitled at
17 any renewal date to change his or her license status from
18 broker to salesperson upon forms provided by the Department.

19 (d) Any broker or salesperson whose license under this Act
20 has expired shall be eligible to renew the license for a period
21 of 2 years following the expiration date, provided the broker
22 or salesperson pays the fees as prescribed by rule and complete
23 continuing education and other requirements provided for under
24 the Act or by rule. A broker or salesperson whose license has
25 been expired for more than 2 years shall be required to meet
26 the requirements for a new license.

1 (e) Notwithstanding any other provisions of this Act to the
2 contrary, any broker or salesperson whose license under this
3 Act has expired is eligible to renew the license without paying
4 any lapsed renewal fees or reinstatement fee, provided that the
5 license expired while the broker or salesperson was:

6 (1) on active duty with the United States Army, United
7 States Navy, United States Marine Corps, United States Air
8 Force, United States Coast Guard, or the State Militia
9 called into the service or training of the United States;

10 (2) engaged in training or education under the
11 supervision of the United States prior to induction into
12 military service; or

13 (3) serving as the Director of Real Estate in the State
14 of Illinois or as an employee of the Department.

15 A broker, salesperson, or leasing agent shall be eligible
16 to renew a license under the provisions of this Section for a
17 period of 2 years following the termination of the service,
18 education, or training, provided that the termination was by
19 other than dishonorable discharge and provided that the
20 licensee furnishes the Department an affidavit specifying that
21 the broker or salesperson has been so engaged and that the
22 service, education, or training has been so terminated.

23 (Source: P.A. 93-957, eff. 8-19-04.)

24 (225 ILCS 454/5-60)

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

1 Sec. 5-60. Broker licensed in another state; nonresident
2 salesperson; reciprocal agreements; agent for service of
3 process.

4 (a) A broker's license may be issued by the Department ~~OBRE~~
5 to a broker licensed under the laws of another state of the
6 United States, under the following conditions:

7 (1) the broker holds a broker's license in his or her
8 state of domicile;

9 (2) the standards for that state for licensing as a
10 broker are substantially equivalent to or greater than the
11 minimum standards in the State of Illinois;

12 (3) the broker has been actively practicing as a broker
13 in the broker's state of domicile for a period of not less
14 than 2 years, immediately prior to the date of application;

15 (4) the broker furnishes the Department ~~OBRE~~ with a
16 statement under seal of the proper licensing authority of
17 the state in which the broker is licensed showing that the
18 broker has an active broker's license, that the broker is
19 in good standing, and that no complaints are pending
20 against the broker in that state;

21 (5) the broker completes a course of education and
22 passes a test on Illinois specific real estate brokerage
23 laws; and

24 (6) The Department ~~OBRE~~ has a reciprocal agreement with
25 that state that includes the provisions of this Section.

26 (b) A nonresident salesperson employed by or associated

1 with a nonresident broker holding a broker's license in this
2 State pursuant to this Section may, in the discretion of the
3 Department ~~OBRE~~, be issued a nonresident salesperson's license
4 under the nonresident broker provided all of the following
5 conditions are met:

6 (1) the salesperson maintains an active license in the
7 state in which he or she is domiciled;

8 (2) the salesperson is domiciled in the same state as
9 the broker with whom he or she is associated;

10 (3) the salesperson completes a course of education and
11 passes a test on Illinois specific real estate brokerage
12 laws; and

13 (4) The Department ~~OBRE~~ has a reciprocal agreement with
14 that state that includes the provisions of this Section.

15 The nonresident broker with whom the salesperson is
16 associated shall comply with the provisions of this Act and
17 issue the salesperson a sponsor card upon the form provided by
18 the Department ~~OBRE~~.

19 (c) As a condition precedent to the issuance of a license
20 to a nonresident broker or salesperson, the broker or
21 salesperson shall agree in writing to abide by all the
22 provisions of this Act with respect to his or her real estate
23 activities within the State of Illinois and submit to the
24 jurisdiction of the Department ~~OBRE~~ as provided in this Act.
25 The agreement shall be filed with the Department ~~OBRE~~ and shall
26 remain in force for so long as the nonresident broker or

1 salesperson is licensed by this State and thereafter with
2 respect to acts or omissions committed while licensed as a
3 broker or salesperson in this State.

4 (d) Prior to the issuance of any license to any
5 nonresident, verification of active licensure issued for the
6 conduct of such business in any other state must be filed with
7 the Department ~~OBRE~~ by the nonresident, and the same fees must
8 be paid as provided in this Act for the obtaining of a broker's
9 or salesperson's license in this State.

10 (e) Licenses previously granted under reciprocal
11 agreements with other states shall remain in force so long as
12 the Department ~~OBRE~~ has a reciprocal agreement with the state
13 that includes the requirements of this Section, unless that
14 license is suspended, revoked, or terminated by the Department
15 ~~OBRE~~ for any reason provided for suspension, revocation, or
16 termination of a resident licensee's license. Licenses granted
17 under reciprocal agreements may be renewed in the same manner
18 as a resident's license.

19 (f) Prior to the issuance of a license to a nonresident
20 broker or salesperson, the broker or salesperson shall file
21 with the Department ~~OBRE~~ a designation in writing that appoints
22 the Commissioner to act as his or her agent upon whom all
23 judicial and other process or legal notices directed to the
24 broker or salesperson may be served. Service upon the agent so
25 designated shall be equivalent to personal service upon the
26 licensee. Copies of the appointment, certified by the

1 Commissioner, shall be deemed sufficient evidence thereof and
2 shall be admitted in evidence with the same force and effect as
3 the original thereof might be admitted. In the written
4 designation, the broker or salesperson shall agree that any
5 lawful process against the licensee that is served upon the
6 agent shall be of the same legal force and validity as if
7 served upon the licensee and that the authority shall continue
8 in force so long as any liability remains outstanding in this
9 State. Upon the receipt of any process or notice, the
10 Commissioner shall forthwith mail a copy of the same by
11 certified mail to the last known business address of the
12 licensee.

13 (g) Any person holding a valid license under this Section
14 shall be eligible to obtain a resident broker's or
15 salesperson's license without examination should that person
16 change their state of domicile to Illinois and that person
17 otherwise meets the qualifications or licensure under this Act.
18 (Source: P.A. 91-245, eff. 12-31-99; 91-702, eff. 5-12-00.)

19 (225 ILCS 454/5-65)

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

21 Sec. 5-65. Fees. The Department ~~OBRE~~ shall provide by rule
22 for fees to be paid by applicants and licensees to cover the
23 reasonable costs of the Department ~~OBRE~~ in administering and
24 enforcing the provisions of this Act. The Department ~~OBRE~~ may
25 also provide by rule for general fees to cover the reasonable

1 expenses of carrying out other functions and responsibilities
2 under this Act.

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

4 (225 ILCS 454/5-70)

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

6 Sec. 5-70. Continuing education requirement; broker or
7 salesperson.

8 (a) The requirements of this Section apply to all
9 licensees.

10 (b) Except as otherwise provided in this Section, each
11 person who applies for renewal of his or her license as a ~~real~~
12 ~~estate broker or~~ real estate salesperson must successfully
13 complete 30 hours of real estate continuing education courses
14 approved by the Advisory Council either during the renewal
15 period from May 1, 2009 through April 30, 2011, or during the
16 first renewal period during which they are required to take
17 continuing education and for each successive renewal period at
18 the rate of 6 hours per year or its equivalent. ~~In addition,~~
19 ~~beginning with the pre-renewal period for broker licensees that~~
20 ~~begins after the effective date of this amendatory Act of the~~
21 ~~93rd General Assembly, to renew a real estate broker's license,~~
22 Except as otherwise provided in this Section, each person who
23 applies for renewal of his or her license as a real estate
24 broker must successfully complete real estate continuing
25 education courses approved by the Advisory Council at the rate

1 of 6 hours per year or its equivalent and, in addition, the
2 licensee must successfully complete a 6-hour broker management
3 continuing education course approved by the Department ~~OBRE~~.
4 Successful completion of the course shall include achieving a
5 passing score as provided by rule on a test developed and
6 administered in accordance with rules adopted by the Department
7 ~~OBRE~~. Beginning on the first day of the pre-renewal period for
8 broker licensees that begins after the effective date of this
9 amendatory Act of the 93rd General Assembly, the 6-hour broker
10 management continuing education course must be completed by all
11 persons receiving their initial broker's license within 180
12 days after the date of initial licensure as a broker. No
13 license may be renewed except upon the successful completion of
14 the required courses or their equivalent or upon a waiver of
15 those requirements for good cause shown as determined by the
16 Commissioner with the recommendation of the Advisory Council.
17 The requirements of this Article are applicable to all brokers
18 and salespersons except those brokers and salespersons who,
19 during the pre-renewal period:

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

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

22 (3) serve as a full-time employee of the Department

23 ~~OBRE~~; or

24 (4) are admitted to practice law pursuant to Illinois
25 Supreme Court rule.

26 (c) A person who is issued an initial license as a real

1 estate salesperson less than 90 days ~~one year~~ prior to the
2 expiration date of that license shall not be required to
3 complete continuing education as a condition of license
4 renewal. A person who is issued an initial license as a real
5 estate broker less than 90 days ~~one year~~ prior to the
6 expiration date of that license ~~and who has not been licensed~~
7 ~~as a real estate salesperson during the pre renewal period~~
8 shall not be required to complete the broker management
9 continuing education as a condition of license renewal. The
10 changes to this subsection made by this amendatory Act of the
11 95th General Assembly apply on and after May 1, 2009. ~~A person~~
12 ~~receiving an initial license as a real estate broker during the~~
13 ~~90 days before the broker renewal date shall not be required to~~
14 ~~complete the broker management continuing education course~~
15 ~~provided for in subsection (b) of this Section as a condition~~
16 ~~of initial license renewal.~~

17 (d) The continuing education requirement for salespersons
18 and brokers shall consist of a core curriculum and an elective
19 curriculum, to be established by the Advisory Council. In
20 meeting the continuing education requirements of this Act, at
21 least 3 hours per year or their equivalent shall be required to
22 be completed in the core curriculum. In establishing the core
23 curriculum, the Advisory Council shall consider subjects that
24 will educate licensees on recent changes in applicable laws and
25 new laws and refresh the licensee on areas of the license law
26 and the Department ~~OBRE~~ policy that the Advisory Council deems

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

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

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

23 (f) In lieu of credit for those courses listed in
24 subsection (e) of this Section, credit may be earned for
25 serving as a licensed instructor in an approved course of
26 continuing education. The amount of credit earned for teaching

1 a course shall be the amount of continuing education credit for
2 which the course is approved for licensees taking the course.

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

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

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

10 (j) To promote the offering of a uniform and consistent
11 course content, the Department ~~OBRE~~ may provide for the
12 development of a single broker management course to be offered
13 by all continuing education providers who choose to offer the
14 broker management continuing education course. The Department
15 ~~OBRE~~ may contract for the development of the 6-hour broker
16 management continuing education course with an outside vendor
17 and, if the course is developed in this manner, the Department
18 ~~OBRE~~ shall license the use of that course to all approved
19 continuing education providers who wish to provide the course.

20 (k) Continuing education credit hours may not be earned for
21 completion of pre-license courses.

22 (Source: P.A. 93-957, eff. 8-19-04.)

23 (225 ILCS 454/5-80)

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

25 Sec. 5-80. Evidence of compliance with continuing

1 education requirements.

2 (a) Each renewal applicant shall certify, on his or her
3 renewal application, full compliance with continuing education
4 requirements set forth in Section 5-70. The continuing
5 education school shall retain and submit to the Department ~~OBRE~~
6 after the completion of each course evidence of those
7 successfully completing the course as provided by rule.

8 (b) The Department ~~OBRE~~ may require additional evidence
9 demonstrating compliance with the continuing education
10 requirements. The renewal applicant shall retain and produce
11 the evidence of compliance upon request of the Department ~~OBRE~~.
12 (Source: P.A. 91-245, eff. 12-31-99.)

13 (225 ILCS 454/5-85)

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

15 Sec. 5-85. Offerings not meeting continuing education
16 requirements. The following offerings do not meet the
17 continuing education requirements:

18 (1) Examination preparation offerings, except as
19 provided in Section 5-70 of this Act.

20 (2) Offerings in mechanical office and business skills
21 such as typing, speed reading, memory improvement,
22 advertising, or psychology of sales.

23 (3) Sales promotion or other meetings held in
24 conjunction with the general business of the attendee or
25 his or her employer.

1 (4) Meetings that are a normal part of in-house staff
2 or employee training.

3 The offerings listed in this Section do not limit the
4 Advisory Council's authority to disapprove any course that
5 fails to meet the standards of this Article 5 or rules adopted
6 by the Department ~~OBRE~~.

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

8 (225 ILCS 454/15-65)

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

10 Sec. 15-65. Regulatory enforcement. Nothing contained in
11 this Article limits the Department ~~OBRE~~ in its regulation of
12 licensees under other Articles of this Act and the substantive
13 rules adopted by the Department ~~OBRE~~. The Department ~~OBRE~~, with
14 the advice of the Board, is authorized to promulgate any rules
15 that may be necessary for the implementation and enforcement of
16 this Article 15.

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

18 (225 ILCS 454/20-5)

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

20 Sec. 20-5. Index of decisions. The Department ~~OBRE~~ shall
21 maintain an index of formal decisions regarding the issuance,
22 refusal to issue, renewal, refusal to renew, revocation, and
23 suspension of licenses and probationary or other disciplinary
24 action taken under this Act on or after December 31, 1999. The

1 decisions shall be indexed according to the Sections of
2 statutes and the administrative rules, if any, that are the
3 basis for the decision. The index shall be available to the
4 public during regular business hours.

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

6 (225 ILCS 454/20-10)

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

8 Sec. 20-10. Unlicensed practice; civil penalty.

9 (a) Any person who practices, offers to practice, attempts
10 to practice, or holds oneself out to practice as a real estate
11 broker, real estate salesperson, or leasing agent without being
12 licensed under this Act shall, in addition to any other penalty
13 provided by law, pay a civil penalty ~~fine~~ to the Department
14 ~~OBRE~~ in an amount not to exceed \$25,000 for each offense as
15 determined by the Department ~~OBRE~~. The civil penalty ~~fine~~ shall
16 be assessed by the Department ~~OBRE~~ after a hearing is held in
17 accordance with the provisions set forth in this Act regarding
18 the provision of a hearing for the discipline of a license.

19 (b) The Department ~~OBRE~~ has the authority and power to
20 investigate any and all unlicensed activity.

21 (c) The civil penalty ~~fine~~ shall be paid within 60 days
22 after the effective date of the order imposing the civil
23 penalty ~~fine~~. The order shall constitute a judgement and may be
24 filed and execution had thereon in the same manner from any
25 court of record.

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

2 (225 ILCS 454/20-20)

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

4 Sec. 20-20. Disciplinary actions; causes.

5 (a) The Department ~~ORRE~~ may refuse to issue or renew a
6 license, may place on probation, suspend, or revoke any
7 license, ~~or may censure,~~ reprimand, or take any other
8 disciplinary or non-disciplinary action as the Department may
9 deem proper ~~otherwise discipline~~ or impose a ~~civil~~ fine not to
10 exceed \$25,000 upon any ~~licensee~~ license issued under this Act
11 or against a licensee in handling his or her own property,
12 whether held by deed, option, or otherwise, ~~hereunder~~ for any
13 one or any combination of the following causes:

14 (1) Fraud or misrepresentation in applying for, or
15 procuring, a license under this Act or in connection with
16 applying for renewal of a license under this Act. ~~(a) When~~
17 ~~the applicant or licensee has, by false or fraudulent~~
18 ~~representation, obtained or sought to obtain a license.~~

19 (2) The conviction of, plea of guilty or plea of nolo
20 contendere to a felony; or a misdemeanor, ~~(b) When the~~
21 ~~applicant or licensee has been convicted of any crime,~~ an
22 essential element of which is dishonesty or fraud or
23 larceny, embezzlement, or obtaining money, property, or
24 credit by false pretenses or by means of a confidence game,
25 in ~~has been convicted in this or another state of a crime~~

1 ~~that is a felony under the laws of this State, or any other~~
2 ~~jurisdiction has been convicted of a felony in a federal~~
3 ~~court.~~

4 (3) Mental illness or disability which results in the
5 inability to practice under this Act with reasonable skill,
6 judgment, or safety. ~~(c) When the applicant or licensee has~~
7 ~~been adjudged to be a person under legal disability or~~
8 ~~subject to involuntary admission or to meet the standard~~
9 ~~for judicial admission as provided in the Mental Health and~~
10 ~~Developmental Disabilities Code.~~

11 (4) Practice under this Act ~~(d) When the licensee~~
12 ~~performs or attempts to perform any act as a broker or~~
13 ~~salesperson in a retail sales establishment from an office,~~
14 ~~desk, or space that is not separated from the main retail~~
15 ~~business by a separate and distinct area within the~~
16 ~~establishment.~~

17 (5) Disciplinary action of another state or
18 jurisdiction against the license or other authorization to
19 practice as a broker, salesperson, or leasing agent ~~(e)~~
20 ~~Discipline of a licensee by another state, the District of~~
21 ~~Columbia, a territory, a foreign nation, a governmental~~
22 ~~agency, or any other entity authorized to impose discipline~~
23 ~~if at least one of the grounds for that discipline is the~~
24 ~~same as or the equivalent of one of the grounds for~~
25 ~~discipline set forth in this Act.~~ A certified copy of the
26 record of the action by the other state or jurisdiction

1 shall be prima facie evidence thereof., ~~in which case the~~
2 ~~only issue will be whether one of the grounds for that~~
3 ~~discipline is the same or equivalent to one of the grounds~~
4 ~~for discipline under this Act.~~

5 (6) Engaging ~~(f) When the applicant or licensee has~~
6 ~~engaged in the practice of~~ real estate activity without a
7 license or after the licensee's license was expired or
8 while the license was inoperative.

9 (7) Cheating or attempting to subvert ~~(g) When the~~
10 ~~applicant or licensee attempts to subvert or cheat on the~~
11 Real Estate License Exam or continuing education exam.

12 (8) Aiding and abetting ~~or aids and abets~~ an applicant
13 to subvert or cheat on the Real Estate License Exam or
14 continuing education exam administered pursuant to this
15 Act. ~~(h) When the licensee in performing, attempting to~~
16 ~~perform, or pretending to perform any act as a broker,~~
17 ~~salesperson, or leasing agent or when the licensee in~~
18 ~~handling his or her own property, whether held by deed,~~
19 ~~option, or otherwise, is found guilty of:~~

20 (9) ~~(1)~~ Making any substantial misrepresentation or
21 untruthful advertising.

22 (10) ~~(2)~~ Making any false promises of a character
23 likely to influence, persuade, or induce.

24 (11) ~~(3)~~ Pursuing a continued and flagrant course of
25 misrepresentation or the making of false promises through
26 licensees, employees, agents, advertising, or otherwise.

1 (12) Misleading ~~(4) Any misleading~~ or untruthful
2 advertising, or using any trade name or insignia of
3 membership in any real estate organization of which the
4 licensee is not a member.

5 (13) ~~(5)~~ Acting for more than one party in a
6 transaction without providing written notice to all
7 parties for whom the licensee acts.

8 (14) ~~(6)~~ Representing or attempting to represent a
9 broker other than the sponsoring broker.

10 (15) ~~(7)~~ Failure to account for or to remit any moneys
11 or documents coming into his or her possession that belong
12 to others.

13 (16) ~~(8)~~ Failure to maintain and deposit in a special
14 account, separate and apart from personal and other
15 business accounts, all escrow moneys belonging to others
16 entrusted to a licensee while acting as a real estate
17 broker, escrow agent, or temporary custodian of the funds
18 of others or failure to maintain all escrow moneys on
19 deposit in the account until the transactions are
20 consummated or terminated, except to the extent that the
21 moneys, or any part thereof, shall be disbursed prior to
22 the consummation or termination in accordance with (i) the
23 written direction of the principals to the transaction or
24 their duly authorized agents, (ii) directions providing
25 for the release, payment, or distribution of escrow moneys
26 contained in any written contract signed by the principals

1 to the transaction or their duly authorized agents, or
2 (iii) pursuant to an order of a court of competent
3 jurisdiction. The account shall be noninterest bearing,
4 unless the character of the deposit is such that payment of
5 interest thereon is otherwise required by law or unless the
6 principals to the transaction specifically require, in
7 writing, that the deposit be placed in an interest bearing
8 account.

9 (17) ~~(9)~~ Failure to make available to the real estate
10 enforcement personnel of the Department ~~OBRE~~ during normal
11 business hours all escrow records and related documents
12 maintained in connection with the practice of real estate
13 within 24 hours of a request for those documents by
14 Department ~~OBRE~~ personnel.

15 (18) ~~(10)~~ Failing to furnish copies upon request of all
16 documents relating to a real estate transaction to all
17 parties executing them.

18 (19) ~~(11)~~ Failure of a sponsoring broker to timely
19 provide information, sponsor cards, or termination of
20 licenses to the Department ~~OBRE~~.

21 (20) ~~(12)~~ Engaging in dishonorable, unethical, or
22 unprofessional conduct of a character likely to deceive,
23 defraud, or harm the public.

24 (21) ~~(13)~~ Commingling the money or property of others
25 with his or her own money or property.

26 (22) ~~(14)~~ Employing any person on a purely temporary or

1 single deal basis as a means of evading the law regarding
2 payment of commission to nonlicensees on some contemplated
3 transactions.

4 (23) ~~(15)~~ Permitting the use of his or her license as a
5 broker to enable a salesperson or unlicensed person to
6 operate a real estate business without actual
7 participation therein and control thereof by the broker.

8 (24) ~~(16)~~ Any other conduct, whether of the same or a
9 different character from that specified in this Section,
10 that constitutes dishonest dealing.

11 (25) ~~(17)~~ Displaying a "for rent" or "for sale" sign on
12 any property without the written consent of an owner or his
13 or her duly authorized agent or advertising by any means
14 that any property is for sale or for rent without the
15 written consent of the owner or his or her authorized
16 agent.

17 (26) Failure ~~(18) Failing~~ to provide information
18 requested by the Department ~~OBRE~~, within 30 days of the
19 request, either as the result of a formal or informal
20 complaint to the Department ~~OBRE~~ or as a result of a random
21 audit conducted by the Department ~~OBRE~~, which would
22 indicate a violation of this Act.

23 (27) ~~(19)~~ Advertising by means of a blind
24 advertisement, except as otherwise permitted in Section
25 10-30 of this Act.

26 (28) ~~(20)~~ Offering guaranteed sales plans, as defined

1 in clause (A) of this subdivision (28) ~~(20)~~, except to the
2 extent hereinafter set forth:

3 (A) A "guaranteed sales plan" is any real estate
4 purchase or sales plan whereby a licensee enters into a
5 conditional or unconditional written contract with a
6 seller by the terms of which a licensee agrees to
7 purchase a property of the seller within a specified
8 period of time at a specific price in the event the
9 property is not sold in accordance with the terms of a
10 listing contract between the sponsoring broker and the
11 seller or on other terms acceptable to the seller.

12 (B) A licensee offering a guaranteed sales plan
13 shall provide the details and conditions of the plan in
14 writing to the party to whom the plan is offered.

15 (C) A licensee offering a guaranteed sales plan
16 shall provide to the party to whom the plan is offered
17 evidence of sufficient financial resources to satisfy
18 the commitment to purchase undertaken by the broker in
19 the plan.

20 (D) Any licensee offering a guaranteed sales plan
21 shall undertake to market the property of the seller
22 subject to the plan in the same manner in which the
23 broker would market any other property, unless the
24 agreement with the seller provides otherwise.

25 (E) Any licensee who fails to perform on a
26 guaranteed sales plan in strict accordance with its

1 terms shall be subject to all the penalties provided in
2 this Act for violations thereof and, in addition, shall
3 be subject to a civil fine payable to the party injured
4 by the default in an amount of up to \$25,000.

5 (29) ~~(21)~~ Influencing or attempting to influence, by
6 any words or acts, a prospective seller, purchaser,
7 occupant, landlord, or tenant of real estate, in connection
8 with viewing, buying, or leasing real estate, so as to
9 promote or tend to promote the continuance or maintenance
10 of racially and religiously segregated housing or so as to
11 retard, obstruct, or discourage racially integrated
12 housing on or in any street, block, neighborhood, or
13 community.

14 (30) ~~(22)~~ Engaging in any act that constitutes a
15 violation of any provision of Article 3 of the Illinois
16 Human Rights Act, whether or not a complaint has been filed
17 with or adjudicated by the Human Rights Commission.

18 (31) ~~(23)~~ Inducing any party to a contract of sale or
19 lease or brokerage agreement to break the contract of sale
20 or lease or brokerage agreement for the purpose of
21 substituting, in lieu thereof, a new contract for sale or
22 lease or brokerage agreement with a third party.

23 (32) ~~(24)~~ Negotiating a sale, exchange, or lease of
24 real estate directly with any person if the licensee knows
25 that the person has a written exclusive brokerage agreement
26 with another broker, unless specifically authorized by

1 that broker.

2 (33) ~~(25)~~ When a licensee is also an attorney, acting
3 as the attorney for either the buyer or the seller in the
4 same transaction in which the licensee is acting or has
5 acted as a broker or salesperson.

6 (34) ~~(26)~~ Advertising or offering merchandise or
7 services as free if any conditions or obligations necessary
8 for receiving the merchandise or services are not disclosed
9 in the same advertisement or offer. These conditions or
10 obligations include without limitation the requirement
11 that the recipient attend a promotional activity or visit a
12 real estate site. As used in this subdivision (26), "free"
13 includes terms such as "award", "prize", "no charge", "free
14 of charge", "without charge", and similar words or phrases
15 that reasonably lead a person to believe that he or she may
16 receive or has been selected to receive something of value,
17 without any conditions or obligations on the part of the
18 recipient.

19 (35) ~~(27)~~ Disregarding or violating any provision of
20 the Land Sales Registration Act of 1989, the Illinois Real
21 Estate Time-Share Act, or the published rules promulgated
22 by the Department ~~OBRE~~ to enforce those Acts.

23 (36) ~~(28)~~ Violating the terms of a disciplinary order
24 issued by the Department ~~OBRE~~.

25 (37) ~~(29)~~ Paying compensation in violation of Article
26 10 of this Act.

1 (38) ~~(30)~~ Requiring a party to a transaction who is not
2 a client of the licensee to allow the licensee to retain a
3 portion of the escrow moneys for payment of the licensee's
4 commission or expenses as a condition for release of the
5 escrow moneys to that party.

6 (39) ~~(31)~~ Disregarding or violating any provision of
7 this Act or the published rules promulgated by the
8 Department ~~OBRE~~ to enforce this Act or aiding or abetting
9 any individual, partnership, registered limited liability
10 partnership, limited liability company, or corporation in
11 disregarding any provision of this Act or the published
12 rules promulgated by the Department ~~OBRE~~ to enforce this
13 Act.

14 (40) ~~(32)~~ Failing to provide the minimum services
15 required by Section 15-75 of this Act when acting under an
16 exclusive brokerage agreement.

17 (41) Habitual or excessive use of or addiction to
18 alcohol, narcotics, stimulants, or any other chemical
19 agent or drug that results in a real estate broker's, real
20 estate salesperson's, or leasing agent's inability to
21 practice with reasonable skill or safety.

22 (b) In enforcing this Section, the Department or Board,
23 upon a showing of a possible violation, may compel a licensee
24 or an applicant for licensure under this Act to submit to a
25 mental or physical examination, or both, as required by and at
26 the expense of the Department. The Department or Board may

1 order the examining physician to present testimony concerning
2 the mental or physical examination of the licensee or
3 applicant. No information shall be excluded by reason of any
4 common law or statutory privilege relating to communications
5 between the licensee or applicant and the examining physician.
6 The examining physician shall be specifically designated by the
7 Board or Department. The individual to be examined may have, at
8 his or her own expense, another physician of his or her choice
9 present during all aspects of this examination. Failure of an
10 individual to submit to a mental or physical examination when
11 directed shall be grounds for suspension of his or her license
12 until the individual submits to the examination if the
13 Department finds, after notice and hearing, that the refusal to
14 submit to the examination was without reasonable cause.

15 If the Department or Board finds an individual unable to
16 practice because of the reasons set forth in this subsection
17 (b), the Department or Board may require that individual to
18 submit to care, counseling, or treatment by physicians approved
19 or designated by the Department or Board as a condition, term,
20 or restriction for continued, reinstated, or renewed licensure
21 to practice; or, in lieu of care, counseling, or treatment, the
22 Department may file, or the Board may recommend to the
23 Department to file, a complaint to immediately suspend, revoke,
24 or otherwise discipline the license of the individual. An
25 individual whose license was granted, continued, reinstated,
26 renewed, disciplined, or supervised subject to such terms,

1 conditions, or restrictions, and who fails to comply with such
2 terms, conditions, or restrictions, shall be referred to the
3 Secretary for a determination as to whether the individual
4 shall have his or her license suspended immediately, pending a
5 hearing by the Department.

6 In instances in which the Secretary immediately suspends a
7 person's license under this subsection (b), a hearing on that
8 person's license must be convened by the Department within 30
9 days after the suspension and completed without appreciable
10 delay. The Department and Board shall have the authority to
11 review the subject individual's record of treatment and
12 counseling regarding the impairment to the extent permitted by
13 applicable federal statutes and regulations safeguarding the
14 confidentiality of medical records.

15 An individual licensed under this Act and affected under
16 this subsection (b) shall be afforded an opportunity to
17 demonstrate to the Department or Board that he or she can
18 resume practice in compliance with acceptable and prevailing
19 standards under the provisions of his or her license.

20 (Source: P.A. 93-957, eff. 8-19-04.)

21 (225 ILCS 454/20-21 new)

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

23 Sec. 20-21. Injunctions; criminal offenses; cease and
24 desist order.

25 (a) If any person violates the provisions of this Act, the

1 Secretary may, in the name of the people of the State of
2 Illinois and through the Attorney General or the State's
3 Attorney for any county in which the action is brought,
4 petition for an order enjoining the violation or enforcing
5 compliance with this Act. Upon the filing of a verified
6 petition in court, the court may issue a temporary restraining
7 order, without notice or condition, and may preliminarily and
8 permanently enjoin the violation. If it is established that the
9 person has violated or is violating the injunction, the court
10 may punish the offender for contempt of court. Proceedings
11 under this Section shall be in addition to, and not in lieu of,
12 all other remedies and penalties provided by law.

13 (b) Whenever, in the opinion of the Department, a person
14 violates a provision of this Act, the Department may issue a
15 rule to show cause why an order to cease and desist should not
16 be entered against that person. The rule shall clearly set
17 forth the grounds relied upon by the Department and shall allow
18 at least 7 days after the date of the rule to file an answer to
19 the satisfaction of the Department. Failure to answer to the
20 satisfaction of the Department shall cause an order to cease
21 and desist to be issued immediately.

22 (c) Other than as provided in Section 5-20 of this Act, any
23 licensed real estate broker, real estate salesperson, leasing
24 agent, interested party, or person injured thereby may, in
25 addition to the Secretary, petition for relief as provided for
26 in subsection (a) of this Section against any person practicing

1 as or holding himself or herself out to be a licensed real
2 estate broker, real estate salesperson, or leasing agent who
3 does not possess a valid and existing license issued by the
4 Department under this Act.

5 (225 ILCS 454/20-22 new)

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

7 Sec. 20-22. Criminal violations. Any person who knowingly
8 practices or offers to practice as a real estate broker, real
9 estate salesperson, or leasing agent in this State without
10 being licensed for that purpose shall be guilty of a Class A
11 misdemeanor and for each subsequent conviction shall be guilty
12 of a Class 4 felony.

13 (225 ILCS 454/20-25)

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

15 Sec. 20-25. Returned checks; fees. Any person who delivers
16 a check or other payment to the Department ~~OBRE~~ that is
17 returned to the Department ~~OBRE~~ unpaid by the financial
18 institution upon which it is drawn shall pay to the Department
19 ~~OBRE~~, in addition to the amount already owed to the Department
20 ~~OBRE~~, a fee of \$50. The Department ~~OBRE~~ shall notify the person
21 that payment of fees and fines shall be paid to the Department
22 ~~OBRE~~ by certified check or money order within 30 calendar days
23 of the notification. If, after the expiration of 30 days from
24 the date of the notification, the person has failed to submit

1 the necessary remittance, the Department ~~OBRE~~ shall
2 automatically terminate the license or deny the application,
3 without hearing. If, after termination or denial, the person
4 seeks a license, he or she shall apply to the Department ~~OBRE~~
5 for restoration or issuance of the license and pay all fees and
6 fines due to the Department ~~OBRE~~. The Department ~~OBRE~~ may
7 establish a fee for the processing of an application for
8 restoration of a license to pay all expenses of processing this
9 application. The Commissioner may waive the fees due under this
10 Section in individual cases where the Commissioner finds that
11 the fees would be unreasonable or unnecessarily burdensome.
12 (Source: P.A. 91-245, eff. 12-31-99; 92-146, eff. 1-1-02.)

13 (225 ILCS 454/20-30)

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

15 Sec. 20-30. Standards of practice of leasing agents;
16 disciplinary procedures. The Department ~~OBRE~~ may by rule, with
17 the advice of the Board, prescribe standards of practice to be
18 followed by licensed leasing agents. Standards of practice
19 shall include without limitation acts or omissions that leasing
20 agents are prohibited from engaging in, disciplinary
21 procedures, and penalties for violating provisions of this Act.
22 Disciplinary procedures shall conform with disciplinary
23 procedures for licensed real estate brokers and salespersons.
24 Complaints shall be heard as provided for in this Act.

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

1 (225 ILCS 454/20-35)

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

3 Sec. 20-35. Violations of tax Acts. The Department ~~OBRE~~ may
4 refuse to issue or renew or may suspend the license of any
5 person who fails to file a return, pay the tax, penalty, or
6 interest shown in a filed return, or pay any final assessment
7 of tax, penalty, or interest, as required by any tax Act
8 administered by the Department of Revenue, until such time as
9 the requirements of any such tax Act are satisfied.

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

11 (225 ILCS 454/20-40)

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

13 Sec. 20-40. Disciplinary action for educational loan
14 defaults. The Department ~~OBRE~~ shall deny a license or renewal
15 authorized by this Act to a person who has defaulted on an
16 educational loan or scholarship provided or guaranteed by the
17 Illinois Student Assistance Commission or any governmental
18 agency of this State; however, the Department ~~OBRE~~ may issue a
19 license or renewal if the person has established a satisfactory
20 repayment record as determined by the Illinois Student
21 Assistance Commission or other appropriate governmental agency
22 of this State. Additionally, a license issued by the Department
23 ~~OBRE~~ may be suspended or revoked if the Commissioner, after the
24 opportunity for a hearing under this Article, finds that the

1 licensee has failed to make satisfactory repayment to the
2 Illinois Student Assistance Commission for a delinquent or
3 defaulted loan.

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

5 (225 ILCS 454/20-45)

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

7 Sec. 20-45. Nonpayment of child support. In cases in which
8 the Department of Healthcare and Family Services (formerly
9 Department of Public Aid) has previously determined that a
10 licensee or a potential licensee is more than 30 days
11 delinquent in the payment of child support and has subsequently
12 certified the delinquency to the Department ~~OBRE~~, the
13 Department ~~OBRE~~ may refuse to issue or renew or may revoke or
14 suspend that person's license or may take other disciplinary
15 action against that person based solely upon the certification
16 of delinquency made by the Department of Healthcare and Family
17 Services (formerly Department of Public Aid). Redetermination
18 of the delinquency by the Department ~~OBRE~~ shall not be
19 required. In cases regarding the renewal of a license, the
20 Department ~~OBRE~~ shall not renew any license if the Department
21 of Healthcare and Family Services (formerly Department of
22 Public Aid) has certified the licensee to be more than 30 days
23 delinquent in the payment of child support unless the licensee
24 has arranged for payment of past and current child support
25 obligations in a manner satisfactory to the Department of

1 Healthcare and Family Services (formerly Department of Public
2 Aid). The Department ~~OBRE~~ may impose conditions, restrictions,
3 or disciplinary action upon that renewal.

4 (Source: P.A. 95-331, eff. 8-21-07.)

5 (225 ILCS 454/20-50)

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

7 Sec. 20-50. Illegal discrimination. When there has been an
8 adjudication in a civil or criminal proceeding that a licensee
9 has illegally discriminated while engaged in any activity for
10 which a license is required under this Act, the Department
11 ~~OBRE~~, upon the recommendation of the Board as to the extent of
12 the suspension or revocation, shall suspend or revoke the
13 license of that licensee in a timely manner, unless the
14 adjudication is in the appeal process. When there has been an
15 order in an administrative proceeding finding that a licensee
16 has illegally discriminated while engaged in any activity for
17 which a license is required under this Act, the Department
18 ~~OBRE~~, upon recommendation of the Board as to the nature and
19 extent of the discipline, shall take one or more of the
20 disciplinary actions provided for in Section 20-20 of this Act
21 in a timely manner, unless the administrative order is in the
22 appeal process.

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

24 (225 ILCS 454/20-60)

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

2 Sec. 20-60. Hearing; investigation; notice; disciplinary
3 consent order.

4 (a) The Department ~~OBRE~~ may conduct hearings through the
5 Board or a duly appointed hearing officer on proceedings to
6 suspend, revoke, or to refuse to issue or renew licenses of
7 persons applying for licensure or licensed under this Act or to
8 censure, reprimand, or impose a civil fine not to exceed
9 \$25,000 upon any licensee hereunder and may revoke, suspend, or
10 refuse to issue or renew these licenses or censure, reprimand,
11 or impose a civil fine not to exceed \$25,000 upon any licensee
12 hereunder.

13 (b) Upon the motion of either the Department ~~OBRE~~ or the
14 Board or upon the verified complaint in writing of any persons
15 setting forth facts that if proven would constitute grounds for
16 suspension or revocation under this Act, the Department ~~OBRE~~,
17 the Board, or its subcommittee shall cause to be investigated
18 the actions of any person so accused who holds a license or is
19 holding himself or herself out to be a licensee. This person is
20 hereinafter called the accused.

21 (c) Prior to initiating any formal disciplinary
22 proceedings resulting from an investigation conducted pursuant
23 to subsection (b) of this Section, that matter shall be
24 reviewed by a subcommittee of the Board according to procedures
25 established by rule. The subcommittee shall make a
26 recommendation to the full Board as to the validity of the

1 complaint and may recommend that the Board not proceed with
2 formal disciplinary proceedings if the complaint is determined
3 to be frivolous or without merit.

4 (d) Except as provided for in Section 20-65 of this Act,
5 the Department ~~OBRE~~ shall, before suspending, revoking,
6 placing on probationary status, or taking any other
7 disciplinary action as the Department ~~OBRE~~ may deem proper with
8 regard to any license:

9 (1) notify the accused in writing at least 30 days
10 prior to the date set for the hearing of any charges made
11 and the time and place for the hearing of the charges to be
12 heard before the Board under oath; and

13 (2) inform the accused that upon failure to file an
14 answer and request a hearing before the date originally set
15 for the hearing, default will be taken against the accused
16 and his or her license may be suspended, revoked, or placed
17 on probationary status, or other disciplinary action,
18 including limiting the scope, nature, or extent of the
19 accused's practice, as the Department ~~OBRE~~ may deem proper,
20 may be taken with regard thereto.

21 In case the person fails to file an answer after receiving
22 notice, his or her license may, in the discretion of the
23 Department ~~OBRE~~, be suspended, revoked, or placed on
24 probationary status, or the Department ~~OBRE~~ may take whatever
25 disciplinary action deemed proper, including limiting the
26 scope, nature, or extent of the person's practice or the

1 imposition of a fine, without a hearing, if the act or acts
2 charged constitute sufficient grounds for such action under
3 this Act.

4 (e) At the time and place fixed in the notice, the Board
5 shall proceed to hearing of the charges and both the accused
6 person and the complainant shall be accorded ample opportunity
7 to present in person or by counsel such statements, testimony,
8 evidence and argument as may be pertinent to the charges or to
9 any defense thereto. The Board or its hearing officer may
10 continue a hearing date upon its own motion or upon an
11 accused's motion for one period not to exceed 30 days. The
12 Board or its hearing officer may grant further continuances for
13 periods not to exceed 30 days only upon good cause being shown
14 by the moving party. The non-moving party shall have the
15 opportunity to object to a continuance on the record at a
16 hearing upon the motion to continue. All motions for
17 continuances and any denial or grant thereof shall be in
18 writing. All motions shall be submitted not later than 48 hours
19 before the scheduled hearing unless made upon an emergency
20 basis. In determining whether good cause for a continuance is
21 shown, the Board or its hearing officer shall consider such
22 factors as the volume of cases pending, the nature and
23 complexity of legal issues raised, the diligence of the party
24 making the request, the availability of party's legal
25 representative or witnesses, and the number of previous
26 requests for continuance.

1 (f) Any unlawful act or violation of any of the provisions
2 of this Act upon the part of any licensees employed by a real
3 estate broker or associated by written agreement with the real
4 estate broker, or unlicensed employee of a licensed broker,
5 shall not be cause for the revocation of the license of any
6 such broker, partial or otherwise, unless it appears to the
7 satisfaction of the Department ~~OBRE~~ that the broker had
8 knowledge thereof.

9 (g) The Department ~~OBRE~~ or the Board has power to subpoena
10 any persons or documents for the purpose of investigation or
11 hearing with the same fees and mileage and in the same manner
12 as prescribed by law for judicial procedure in civil cases in
13 courts of this State. The Secretary or his or her designee or
14 ~~Commissioner, the Director,~~ any member of the Board, a
15 certified court reporter, or a hearing officer shall each have
16 power to administer oaths to witnesses at any hearing which the
17 Department ~~OBRE~~ is authorized under this Act to conduct.

18 (h) Any circuit court or any judge thereof, upon the
19 application of the accused person, complainant, the Department
20 ~~OBRE~~, or the Board, may, by order entered, require the
21 attendance of witnesses and the production of relevant books
22 and papers before the Board in any hearing relative to the
23 application for or refusal, recall, suspension, or revocation
24 of a license, and the court or judge may compel obedience to
25 the court's or the judge's order by proceedings for contempt.

26 (i) The Department ~~OBRE~~, at its expense, shall preserve a

1 record of all proceedings at the formal hearing of any case
2 involving the refusal to issue or the revocation, suspension,
3 or other discipline of a licensee. The notice of hearing,
4 complaint and all other documents in the nature of pleadings
5 and written motions filed in the proceedings, the transcript of
6 testimony, the report of the Board, and the orders of the
7 Department ~~OBRE~~ shall be the record of the proceeding. At all
8 hearings or pre-hearing conferences, the Department ~~OBRE~~ and
9 the accused shall be entitled to have a court reporter in
10 attendance for purposes of transcribing the proceeding or
11 pre-hearing conference at the expense of the party requesting
12 the court reporter's attendance. A copy of the transcribed
13 proceeding shall be available to the other party for the cost
14 of a copy of the transcript.

15 (j) The Board shall present to the Secretary ~~Commissioner~~
16 its written report of its findings and recommendations. A copy
17 of the report shall be served upon the accused, either
18 personally or by certified mail as provided in this Act for the
19 service of the citation. Within 20 days after the service, the
20 accused may present to the Secretary ~~Commissioner~~ a motion in
21 writing for a rehearing that shall specify the particular
22 grounds therefor. If the accused shall order and pay for a
23 transcript of the record as provided in this Act, the time
24 elapsing thereafter and before the transcript is ready for
25 delivery to the accused shall not be counted as part of the 20
26 days. Whenever the Secretary ~~Commissioner~~ is satisfied that

1 substantial justice has not been done, the Secretary
2 ~~Commissioner~~ may order a rehearing by the Board or other
3 special committee appointed by the Secretary ~~Commissioner~~ or
4 may remand the matter to the Board for their reconsideration of
5 the matter based on the pleadings and evidence presented to the
6 Board. In all instances, under this Act, in which the Board has
7 rendered a recommendation to the Secretary ~~Commissioner~~ with
8 respect to a particular licensee or applicant, the Secretary
9 ~~Commissioner~~ shall, in the event that he or she disagrees with
10 or takes action contrary to the recommendation of the Board,
11 file with the Board and the Secretary of State his specific
12 written reasons of disagreement with the Board. The reasons
13 shall be filed within 60 days of the Board's recommendation to
14 the Secretary ~~Commissioner~~ and prior to any contrary action. At
15 the expiration of the time specified for filing a motion for a
16 rehearing, the Secretary ~~Commissioner~~ shall have the right to
17 take the action recommended by the Board. Upon the suspension
18 or revocation of a license, the licensee shall be required to
19 surrender his or her license to the Department ~~OBRE~~, and upon
20 failure or refusal to do so, the Department ~~OBRE~~ shall have the
21 right to seize the license.

22 (k) At any time after the suspension, temporary suspension,
23 or revocation of any license, the Department ~~OBRE~~ may restore
24 it to the accused without examination, upon the written
25 recommendation of the Board.

26 (l) An order of revocation or suspension or a certified

1 copy thereof, over the seal of OBRE and purporting to be signed
2 by the Secretary ~~Commissioner~~, shall be prima facie proof that:

3 (1) The signature is the genuine signature of the
4 Secretary ~~Commissioner~~.

5 (2) The Secretary ~~Commissioner~~ is duly appointed and
6 qualified.

7 (3) The Board and the members thereof are qualified.

8 Such proof may be rebutted.

9 (m) Notwithstanding any provisions concerning the conduct
10 of hearings and recommendations for disciplinary actions, the
11 Department ~~OBRE~~ as directed by the Secretary ~~Commissioner~~ has
12 the authority to negotiate agreements with licensees and
13 applicants resulting in disciplinary consent orders. These
14 consent orders may provide for any of the forms of discipline
15 provided in this Act. These consent orders shall provide that
16 they were not entered into as a result of any coercion by the
17 Department ~~OBRE~~. Any such consent order shall be filed with the
18 Secretary ~~Commissioner~~ along with the Board's recommendation
19 and accepted or rejected by the Secretary ~~Commissioner~~ within
20 60 days of the Board's recommendation.

21 (Source: P.A. 91-245, eff. 12-31-99; 92-217, eff. 8-2-01.)

22 (225 ILCS 454/20-65)

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

24 Sec. 20-65. Temporary suspension. The Secretary
25 ~~Commissioner~~ may temporarily suspend the license of a licensee

1 without a hearing, simultaneously with the institution of
2 proceedings for a hearing provided for in Section 20-60 of this
3 Act, if the Secretary ~~Commissioner~~ finds that the evidence
4 indicates that the public interest, safety, or welfare
5 imperatively requires emergency action. In the event that the
6 Secretary ~~Commissioner~~ temporarily suspends the license
7 without a hearing before the Board, a hearing shall be held
8 within 30 days after the suspension has occurred. The suspended
9 licensee may seek a continuance of the hearing during which the
10 suspension shall remain in effect. The proceeding shall be
11 concluded without appreciable delay.

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

13 (225 ILCS 454/20-75)

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

15 Sec. 20-75. Administrative Review Law; certification fee;
16 summary report of final disciplinary actions. All final
17 administrative decisions of the Department ~~OBRE~~ shall be
18 subject to judicial review pursuant to the provisions of the
19 Administrative Review Law and the rules adopted pursuant
20 thereto. The term "administrative decision" is defined in
21 Section 3-101 of the Administrative Review Law. The Department
22 ~~OBRE~~ shall not be required to certify any record or file any
23 answer or otherwise appear unless the party filing the
24 complaint pays to the Department ~~OBRE~~ the certification fee
25 provided for by rule representing costs of the certification.

1 Failure on the part of the plaintiff to make such a deposit
2 shall be grounds for dismissal of the action. The Department
3 ~~OBRE~~ shall prepare from time to time, but in no event less
4 often than once every other month, a summary report of final
5 disciplinary actions taken since the previous summary report.
6 The summary report shall contain a brief description of the
7 action that brought about the discipline and the final
8 disciplinary action taken. The summary report shall be made
9 available upon request.

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

11 (225 ILCS 454/20-85)

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

13 Sec. 20-85. Recovery from Real Estate Recovery Fund. The
14 Department ~~OBRE~~ shall maintain a Real Estate Recovery Fund from
15 which any person aggrieved by an act, representation,
16 transaction, or conduct of a licensee or unlicensed employee of
17 a licensee that is in violation of this Act or the rules
18 promulgated pursuant thereto, constitutes embezzlement of
19 money or property, or results in money or property being
20 unlawfully obtained from any person by false pretenses,
21 artifice, trickery, or forgery or by reason of any fraud,
22 misrepresentation, discrimination, or deceit by or on the part
23 of any such licensee or the unlicensed employee of a licensee
24 and that results in a loss of actual cash money, as opposed to
25 losses in market value, may recover. The aggrieved person may

1 recover, by order of the circuit court of the county where the
2 violation occurred, an amount of not more than \$10,000 from the
3 Fund for damages sustained by the act, representation,
4 transaction, or conduct, together with costs of suit and
5 attorney's fees incurred in connection therewith of not to
6 exceed 15% of the amount of the recovery ordered paid from the
7 Fund. However, no licensed broker or salesperson may recover
8 from the Fund unless the court finds that the person suffered a
9 loss resulting from intentional misconduct. The court order
10 shall not include interest on the judgment. The maximum
11 liability against the Fund arising out of any one act shall be
12 as provided in this Section, and the judgment order shall
13 spread the award equitably among all co-owners or otherwise
14 aggrieved persons, if any. The maximum liability against the
15 Fund arising out of the activities of any one licensee or one
16 unlicensed employee of a licensee, since January 1, 1974, shall
17 be \$50,000. Nothing in this Section shall be construed to
18 authorize recovery from the Fund unless the loss of the
19 aggrieved person results from an act or omission of a licensed
20 broker, salesperson, or unlicensed employee who was at the time
21 of the act or omission acting in such capacity or was
22 apparently acting in such capacity and unless the aggrieved
23 person has obtained a valid judgment as provided in Section
24 20-90 of this Act. No person aggrieved by an act,
25 representation, or transaction that is in violation of the
26 Illinois Real Estate Time-Share Act or the Land Sales

1 Registration Act of 1989 may recover from the Fund.

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

3 (225 ILCS 454/20-90)

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

5 Sec. 20-90. Collection from Real Estate Recovery Fund;
6 procedure.

7 (a) No action for a judgment that subsequently results in
8 an order for collection from the Real Estate Recovery Fund
9 shall be started later than 2 years after the date on which the
10 aggrieved person knew, or through the use of reasonable
11 diligence should have known, of the acts or omissions giving
12 rise to a right of recovery from the Real Estate Recovery Fund.

13 (b) When any aggrieved person commences action for a
14 judgment that may result in collection from the Real Estate
15 Recovery Fund, the aggrieved person must name as parties
16 defendant to that action any and all individual real estate
17 brokers, real estate salespersons, or their employees who
18 allegedly committed or are responsible for acts or omissions
19 giving rise to a right of recovery from the Real Estate
20 Recovery Fund. Failure to name as parties defendant such
21 individual brokers, salespersons, or their employees shall
22 preclude recovery from the Real Estate Recovery Fund of any
23 portion of any judgment received in such an action. The
24 aggrieved party may also name as additional parties defendant
25 any corporations, limited liability companies, partnerships,

1 registered limited liability partnership, or other business
2 associations that may be responsible for acts giving rise to a
3 right of recovery from the Real Estate Recovery Fund.

4 (c) When any aggrieved person commences action for a
5 judgment that may result in collection from the Real Estate
6 Recovery Fund, the aggrieved person must notify the Department
7 ~~OBRE~~ in writing to this effect within 7 days of the
8 commencement of the action. Failure to so notify the Department
9 ~~OBRE~~ shall preclude recovery from the Real Estate Recovery Fund
10 of any portion of any judgment received in such an action.
11 After receiving notice of the commencement of such an action,
12 the Department ~~OBRE~~ upon timely application shall be permitted
13 to intervene as a party defendant to that action.

14 (d) When any aggrieved person commences action for a
15 judgment that may result in collection from the Real Estate
16 Recovery Fund, and the aggrieved person is unable to obtain
17 legal and proper service upon the defendant under the
18 provisions of Illinois law concerning service of process in
19 civil actions, the aggrieved person may petition the court
20 where the action to obtain judgment was begun for an order to
21 allow service of legal process on the Commissioner. Service of
22 process on the Commissioner shall be taken and held in that
23 court to be as valid and binding as if due service had been
24 made upon the defendant. In case any process mentioned in this
25 Section is served upon the Commissioner, the Commissioner shall
26 forward a copy of the process by certified mail to the

1 licensee's last address on record with the Department ~~OBRE~~. Any
2 judgment obtained after service of process on the Commissioner
3 under this Act shall apply to and be enforceable against the
4 Real Estate Recovery Fund only. The Department ~~OBRE~~ may
5 intervene in and defend any such action.

6 (e) When an aggrieved party commences action for a judgment
7 that may result in collection from the Real Estate Recovery
8 Fund, and the court before which that action is commenced
9 enters judgment by default against the defendant and in favor
10 of the aggrieved party, the court shall upon motion of the
11 Department ~~OBRE~~ set aside that judgment by default. After such
12 a judgment by default has been set aside, the Department ~~OBRE~~
13 shall appear as party defendant to that action, and thereafter
14 the court shall require proof of the allegations in the
15 pleadings upon which relief is sought.

16 (f) The aggrieved person shall give written notice to the
17 Department ~~OBRE~~ within 30 days of the entry of any judgment
18 that may result in collection from the Real Estate Recovery
19 Fund. The aggrieved person shall provide the Department ~~OBRE~~
20 within 20 days prior written notice of all supplementary
21 proceedings so as to allow the Department ~~OBRE~~ to participate
22 in all efforts to collect on the judgment.

23 (g) When any aggrieved person recovers a valid judgment in
24 any court of competent jurisdiction against any licensee or an
25 unlicensed employee of any broker, upon the grounds of fraud,
26 misrepresentation, discrimination, or deceit, the aggrieved

1 person may, upon the termination of all proceedings, including
2 review and appeals in connection with the judgment, file a
3 verified claim in the court in which the judgment was entered
4 and, upon 30 days' written notice to the Department ~~OBRE~~, and
5 to the person against whom the judgment was obtained, may apply
6 to the court for an order directing payment out of the Real
7 Estate Recovery Fund of the amount unpaid upon the judgment,
8 not including interest on the judgment, and subject to the
9 limitations stated in Section 20-85 of this Act. The aggrieved
10 person must set out in that verified claim and at an
11 evidentiary hearing to be held by the court upon the
12 application the aggrieved party shall be required to show that
13 the aggrieved person:

14 (1) Is not a spouse of the debtor or the personal
15 representative of such spouse.

16 (2) Has complied with all the requirements of this
17 Section.

18 (3) Has obtained a judgment stating the amount thereof
19 and the amount owing thereon, not including interest
20 thereon, at the date of the application.

21 (4) Has made all reasonable searches and inquiries to
22 ascertain whether the judgment debtor is possessed of real
23 or personal property or other assets, liable to be sold or
24 applied in satisfaction of the judgment.

25 (5) By such search has discovered no personal or real
26 property or other assets liable to be sold or applied, or

1 has discovered certain of them, describing them as owned by
2 the judgment debtor and liable to be so applied and has
3 taken all necessary action and proceedings for the
4 realization thereof, and the amount thereby realized was
5 insufficient to satisfy the judgment, stating the amount so
6 realized and the balance remaining due on the judgment
7 after application of the amount realized.

8 (6) Has diligently pursued all remedies against all the
9 judgment debtors and all other persons liable to the
10 aggrieved person in the transaction for which recovery is
11 sought from the Real Estate Recovery Fund, including the
12 filing of an adversary action to have the debts declared
13 non-dischargeable in any bankruptcy petition matter filed
14 by any judgment debtor or person liable to the aggrieved
15 person.

16 The aggrieved person shall also be required to prove the
17 amount of attorney's fees sought to be recovered and the
18 reasonableness of those fees up to the maximum allowed pursuant
19 to Section 20-85 of this Act.

20 (h) The court shall make an order directed to the
21 Department ~~ODRE~~ requiring payment from the Real Estate Recovery
22 Fund of whatever sum it finds to be payable upon the claim,
23 pursuant to and in accordance with the limitations contained in
24 Section 20-85 of this Act, if the court is satisfied, upon the
25 hearing, of the truth of all matters required to be shown by
26 the aggrieved person under subsection (g) of this Section and

1 that the aggrieved person has fully pursued and exhausted all
2 remedies available for recovering the amount awarded by the
3 judgment of the court.

4 (i) Should the Department ~~OBRE~~ pay from the Real Estate
5 Recovery Fund any amount in settlement of a claim or toward
6 satisfaction of a judgment against a licensed broker or
7 salesperson or an unlicensed employee of a broker, the
8 licensee's license shall be automatically terminated upon the
9 issuance of a court order authorizing payment from the Real
10 Estate Recovery Fund. No petition for restoration of a license
11 shall be heard until repayment has been made in full, plus
12 interest at the rate prescribed in Section 12-109 of the Code
13 of Civil Procedure of the amount paid from the Real Estate
14 Recovery Fund on their account. A discharge in bankruptcy shall
15 not relieve a person from the penalties and disabilities
16 provided in this subsection (i).

17 (j) If, at any time, the money deposited in the Real Estate
18 Recovery Fund is insufficient to satisfy any duly authorized
19 claim or portion thereof, the Department ~~OBRE~~ shall, when
20 sufficient money has been deposited in the Real Estate Recovery
21 Fund, satisfy such unpaid claims or portions thereof, in the
22 order that such claims or portions thereof were originally
23 filed, plus accumulated interest at the rate prescribed in
24 Section 12-109 of the Code of Civil Procedure.

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

1 (225 ILCS 454/20-95)

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

3 Sec. 20-95. Power of the Department ~~OBRE~~ to defend. When
4 the Department ~~OBRE~~ receives any process, notice, order, or
5 other document provided for or required under Section 20-90 of
6 this Act, it may enter an appearance, file an answer, appear at
7 the court hearing, defend the action, or take whatever other
8 action it deems appropriate on behalf and in the name of the
9 defendant and take recourse through any appropriate method of
10 review on behalf of and in the name of the defendant.

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

12 (225 ILCS 454/20-100)

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

14 Sec. 20-100. Subrogation of the Department ~~OBRE~~ to rights
15 of judgment creditor. When, upon the order of the court, the
16 Department ~~OBRE~~ has paid from the Real Estate Recovery Fund any
17 sum to the judgment creditor, the Department ~~OBRE~~ shall be
18 subrogated to all of the rights of the judgment creditor and
19 the judgment creditor shall assign all rights, title, and
20 interest in the judgment to the Department ~~OBRE~~ and any amount
21 and interest so recovered by the Department ~~OBRE~~ on the
22 judgment shall be deposited in the Real Estate Recovery Fund.

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

24 (225 ILCS 454/20-110)

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

2 Sec. 20-110. Disciplinary actions of the Department ~~OBRE~~
3 not limited. Nothing contained in Sections 20-80 through 20-100
4 of this Act limits the authority of the Department ~~OBRE~~ to take
5 disciplinary action against any licensee for a violation of
6 this Act or the rules of the Department ~~OBRE~~, nor shall the
7 repayment in full of all obligations to the Real Estate
8 Recovery Fund by any licensee nullify or modify the effect of
9 any other disciplinary proceeding brought pursuant to this Act.
10 (Source: P.A. 91-245, eff. 12-31-99.)

11 (225 ILCS 454/20-115)

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

13 Sec. 20-115. Time limit on action. No action may be taken
14 by the Department ~~OBRE~~ against any person for violation of the
15 terms of this Act or its rules unless the action is commenced
16 within 5 years after the occurrence of the alleged violation.
17 (Source: P.A. 91-245, eff. 12-31-99.)

18 (225 ILCS 454/25-5)

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

20 Sec. 25-5. The Department ~~OBRE~~; powers and duties. The
21 Department ~~OBRE~~ shall exercise the powers and duties prescribed
22 by the Civil Administrative Code of Illinois for the
23 administration of licensing acts and shall exercise such other
24 powers and duties as are prescribed by this Act. The Department

1 ~~OBRE~~ may contract with third parties for services necessary for
2 the proper administration of this Act.

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

4 (225 ILCS 454/25-10)

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

6 Sec. 25-10. Real Estate Administration and Disciplinary
7 Board; duties. There is created the Real Estate Administration
8 and Disciplinary Board. The Board shall be composed of 9
9 persons appointed by the Governor. Members shall be appointed
10 to the Board subject to the following conditions:

11 (1) All members shall have been residents and citizens
12 of this State for at least 6 years prior to the date of
13 appointment.

14 (2) Six members shall have been actively engaged as
15 brokers or salespersons or both for at least the 10 years
16 prior to the appointment.

17 (3) Three members of the Board shall be public members
18 who represent consumer interests.

19 None of these members shall be a person who is licensed
20 under this Act or a similar Act of another jurisdiction or who
21 has a connection with the profession, ~~the spouse of a person~~
22 ~~licensed under this Act, or a person who has an ownership~~
23 ~~interest in a real estate brokerage business.~~

24 The members' terms shall be 4 years or until a successor is
25 appointed and the expiration of their terms shall be staggered.

1 Appointments to fill vacancies shall be for the unexpired
2 portion of the term. No member may be reappointed to the Board
3 for a term that would cause his or her continuous service on
4 the Board to be longer than 12 years in a lifetime. ~~A member~~
5 ~~may be reappointed for successive terms but no person shall be~~
6 ~~appointed to more than 2 terms or any part thereof in his or~~
7 ~~her lifetime.~~ Persons holding office as members of the Board
8 immediately prior to December 31, 1999 under the Real Estate
9 License Act of 1983 shall continue as members of the Board
10 until the expiration of the term for which they were appointed
11 and until their successors are appointed and qualified. The
12 membership of the Board should reasonably reflect the
13 geographic distribution of the licensee population in this
14 State. In making the appointments, the Governor shall give due
15 consideration to the recommendations by members and
16 organizations of the profession. The Governor may terminate the
17 appointment of any member for cause that in the opinion of the
18 Governor reasonably justifies the termination. Cause for
19 termination shall include without limitation misconduct,
20 incapacity, neglect of duty, or missing 4 board meetings during
21 any one calendar year. Each member of the Board shall receive a
22 per diem stipend in an amount to be determined by the
23 Commissioner. Each member shall be paid his or her necessary
24 expenses while engaged in the performance of his or her duties.
25 Such compensation and expenses shall be paid out of the Real
26 Estate License Administration Fund. The Commissioner shall

1 consider the recommendations of the Board on questions
2 involving standards of professional conduct, discipline, and
3 examination of candidates under this Act. The Department ~~OBRE~~,
4 after notifying and considering the recommendations of the
5 Board, if any, may issue rules, consistent with the provisions
6 of this Act, for the administration and enforcement thereof and
7 may prescribe forms that shall be used in connection therewith.
8 None of the functions, powers, or duties enumerated in Sections
9 20-20 and 30-5 and subsections (a) and (j) of Section 20-60 of
10 this Act shall be exercised by the Department ~~OBRE~~ except upon
11 the action and report in writing of the Board.

12 A majority of the Board members shall constitute a quorum.
13 A vacancy in the membership of the Board shall not impair the
14 right of a quorum to exercise all of the rights and perform all
15 of the duties of the Board.

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

17 (225 ILCS 454/25-13)

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

19 Sec. 25-13. Rules. The Department ~~OBRE~~, after notifying and
20 considering the recommendations of the Board, if any, shall
21 adopt, promulgate, and issue any rules that may be necessary
22 for the implementation and enforcement of this Act.

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

24 (225 ILCS 454/25-14)

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

2 Sec. 25-14. Reliance on advisory letters. Licensees or
3 their representatives may seek an advisory letter from the
4 Department ~~OBRE~~ as to matters arising under this Act or the
5 rules promulgated pursuant to this Act. The Department ~~OBRE~~
6 shall promulgate rules as to the process of seeking and
7 obtaining an advisory letter and topics and areas on which
8 advisory rules will be issued by the Department ~~OBRE~~. A
9 licensee is entitled to rely upon an advisory letter from the
10 Department ~~OBRE~~ and will not be disciplined by the Department
11 ~~OBRE~~ for actions taken in reliance on the advisory letter.

12 (Source: P.A. 92-217, eff. 8-2-01.)

13 (225 ILCS 454/25-15)

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

15 Sec. 25-15. ~~Director of~~ Real Estate Coordinator; duties.
16 There shall be in the Department ~~OBRE~~ a Real Estate Coordinator
17 ~~Director and a Deputy Director of Real Estate~~, appointed by the
18 Secretary ~~Commissioner~~, who shall hold a currently valid
19 broker's license, which shall be surrendered to the Department
20 ~~OBRE~~ during the appointment. The Coordinator ~~Director of Real~~
21 ~~Estate~~ shall ~~report to the Commissioner and shall~~ do the
22 following:

23 (1) act as Chairperson of the Board, ex-officio,
24 without vote;

25 (2) be the direct liaison between the Department ~~OBRE~~,

1 the profession, and real estate organizations and
2 associations;

3 (3) prepare and circulate to licensees any educational
4 and informational material that the Department ~~OBRE~~ deems
5 necessary for providing guidance or assistance to
6 licensees;

7 (4) appoint any necessary committees to assist in the
8 performance of the functions and duties of the Department
9 ~~OBRE~~ under this Act; and

10 (5) subject to the administrative approval of the
11 Secretary ~~Commissioner~~, supervise all real estate
12 activities of the Department ~~OBRE~~.

13 ~~The Commissioner shall appoint, for a term of 4 years, a~~
14 ~~Deputy Director of Real Estate who shall hold a currently valid~~
15 ~~broker's license, which shall be surrendered to OBRE during the~~
16 ~~appointment. Under direction of the Director of Real Estate,~~
17 ~~the Deputy Director of Real Estate shall be responsible for the~~
18 ~~administration of the licensing, disciplinary, and education~~
19 ~~provisions of this Act. The Deputy Director shall also assist~~
20 ~~the Director of Real Estate in the performance of his or her~~
21 ~~duties.~~

22 In designating the Real Estate Coordinator, the Secretary
23 ~~Director and Deputy Director of Real Estate~~, the ~~Commissioner~~
24 shall give due consideration to recommendations by members and
25 organizations of the profession.

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

1 (225 ILCS 454/25-20)

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

3 Sec. 25-20. Staff. The Department ~~OBRE~~ shall employ
4 sufficient staff to carry out the provisions of this Act.

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

6 (225 ILCS 454/25-25)

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

8 Sec. 25-25. Real Estate Research and Education Fund. A
9 special fund to be known as the Real Estate Research and
10 Education Fund is created and shall be held in trust in the
11 State Treasury. Annually, on September 15th, the State
12 Treasurer shall cause a transfer of \$125,000 to the Real Estate
13 Research and Education Fund from the Real Estate License
14 Administration Fund. The Real Estate Research and Education
15 Fund shall be administered by the Department ~~OBRE~~. Money
16 deposited in the Real Estate Research and Education Fund may be
17 used for research and education at state institutions of higher
18 education or other organizations for research and the
19 advancement of education in the real estate industry. Of the
20 \$125,000 annually transferred into the Real Estate Research and
21 Education Fund, \$15,000 shall be used to fund a scholarship
22 program for persons of minority racial origin who wish to
23 pursue a course of study in the field of real estate. For the
24 purposes of this Section, "course of study" means a course or

1 courses that are part of a program of courses in the field of
2 real estate designed to further an individual's knowledge or
3 expertise in the field of real estate. These courses shall
4 include without limitation courses that a salesperson licensed
5 under this Act must complete to qualify for a real estate
6 broker's license, courses required to obtain the Graduate
7 Realtors Institute designation, and any other courses or
8 programs offered by accredited colleges, universities, or
9 other institutions of higher education in Illinois. The
10 scholarship program shall be administered by the Department
11 ~~OBRE~~ or its designee. Moneys in the Real Estate Research and
12 Education Fund may be invested and reinvested in the same
13 manner as funds in the Real Estate Recovery Fund and all
14 earnings, interest, and dividends received from such
15 investments shall be deposited in the Real Estate Research and
16 Education Fund and may be used for the same purposes as moneys
17 transferred to the Real Estate Research and Education Fund.
18 Moneys in the Real Estate Research and Education Fund may be
19 transferred to the Professions Indirect Cost Fund as authorized
20 under Section 2105-300 of the Department of Professional
21 Regulation Law of the Civil Administrative Code of Illinois.

22 (Source: P.A. 94-91, eff. 7-1-05.)

23 (225 ILCS 454/25-30)

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

25 Sec. 25-30. Real Estate License Administration Fund;

1 audit. A special fund to be known as the Real Estate License
2 Administration Fund is created in the State Treasury. All fees
3 received by the Department ~~OBRE~~ under this Act shall be
4 deposited in the Real Estate License Administration Fund. The
5 moneys deposited in the Real Estate License Administration Fund
6 shall be appropriated to the Department ~~OBRE~~ for expenses of
7 the Department ~~OBRE~~ and the Board in the administration of this
8 Act and for the administration of any Act administered by the
9 Department ~~OBRE~~ providing revenue to this Fund. Moneys in the
10 Real Estate License Administration Fund may be invested and
11 reinvested in the same manner as funds in the Real Estate
12 Recovery Fund. All earnings received from such investment shall
13 be deposited in the Real Estate License Administration Fund and
14 may be used for the same purposes as fees deposited in the Real
15 Estate License Administration Fund. Moneys in the Real Estate
16 License Administration Fund may be transferred to the
17 Professions Indirect Cost Fund as authorized under Section
18 2105-300 of the Department of Professional Regulation Law of
19 the Civil Administrative Code of Illinois. Upon the completion
20 of any audit of the Department ~~OBRE~~, as prescribed by the
21 Illinois State Auditing Act, which includes an audit of the
22 Real Estate License Administration Fund, the Department ~~OBRE~~
23 shall make the audit open to inspection by any interested
24 person.

25 (Source: P.A. 94-91, eff. 7-1-05.)

1 (225 ILCS 454/25-35)

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

3 Sec. 25-35. Real Estate Recovery Fund. A special fund to be
4 known as the Real Estate Recovery Fund is created in the State
5 Treasury. The sums received by the Department ~~OBRE~~ pursuant to
6 the provisions of Sections 20-20, 20-30, and 20-80 through
7 20-100 of this Act shall be deposited into the State Treasury
8 and held in the Real Estate Recovery Fund. The money in the
9 Real Estate Recovery Fund shall be used by the Department ~~OBRE~~
10 exclusively for carrying out the purposes established by this
11 Act. If, at any time, the balance remaining in the Real Estate
12 Recovery Fund is less than \$750,000, the State Treasurer shall
13 cause a transfer of moneys to the Real Estate Recovery Fund
14 from the Real Estate License Administration Fund in an amount
15 necessary to establish a balance of \$800,000 in the Real Estate
16 Recovery Fund. These funds may be invested and reinvested in
17 the same manner as authorized for pension funds in Article 14
18 of the Illinois Pension Code. All earnings, interest, and
19 dividends received from investment of funds in the Real Estate
20 Recovery Fund shall be deposited into the Real Estate License
21 Administration Fund and shall be used for the same purposes as
22 other moneys deposited in the Real Estate License
23 Administration Fund.

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

25 (225 ILCS 454/25-37)

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

2 Sec. 25-37. Real Estate Audit Fund; audit of special
3 accounts; audit of fund.

4 (a) A special fund to be known as the Real Estate Audit
5 Fund is created in the State Treasury. The State Treasurer
6 shall cause a transfer of \$200,000 from the Real Estate License
7 Administration Fund to the Real Estate Audit Fund on January 1,
8 2002. If, at any time, the balance in the Real Estate Audit
9 Fund is less than \$25,000, the State Treasurer shall cause a
10 transfer of \$200,000 from the Real Estate License
11 Administration Fund to the Real Estate Audit Fund. The moneys
12 held in the Real Estate Audit Fund shall be used exclusively by
13 the Department ~~OBRE~~ to conduct audits of special accounts of
14 moneys belonging to others held by a broker.

15 (b) Upon receipt of a complaint or evidence by the
16 Department ~~OBRE~~ sufficient to cause the Department ~~OBRE~~ to
17 reasonably believe that funds required to be maintained in a
18 special account by a broker have been misappropriated, the
19 broker shall, within 30 days of written notice, submit to an
20 audit of all special accounts. Such audit shall be performed by
21 a licensed certified public accountant, shall result in a
22 written report by the accountant, and shall specifically refer
23 to the escrow and record-keeping requirements of this Act and
24 the rules adopted under this Act. If it is found, pursuant to
25 an order issued by the Commissioner, that moneys required to be
26 maintained in a special account by a broker were

1 misappropriated, as further defined by rule, the broker shall
2 reimburse the Department ~~OBRE~~, in addition to any other
3 discipline or civil penalty imposed, for the cost of the audit
4 performed pursuant to this Section. The Department ~~OBRE~~ may
5 file in circuit court for a judgment to enforce the collection
6 of the reimbursement of the cost of such audit. Any
7 reimbursement collected by the Department ~~OBRE~~ shall be
8 deposited into the Real Estate Audit Fund.

9 (c) Moneys in the Real Estate Audit Fund may be invested
10 and reinvested in the same manner as funds in the Real Estate
11 Recovery Fund. All earnings received from such investment shall
12 be deposited in the Real Estate Audit Fund and may be used for
13 the same purpose as other moneys deposited in the Real Estate
14 Audit Fund. Moneys in the Real Estate Audit Fund may be
15 transferred to the Professions Indirect Cost Fund as authorized
16 under Section 2105-300 of the Department of Professional
17 Regulation Law of the Civil Administrative Code of Illinois.
18 Upon completion of any audit of the Department ~~OBRE~~, prescribed
19 by the Illinois State Auditing Act, which includes an audit of
20 the Real Estate Audit Fund, the Department ~~OBRE~~ shall make the
21 audit open to inspection by any interested person.

22 (Source: P.A. 94-91, eff. 7-1-05.)

23 (225 ILCS 454/30-5)

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

25 Sec. 30-5. Licensing of pre-license schools, school

1 branches, and instructors.

2 (a) No person shall operate a pre-license school or school
3 branch without possessing a valid pre-license school or school
4 branch license issued by the Department ~~OBRE~~. No person shall
5 act as a pre-license instructor at a pre-license school or
6 school branch without possessing a valid pre-license
7 instructor license issued by the Department ~~OBRE~~. Every person
8 who desires to obtain a pre-license school, school branch, or
9 pre-license instructor license shall make application to the
10 Department ~~OBRE~~ in writing in form and substance satisfactory
11 to the Department ~~OBRE~~ and pay the required fees prescribed by
12 rule. In addition to any other information required to be
13 contained in the application, every application for an original
14 or renewed license shall include the applicant's Social
15 Security number. The Department ~~OBRE~~ shall issue a pre-license
16 school, school branch, or pre-license instructor license to
17 applicants who meet qualification criteria established by
18 rule. The Department ~~OBRE~~ may refuse to issue, suspend, revoke,
19 or otherwise discipline a pre-license school, school branch, or
20 pre-license instructor license or may withdraw approval of a
21 course offered by a pre-license school for good cause.
22 Disciplinary proceedings shall be conducted by the Board in the
23 same manner as other disciplinary proceedings under this Act.

24 (b) All pre-license instructors must teach at least one
25 course within the period of licensure or take an instructor
26 training program approved by the Department ~~OBRE~~ in lieu

1 thereof. A pre-license instructor may teach at more than one
2 licensed pre-license school.

3 (c) The term of license for pre-license schools, branches,
4 and instructors shall be 2 years as established by rule.

5 (d) The Department ~~OBRE~~ or the Advisory Council may, after
6 notice, cause a pre-license school to attend an informal
7 conference before the Advisory Council for failure to comply
8 with any requirement for licensure or for failure to comply
9 with any provision of this Act or the rules for the
10 administration of this Act. The Advisory Council shall make a
11 recommendation to the Board as a result of its findings at the
12 conclusion of any such informal conference.

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

14 (225 ILCS 454/30-10)

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

16 Sec. 30-10. Advisory Council; powers and duties. There is
17 created within the Department ~~OBRE~~ an Advisory Council to be
18 comprised of 6 ~~7~~ members appointed by the Governor ~~for 4-year~~
19 ~~staggered terms~~. The members' terms shall be 4 years or until a
20 successor is appointed and the expiration of terms shall be
21 staggered as determined by the Governor. No member shall be
22 reappointed to the Board for a term that would cause his or her
23 continuous service on the Board to be longer than 12 years in a
24 lifetime. No member shall serve more than 8 years in a
25 ~~lifetime~~. Three of the members shall be licensees who are

1 current members of the Board, one member shall be a
2 representative of an Illinois real estate trade organization
3 who is not a member of the Board, one member shall be a
4 representative of a licensed pre-license school or continuing
5 education school, and one member shall be a representative of
6 an institution of higher education that offers pre-license and
7 continuing education courses. The Real Estate Coordinator
8 ~~Director~~ shall serve as the chairman of the Advisory Council,
9 ex officio, without vote. A majority of Advisory Council
10 members shall constitute a quorum. A vacancy in the membership
11 of the Advisory Council shall not impair the right of a quorum
12 to exercise all the rights and perform all the duties of the
13 Advisory Council. The Advisory Council shall recommend
14 criteria for the licensing of pre-license schools, pre-license
15 instructors, continuing education schools, and continuing
16 education instructors; review applications for these licenses
17 to determine if the applicants meet the qualifications for
18 licensure established in this Act and by rule; approve
19 pre-license school and continuing education curricula; and
20 make recommendations to the Board regarding rules to be adopted
21 for the administration of the education provisions of this Act.

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

23 (225 ILCS 454/30-15)

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

25 Sec. 30-15. Licensing of continuing education schools;

1 approval of courses.

2 (a) Only continuing education schools in possession of a
3 valid continuing education school license may provide real
4 estate continuing education courses that will satisfy the
5 requirements of this Act. Pre-license schools licensed to offer
6 pre-license education courses for salespersons and brokers
7 shall qualify for a continuing education school license upon
8 completion of an application and the submission of the required
9 fee. Every entity that desires to obtain a continuing education
10 school license shall make application to the Department ~~OBRE~~ in
11 writing in forms prescribed by the Department ~~OBRE~~ and pay the
12 fee prescribed by rule. In addition to any other information
13 required to be contained in the application, every application
14 for an original or renewed license shall include the
15 applicant's Social Security number.

16 (b) The criteria for a continuing education license shall
17 include the following:

18 (1) A sound financial base for establishing,
19 promoting, and delivering the necessary courses. Budget
20 planning for the School's courses should be clearly
21 projected.

22 (2) A sufficient number of qualified, licensed
23 instructors as provided by rule.

24 (3) Adequate support personnel to assist with
25 administrative matters and technical assistance.

26 (4) Maintenance and availability of records of

1 participation for licensees.

2 (5) The ability to provide each participant who
3 successfully completes an approved program with a
4 certificate of completion signed by the administrator of a
5 licensed continuing education school on forms provided by
6 the Department ~~OBRE~~.

7 (6) The continuing education school must have a written
8 policy dealing with procedures for the management of
9 grievances and fee refunds.

10 (7) The continuing education school shall maintain
11 lesson plans and examinations for each course.

12 (8) The continuing education school shall require a 70%
13 passing grade for successful completion of any continuing
14 education course.

15 (9) The continuing education school shall identify and
16 use instructors who will teach in a planned program.
17 Suggested criteria for instructor selections include:

- 18 (A) appropriate credentials;
19 (B) competence as a teacher;
20 (C) knowledge of content area; and
21 (D) qualification by experience.

22 (10) The continuing education school must provide for
23 closed book examinations for each course.

24 (11) The continuing education school shall provide a
25 proctor for each examination and shall be responsible for
26 the conduct of the proctor or, in the alternative, provide

1 an electronic means of proctoring that is acceptable to the
2 Department. The duties and responsibilities of a proctor
3 shall be established by the Department by rule.

4 (c) Advertising and promotion of continuing education
5 activities must be carried out in a responsible fashion,
6 clearly showing the educational objectives of the activity, the
7 nature of the audience that may benefit from the activity, the
8 cost of the activity to the participant and the items covered
9 by the cost, the amount of credit that can be earned, and the
10 credentials of the faculty.

11 (d) The Department ~~OBRE~~ may or upon request of the Advisory
12 Council shall, after notice, cause a continuing education
13 school to attend an informal conference before the Advisory
14 Council for failure to comply with any requirement for
15 licensure or for failure to comply with any provision of this
16 Act or the rules for the administration of this Act. The
17 Advisory Council shall make a recommendation to the Board as a
18 result of its findings at the conclusion of any such informal
19 conference.

20 (e) All continuing education schools shall maintain these
21 minimum criteria and pay the required fee in order to retain
22 their continuing education school license.

23 (f) All continuing education schools shall submit, at the
24 time of initial application and with each license renewal, a
25 list of courses with course materials to be offered by the
26 continuing education school. The Department ~~OBRE~~, however,

1 shall establish a mechanism whereby continuing education
2 schools may apply for and obtain approval for continuing
3 education courses that are submitted after the time of initial
4 application or renewal. The Department ~~OBRE~~ shall provide to
5 each continuing education school a certificate for each
6 approved continuing education course. All continuing education
7 courses shall be valid for the period coinciding with the term
8 of license of the continuing education school. All continuing
9 education schools shall provide a copy of the certificate of
10 the continuing education course within the course materials
11 given to each student or shall display a copy of the
12 certificate of the continuing education course in a conspicuous
13 place at the location of the class.

14 (g) Each continuing education school shall provide to the
15 Department ~~OBRE~~ a monthly report in a format determined by the
16 Department ~~OBRE~~, with information concerning students who
17 successfully completed all approved continuing education
18 courses offered by the continuing education school for the
19 prior month.

20 (h) The Department ~~OBRE~~, upon the recommendation of the
21 Advisory Council, may temporarily suspend a licensed
22 continuing education school's approved courses without hearing
23 and refuse to accept successful completion of or participation
24 in any of these continuing education courses for continuing
25 education credit from that school upon the failure of that
26 continuing education school to comply with the provisions of

1 this Act or the rules for the administration of this Act, until
2 such time as the Department ~~OBRE~~ receives satisfactory
3 assurance of compliance. The Department ~~OBRE~~ shall notify the
4 continuing education school of the noncompliance and may
5 initiate disciplinary proceedings pursuant to this Act. The
6 Department ~~OBRE~~ may refuse to issue, suspend, revoke, or
7 otherwise discipline the license of a continuing education
8 school or may withdraw approval of a continuing education
9 course for good cause. Failure to comply with the requirements
10 of this Section or any other requirements established by rule
11 shall be deemed to be good cause. Disciplinary proceedings
12 shall be conducted by the Board in the same manner as other
13 disciplinary proceedings under this Act.

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

15 (225 ILCS 454/30-25)

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

17 Sec. 30-25. Licensing of continuing education instructors.

18 (a) No person shall act as a core curriculum continuing
19 education instructor at a continuing education school or branch
20 without possessing a valid continuing education instructor
21 license and satisfying any other criteria established by the
22 Department by rule. ~~Only persons approved by the Advisory~~
23 ~~Council and in possession of a valid continuing education~~
24 ~~instructor license issued by OBRE may instruct continuing~~
25 ~~education courses.~~

1 (b) Every person who desires to obtain a continuing
2 education instructor license shall make application to the
3 Department ~~OBRE~~ in writing on forms prescribed by the Office,
4 accompanied by the fee prescribed by rule. In addition to any
5 other information required to be contained in the application,
6 every application for an original or renewed license shall
7 include the applicant's Social Security number. The Department
8 ~~OBRE~~ shall issue a continuing education instructor license to
9 applicants who meet qualification criteria established by this
10 Act or rule. Upon the effective date of this amendatory Act of
11 the 95th General Assembly, every person who desires to obtain
12 or renew a continuing education instructor's license shall
13 attend and successfully complete a one-day instructor
14 development workshop, as approved by the Department. All
15 continuing education instructors must teach at least one course
16 within the period of licensure. The term of licensure for a
17 continuing education instructor shall be 2 years and as
18 established by rule.

19 (c) The Department ~~OBRE~~ may refuse to issue, suspend,
20 revoke, or otherwise discipline a continuing education
21 instructor for good cause. Disciplinary proceedings shall be
22 conducted by the Board in the same manner as other disciplinary
23 proceedings under this Act. The term of a license for a
24 continuing education instructor shall be 2 years and as
25 established by rule. ~~All Continuing Education Instructors must~~
26 ~~teach at least one course within the period of licensure or~~

1 ~~take an instructor training program approved by OBRE in lieu~~
2 ~~thereof.~~

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

4 (225 ILCS 454/35-5)

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

6 Sec. 35-5. Savings provisions.

7 (a) This Act is intended to replace the Real Estate License
8 Act of 1983 in all respects.

9 (b) Beginning December 31, 1999, the rights, powers, and
10 duties exercised by the Office of Banks and Real Estate under
11 the Real Estate License Act of 1983 shall continue to be vested
12 in, be the obligation of, and shall be exercised by the
13 Department of Financial and Professional Regulation ~~Office of~~
14 ~~Banks and Real Estate~~ under the provisions of this Act.

15 (c) This Act does not affect any act done, ratified, or
16 cancelled, or any right occurring or established, or any action
17 or proceeding had or commenced in an administrative, civil, or
18 criminal cause before December 31, 1999, by the Office of Banks
19 and Real Estate under the Real Estate License Act of 1983, and
20 those actions or proceedings may be prosecuted and continued by
21 the Office of Banks and Real Estate under this Act.

22 (d) This Act does not affect any license, certificate,
23 permit, or other form of licensure or authorization issued by
24 the Office of Banks and Real Estate under the Real Estate
25 License Act of 1983, and all such licenses, certificates,

1 permits, or other form of licensure or authorization shall
2 continue to be valid under the terms and conditions of this
3 Act.

4 (e) The rules adopted by the Office of Banks and Real
5 Estate relating to the Real Estate License Act of 1983, unless
6 inconsistent with the provisions of this Act, are not affected
7 by this Act, and on December 31, 1999 those rules become the
8 rules under this Act. The Office of Banks and Real Estate
9 shall, as soon as practicable, adopt new or amended rules
10 consistent with the provisions of this Act.

11 (f) This Act does not affect any discipline, suspension, or
12 termination taken under the Real Estate License Act of 1983 and
13 that discipline, suspension, or termination shall be continued
14 under this Act.

15 (g) This Act does not affect any appointments, term
16 limitations, years served, or other matters relating to
17 individuals serving on any board or council under the Real
18 Estate License Act of 1983, and these appointments, term
19 limitations, years served, and other matters shall be continued
20 under this Act.

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

22 (225 ILCS 454/5-25 rep.)

23 (225 ILCS 454/5-30 rep.)

24 (225 ILCS 454/5-55 rep.)

25 (225 ILCS 454/20-80 rep.)

1 (225 ILCS 454/20-120 rep.)

2 Section 15. The Real Estate License Act of 2000 is amended
3 by repealing Sections 5-25, 5-30, 5-55, 20-80, and 20-120.

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

1	INDEX
2	Statutes amended in order of appearance
3	5 ILCS 80/4.20
4	5 ILCS 80/4.29 new
5	225 ILCS 454/1-10
6	225 ILCS 454/5-5
7	225 ILCS 454/5-6 new
8	225 ILCS 454/5-7 new
9	225 ILCS 454/5-10
10	225 ILCS 454/5-15
11	225 ILCS 454/5-20
12	225 ILCS 454/5-26 new
13	225 ILCS 454/5-27 new
14	225 ILCS 454/5-28 new
15	225 ILCS 454/5-35
16	225 ILCS 454/5-40
17	225 ILCS 454/5-41 new
18	225 ILCS 454/5-45
19	225 ILCS 454/5-50
20	225 ILCS 454/5-60
21	225 ILCS 454/5-65
22	225 ILCS 454/5-70
23	225 ILCS 454/5-80
24	225 ILCS 454/5-85
25	225 ILCS 454/15-65

- 1 225 ILCS 454/20-5
- 2 225 ILCS 454/20-10
- 3 225 ILCS 454/20-20
- 4 225 ILCS 454/20-21 new
- 5 225 ILCS 454/20-22 new
- 6 225 ILCS 454/20-25
- 7 225 ILCS 454/20-30
- 8 225 ILCS 454/20-35
- 9 225 ILCS 454/20-40
- 10 225 ILCS 454/20-45
- 11 225 ILCS 454/20-50
- 12 225 ILCS 454/20-60
- 13 225 ILCS 454/20-65
- 14 225 ILCS 454/20-75
- 15 225 ILCS 454/20-85
- 16 225 ILCS 454/20-90
- 17 225 ILCS 454/20-95
- 18 225 ILCS 454/20-100
- 19 225 ILCS 454/20-110
- 20 225 ILCS 454/20-115
- 21 225 ILCS 454/25-5
- 22 225 ILCS 454/25-10
- 23 225 ILCS 454/25-13
- 24 225 ILCS 454/25-14
- 25 225 ILCS 454/25-15
- 26 225 ILCS 454/25-20

- 1 225 ILCS 454/25-25
- 2 225 ILCS 454/25-30
- 3 225 ILCS 454/25-35
- 4 225 ILCS 454/25-37
- 5 225 ILCS 454/30-5
- 6 225 ILCS 454/30-10
- 7 225 ILCS 454/30-15
- 8 225 ILCS 454/30-25
- 9 225 ILCS 454/35-5
- 10 225 ILCS 454/5-25 rep.
- 11 225 ILCS 454/5-30 rep.
- 12 225 ILCS 454/5-55 rep.
- 13 225 ILCS 454/20-80 rep.
- 14 225 ILCS 454/20-120 rep.