



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### SB0571

Introduced 2/8/2007, by Sen. William R. Haine

#### 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, 2017. 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 09919 RAS 30130 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

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 4.27 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 Acts repealed on January 1, 2010.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8 Acts are repealed on January 1, 2010: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 80/4.27)

2 Sec. 4.27. Acts ~~Act~~ repealed on January 1, 2017. The  
3 following Acts are ~~Act is~~ repealed on January 1, 2017:

4 The Illinois Optometric Practice Act of 1987.

5 The Clinical Psychologist Licensing Act.

6 The Boiler and Pressure Vessel Repairer Regulation Act.

7 The Real Estate License Act of 2000.

8 (Source: P.A. 94-787, eff. 5-19-06; 94-870, eff. 6-16-06;  
9 94-956, eff. 6-27-06; revised 8-3-06.)

10 Section 10. The Real Estate License Act of 2000 is amended  
11 by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-35, 5-40,  
12 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-5, 15-65, 20-5,  
13 20-10, 20-20, 20-25, 20-30, 20-35, 20-40, 20-45, 20-50, 20-60,  
14 20-65, 20-75, 20-85, 20-90, 20-95, 20-100, 20-110, 20-115,  
15 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25, 25-30, 25-35,  
16 25-37, 30-5, 30-10, 30-15, 30-25, and 35-5 and by adding  
17 Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 20-21 and 20-22 and  
18 as follows:

19 (225 ILCS 454/1-10)

20 (Section scheduled to be repealed on January 1, 2010)

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

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

1       "Address of Record" shall be the designated address  
2       recorded by the Department in the applicant's or licensee's  
3       application file or license file as maintained by the  
4       Department's licensure maintenance unit. It is the duty of the  
5       applicant or licensee to inform the Department of any change of  
6       address, and such changes must be made either through the  
7       Department's website or by contacting the Department's  
8       licensure maintenance unit.

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

11      "Agency" means a relationship in which a real estate broker  
12      or licensee, whether directly or through an affiliated  
13      licensee, represents a consumer by the consumer's consent,  
14      whether express or implied, in a real property transaction.

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

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

26      "Board" means the Real Estate Administration and

1 Disciplinary Board of the Department ~~OBRE~~.

2 "Branch office" means a sponsoring broker's office other  
3 than the sponsoring broker's principal office.

4 "Broker" means an individual, partnership, limited  
5 liability company, corporation, or registered limited  
6 liability partnership other than a real estate salesperson or  
7 leasing agent who, whether in person or through any media or  
8 technology, for another and for compensation, or with the  
9 intention or expectation of receiving compensation, either  
10 directly or indirectly:

11 (1) Sells, exchanges, purchases, rents, or leases real  
12 estate.

13 (2) Offers to sell, exchange, purchase, rent, or lease  
14 real estate.

15 (3) Negotiates, offers, attempts, or agrees to  
16 negotiate the sale, exchange, purchase, rental, or leasing  
17 of real estate.

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

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

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

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

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

4           (9) Assists or directs in the negotiation of any  
5           transaction intended to result in the sale, exchange,  
6           lease, or rental of real estate.

7           (10) Opens real estate to the public for marketing  
8           purposes.

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

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

19          "Client" means a person who is being represented by a  
20          licensee.

21          ~~"Commissioner" means the Commissioner of Banks and Real~~  
22          ~~Estate or a person authorized by the Commissioner, the Office~~  
23          ~~of Banks and Real Estate Act, or this Act to act in the~~  
24          ~~Commissioner's stead.~~

25          "Compensation" means the valuable consideration given by  
26          one person or entity to another person or entity in exchange

1 for the performance of some activity or service. Compensation  
2 shall include the transfer of valuable consideration,  
3 including without limitation the following:

4 (1) commissions;

5 (2) referral fees;

6 (3) bonuses;

7 (4) prizes;

8 (5) merchandise;

9 (6) finder fees;

10 (7) performance of services;

11 (8) coupons or gift certificates;

12 (9) discounts;

13 (10) rebates;

14 (11) a chance to win a raffle, drawing, lottery, or  
15 similar game of chance not prohibited by any other law or  
16 statute;

17 (12) retainer fee; or

18 (13) salary.

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

26 (1) the client permits the disclosure of information

1 given by that client by word or conduct;

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

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

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

8 "Consumer" means a person or entity seeking or receiving  
9 licensed activities.

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

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

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

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

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

26 ~~"Director" means the Director of the Real Estate Division,~~



1 ~~OBRE.~~

2 "Dual agency" means an agency relationship in which a  
3 licensee is representing both buyer and seller or both landlord  
4 and tenant in the same transaction. When the agency  
5 relationship is a designated agency, the question of whether  
6 there is a dual agency shall be determined by the agency  
7 relationships of the designated agent of the parties and not of  
8 the sponsoring broker.

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

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

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

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

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

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

20 "Licensed activities" means those activities listed in the  
21 definition of "broker" under this Section.

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

25 "Listing presentation" means a communication between a  
26 real estate broker or salesperson and a consumer in which the

1 licensee is attempting to secure a brokerage agreement with the  
2 consumer to market the consumer's real estate for sale or  
3 lease.

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

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

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

1 factual information for a consumer on an offer or contract to  
2 purchase on behalf of a client, (ix) showing a client through a  
3 property being sold by an owner on his or her own behalf, or  
4 (x) referral to another broker or service provider.

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

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

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

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

19 "Pocket card" means the card issued by the Department ~~OBRE~~  
20 to signify that the person named on the card is currently  
21 licensed under this Act.

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

1 "Pre-renewal period" means the period between the date of  
2 issue of a currently valid license and the license's expiration  
3 date.

4 "Proctor" means any person, including without limitation  
5 an instructor, who has a written agreement to administer  
6 examinations fairly and impartially with a licensed  
7 pre-license school or a licensed continuing education school.

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

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

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

22 "Secretary" means the Secretary of Financial and  
23 Professional Regulation or a person authorized by the Secretary  
24 to act in the Secretary's stead.

25 "Sponsoring broker" means the broker who has issued a  
26 sponsor card to a licensed salesperson, another licensed

1 broker, or a leasing agent.

2 "Sponsor card" means the temporary permit issued by the  
3 sponsoring real estate broker certifying that the real estate  
4 broker, real estate salesperson, or leasing agent named thereon  
5 is employed by or associated by written agreement with the  
6 sponsoring real estate broker, as provided for in Section 5-40  
7 of this Act.

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

9 (225 ILCS 454/5-5)

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

11 Sec. 5-5. Leasing agent license.

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

18 (b) Notwithstanding the other provisions of this Act, there  
19 is hereby created a leasing agent license that shall enable the  
20 licensee to engage only in residential leasing activities for  
21 which a license is required under this Act. Such activities  
22 include without limitation leasing or renting residential real  
23 property, or attempting, offering, or negotiating to lease or  
24 rent residential real property, or supervising the collection,  
25 offer, attempt, or agreement to collect rent for the use of

1 residential real property. Nothing in this Section shall be  
2 construed to require a licensed real estate broker or  
3 salesperson to obtain a leasing agent license in order to  
4 perform leasing activities for which a license is required  
5 under this Act. Licensed leasing agents must be sponsored and  
6 employed by a sponsoring broker.

7 (c) The Department ~~OBRE~~, by rule, with the advice of the  
8 Board, shall provide for the licensing of leasing agents,  
9 including the issuance, renewal, and administration of  
10 licenses.

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

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

1 (225 ILCS 454/5-6 new)

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

3 Sec. 5-6. Social Security Number or Tax Identification  
4 Number on license application. In addition to any other  
5 information required to be contained in the application, every  
6 application for an original or renewal license under this Act  
7 must include the applicant's Social Security Number or Tax  
8 Identification Number.

9 (225 ILCS 454/5-7 new)

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

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

18 (225 ILCS 454/5-10)

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

20 Sec. 5-10. Requirements for leasing agent licensure.  
21 ~~Application for leasing agent license.~~

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



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

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

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

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

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

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

25           (b) Every valid application for initial licensure must be  
26 accompanied by a sponsor card and the fees specified by rule.

1 No applicant may engage in any of the activities covered by  
2 this Act until a valid sponsor card has been issued to such  
3 applicant. The sponsor card shall be valid for a maximum period  
4 of 45 days after the date of issuance unless extended for good  
5 cause, as provided by rule.

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

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

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

24 (225 ILCS 454/5-15)

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

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

3           (a) It is unlawful for any person, corporation, limited  
4 liability company, registered limited liability partnership,  
5 or partnership to act as a real estate broker, real estate  
6 salesperson, or leasing agent or to advertise or assume to act  
7 as such broker, salesperson, or leasing agent without a  
8 properly issued sponsor card or a license issued under this Act  
9 by the Department ~~OBRE~~, either directly or through its  
10 authorized designee.

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

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

1 in the LLP must hold a license as a real estate broker and  
2 every employee who acts as a salesperson or leasing agent must  
3 hold a license as a real estate broker, salesperson, or leasing  
4 agent.

5 (d) No limited liability company shall be granted a license  
6 or engage in the business or serve in the capacity, either  
7 directly or indirectly, of a real estate broker unless every  
8 manager in the limited liability company holds a license as a  
9 real estate broker and unless every member and employee who  
10 acts as a salesperson or leasing agent for the limited  
11 liability company holds a license as a real estate broker,  
12 salesperson, or leasing agent.

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

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

21 (225 ILCS 454/5-20)

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

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

1           (1) Any person, partnership, or corporation that as owner  
2 or lessor performs any of the acts described in the definition  
3 of "broker" under Section 1-10 of this Act with reference to  
4 property owned or leased by it, or to the regular employees  
5 thereof with respect to the property so owned or leased, where  
6 such acts are performed in the regular course of or as an  
7 incident to the management, sale, or other disposition of such  
8 property and the investment therein, provided that such regular  
9 employees do not perform any of the acts described in the  
10 definition of "broker" under Section 1-10 of this Act in  
11 connection with a vocation of selling or leasing any real  
12 estate or the improvements thereon not so owned or leased.

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

17           (3) Any person acting as receiver, trustee in bankruptcy,  
18 administrator, executor, or guardian or while acting under a  
19 court order or under the authority of a will or testamentary  
20 trust.

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

1 the resident manager.

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

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

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

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

19 (9) Any medium of advertising in the routine course of  
20 selling or publishing advertising along with which no other  
21 brokerage services, as described in the definition of "broker"  
22 set forth in Section 1-10 of this Act, licensed activities are  
23 provided.

24 (10) Any resident lessee of a residential dwelling unit who  
25 refers for compensation to the owner of the dwelling unit, or  
26 to the owner's agent, prospective lessees of dwelling units in

1 the same building or complex as the resident lessee's unit, but  
2 only if the resident lessee (i) refers no more than 3  
3 prospective lessees in any 12-month period, (ii) receives  
4 compensation of no more than \$1,000 or the equivalent of one  
5 month's rent, whichever is less, in any 12-month period, and  
6 (iii) limits his or her activities to referring prospective  
7 lessees to the owner, or the owner's agent, and does not show a  
8 residential dwelling unit to a prospective lessee, discuss  
9 terms or conditions of leasing a dwelling unit with a  
10 prospective lessee, or otherwise participate in the  
11 negotiation of the leasing of a dwelling unit.

12 (11) An exchange company registered under the Real Estate  
13 Timeshare Act of 1999 and the regular employees of that  
14 registered exchange company but only when conducting an  
15 exchange program as defined in that Act.

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

26 (13) Any person who is licensed without examination under



1 Section 10-25 of the Auction License Act is exempt from holding  
2 a broker's or salesperson's license under this Act for the  
3 limited purpose of selling or leasing real estate at auction,  
4 so long as:

5 (A) that person has made application for said  
6 exemption by July 1, 2000;

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

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

12 (D) the license issued under the Auction License  
13 Act has not been disciplined for violation of those  
14 provisions of Article 20 of the Auction License Act  
15 dealing with or related to the sale or lease of real  
16 estate at auction.

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

23 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;  
24 91-603, eff. 1-1-00; 92-16, eff. 6-28-01; 92-217, eff. 8-2-01.)

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

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

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

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

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

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

20 (b) All applicants for licensure as a salesperson, except  
21 for applicants who meet the criteria set forth in subsection  
22 (c) of this Section must give satisfactory evidence of the  
23 completion, prior to May 1, 2009, of at least 45 hours and , on  
24 or after April 30, 2009, at least 90 hours of instruction in  
25 real estate courses 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) A minimum of 15 of the required hours of pre-license  
5 education must be in the areas of Article 15 of this Act,  
6 disclosure and environmental issues, or any other currently  
7 topical areas that are determined by the Advisory Council. In  
8 addition, on or after April 30, 2009, 15 of the required hours  
9 must be devoted to situational problems and case studies, which  
10 hours must be classroom hours, as opposed to self-study or  
11 distance learning.

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

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

22 (g) Each person licensed under this Section shall display  
23 his or her license conspicuously in his or her place of  
24 business.

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

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

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

5 (a) He or she must be at least 21 years of age;  
6 however, the minimum age of 21 years shall be waived for  
7 any person seeking a license as a real estate salesperson  
8 who has attained the age of 18 and can provide evidence of  
9 the successful completion of at least 4 semesters of post  
10 secondary school study as a full time student or the  
11 equivalent, with major emphasis on real estate courses in a  
12 school approved by the Department.

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

14 (3) He or she must successfully complete a 4 year  
15 course of study in a high school or secondary school  
16 approved by the State Board of Education or an equivalent  
17 course of study as determined by an examination conducted  
18 by the State Board of Education and verified under oath by  
19 the applicant.

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

1 least 135 classroom hours, 90 of which shall be those hours  
2 required to obtain a salesperson's license plus 15 hours in  
3 brokerage administration courses, in real estate courses  
4 approved by the Advisory Council.

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

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

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

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

24 (g) Each person licensed under this Section shall display  
25 his or her license conspicuously in his or her place of  
26 business.

1 (225 ILCS 454/5-28 new)

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

3 Sec. 5-28. Good moral character. When an applicant (i) has  
4 had his or her license revoked on a prior occasion or when an  
5 applicant, (ii) is found to have committed any of the practices  
6 enumerated in Section 20-20 of this Act, (iii) has been  
7 convicted of forgery, embezzlement, obtaining money under  
8 false pretenses, larceny, extortion, conspiracy to defraud, or  
9 any other similar offense or offenses, or (iv) has been  
10 convicted of a felony involving moral turpitude in any court of  
11 competent jurisdiction in this or any other state, district, or  
12 territory of the United States or of a foreign country, the  
13 Board may consider the prior revocation, conduct, or conviction  
14 in its determination of the applicant's moral character and  
15 decision of whether or not to grant the applicant a license. In  
16 its consideration of the prior revocation, conduct, or  
17 conviction, the Board shall take into account the nature of the  
18 conduct, any aggravating or extenuating circumstances, the  
19 time elapsed since the revocation, conduct, or conviction, the  
20 rehabilitation or restitution performed by the applicant, and  
21 any other factors that the Board deems relevant. When an  
22 applicant has made a false statement of material fact on his or  
23 her application, the false statement may, in itself, be  
24 sufficient grounds to revoke or refuse to issue a license.

1 (225 ILCS 454/5-35)

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

3 Sec. 5-35. Examination; broker, ~~or~~ salesperson, and  
4 leasing agent.

5 (a) The Department shall authorize examinations at least  
6 annually and at such time and place as it may designate. The  
7 examination shall be of a character to give a fair test of the  
8 qualifications of the applicant to practice as a real estate  
9 salesperson, real estate broker, or leasing agent.

10 Applicants for examination as a real estate salesperson,  
11 real estate broker, or leasing agent shall be required to pay,  
12 either to the Department or the designated testing service, a  
13 fee covering the cost of the provision of the examination.  
14 Failure to appear for the examination on the scheduled date, at  
15 the time and place specified, after the applicant's application  
16 for examination has been received and acknowledged by the  
17 Department or the designated testing service, shall result in  
18 the forfeiture of the examination fee. The Department may  
19 employ consultants for the purposes of preparing and conducting  
20 examinations. ~~Every person who makes application for an~~  
21 ~~original license as a broker or salesperson shall personally~~  
22 ~~take and pass a written examination authorized by OBRE and~~  
23 ~~answer any questions that may be required to determine the good~~  
24 ~~moral character of the applicant and the applicant's competency~~  
25 ~~to transact the business of broker or salesperson, as the case~~  
26 ~~may be, in such a manner as to safeguard the interests of the~~

1 ~~public. In determining this competency, OBRE shall require~~  
2 ~~proof that the applicant has a good understanding and the~~  
3 ~~knowledge to conduct real estate brokerage and of the~~  
4 ~~provisions of this Act. The examination shall be prepared by an~~  
5 ~~independent testing service designated by OBRE, subject to the~~  
6 ~~approval of the examinations by the Board. The designated~~  
7 ~~independent testing service shall conduct the examinations at~~  
8 ~~such times and places as OBRE shall approve. In addition, every~~  
9 ~~person who desires to take the written examination shall make~~  
10 ~~application to do so to OBRE or to the designated independent~~  
11 ~~testing service in writing upon forms approved by OBRE. An~~  
12 applicant shall be eligible to take the examination only after  
13 successfully completing the education requirements, set forth  
14 in this Article ~~Section 5-30~~ of this Act, and attaining the  
15 minimum age specified in this Act. Each applicant shall be  
16 required to establish compliance with the eligibility  
17 requirements in the manner provided by the rules promulgated  
18 for the administration of this Act.

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

25 (c) If an applicant has failed an examination 3 times, the  
26 applicant must repeat the pre-license education required to sit



1 for the examination. For the purposes of this Section, the  
2 fourth attempt shall be the same as the first. Approved  
3 education, as prescribed by this Act for licensure as a  
4 salesperson or broker, shall be valid for 3 years after the  
5 date of satisfactory completion of the education.

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

7 (225 ILCS 454/5-40)

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

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

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

25 (b) When a licensee terminates his or her employment or

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

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

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

1 (225 ILCS 454/5-41 new)

2 Sec. 5-41. Change of address. A licensee shall, whenever  
3 requested, exhibit his or her license to any representative of  
4 the Department and shall notify the Department of the address  
5 or addresses and of every change of address where the licensee  
6 practices as a real estate broker, real estate salesperson, or  
7 leasing agent.

8 (225 ILCS 454/5-45)

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

10 Sec. 5-45. Offices.

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

20 (b) The sponsoring broker shall name a managing broker for  
21 each branch office and the sponsoring broker shall be  
22 responsible for supervising all managing brokers. The  
23 sponsoring broker shall notify the Department ~~OPRE~~ in writing  
24 of the name of all managing brokers of the sponsoring broker.

1 Any changes in managing brokers shall be reported to the  
2 Department ~~OBRE~~ in writing within 15 days of the change.  
3 Failure to do so shall subject the sponsoring broker to  
4 discipline under Section 20-20 of this Act.

5 (c) The sponsoring broker shall immediately notify the  
6 Department ~~OBRE~~ in writing of any opening, closing, or change  
7 in location of any principal or branch office.

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

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

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

3           (3) the broker has filed with the Department ~~OBRE~~  
4 written statements appointing the Commissioner to act as  
5 the broker's agent upon whom all judicial and other process  
6 or legal notices directed to the licensee may be served and  
7 agreeing to abide by all of the provisions of this Act with  
8 respect to his or her real estate activities within the  
9 State of Illinois and submitting to the jurisdiction of the  
10 Department ~~OBRE~~.

11           The statements under subdivision (3) of this Section shall  
12 be in form and substance the same as those statements required  
13 under Section 5-60 of this Act and shall operate to the same  
14 extent.

15           (e) Upon the loss of a managing broker who is not replaced  
16 by the sponsoring broker or in the event of the death or  
17 adjudicated disability of the sole proprietor of an office, a  
18 written request for authorization allowing the continued  
19 operation of the office may be submitted to the Department ~~OBRE~~  
20 within 15 days of the loss. The Department ~~OBRE~~ may issue a  
21 written authorization allowing the continued operation,  
22 provided that a licensed broker, or in the case of the death or  
23 adjudicated disability of a sole proprietor, the  
24 representative of the estate, assumes responsibility, in  
25 writing, for the operation of the office and agrees to  
26 personally supervise the operation of the office. No such

1 written authorization shall be valid for more than 60 days  
2 unless extended by the department ~~OBRE~~ for good cause shown and  
3 upon written request by the broker or representative.

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

5 (225 ILCS 454/5-50)

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

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

10 (a) The expiration date and renewal period for each license  
11 issued under this Act shall be set by rule. Except as otherwise  
12 provided in Section 5-55 of this Act, the holder of a license  
13 may renew the license within 90 days preceding the expiration  
14 date thereof by paying the fees specified by rule. Notice of  
15 renewal for all sponsored licensees shall be sent to the  
16 sponsoring broker at the sponsoring broker's address of record.

17 Upon written request from the sponsoring broker, the Department  
18 ~~OBRE~~ shall prepare and mail to the sponsoring broker a listing  
19 of licensees under this Act who, according to the records of  
20 the Department ~~OBRE~~, are sponsored by that broker. Every  
21 licensee associated with or employed by a broker whose license  
22 is revoked, suspended, terminated, or expired shall be  
23 considered as inoperative until such time as the sponsoring  
24 broker's license is reinstated or renewed, or the licensee  
25 changes employment as set forth in subsection (c) of Section

1 5-40 of this Act.

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

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

24 (d) Any broker or salesperson whose license under this Act  
25 has expired shall be eligible to renew the license for a period  
26 of 2 years following the expiration date, provided the broker

1 or salesperson pays the fees as prescribed by rule and complete  
2 continuing education and other requirements provided by for  
3 under the Act or by rule. A broker or salesperson whose license  
4 has been expired for more than 2 years shall be required to  
5 meet the requirements for a new license.

6 (e) Notwithstanding any other provisions of this Act to the  
7 contrary, any broker or salesperson whose license under this  
8 Act has expired is eligible to renew the license without paying  
9 any lapsed renewal fees or reinstatement fee, provided that the  
10 license expired while the broker or salesperson was:

11 (1) on active duty with the United States Army, United  
12 States Navy, United States Marine Corps, United States Air  
13 Force, United States Coast Guard, or the State Militia  
14 called into the service or training of the United States;

15 (2) engaged in training or education under the  
16 supervision of the United States prior to induction into  
17 military service; or

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

20 A broker, salesperson, or leasing agent hall be eligible to  
21 renew a license under the provisions of this Section for a  
22 period of 2 years following the termination of the service,  
23 education, or training, provided that the termination was by  
24 other than dishonorable discharge and provided that the  
25 licensee furnishes the Department an affidavit specifying that  
26 the broker or salesperson has been so engaged and that the



1 service, education, or training has been so terminated.

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

3 (225 ILCS 454/5-60)

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

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

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

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

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

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

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

25 (5) the broker completes a course of education and

1 passes a test on Illinois specific real estate brokerage  
2 laws; and

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

5 (b) A nonresident salesperson employed by or associated  
6 with a nonresident broker holding a broker's license in this  
7 State pursuant to this Section may, in the discretion of the  
8 Department ~~OBRE~~, be issued a nonresident salesperson's license  
9 under the nonresident broker provided all of the following  
10 conditions are met:

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

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

15 (3) the salesperson completes a course of education and  
16 passes a test on Illinois specific real estate brokerage  
17 laws; and

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

20 The nonresident broker with whom the salesperson is  
21 associated shall comply with the provisions of this Act and  
22 issue the salesperson a sponsor card upon the form provided by  
23 the Department ~~OBRE~~.

24 (c) As a condition precedent to the issuance of a license  
25 to a nonresident broker or salesperson, the broker or  
26 salesperson shall agree in writing to abide by all the

1 provisions of this Act with respect to his or her real estate  
2 activities within the State of Illinois and submit to the  
3 jurisdiction of the Department ~~OBRE~~ as provided in this Act.  
4 The agreement shall be filed with the Department ~~OBRE~~ and shall  
5 remain in force for so long as the nonresident broker or  
6 salesperson is licensed by this State and thereafter with  
7 respect to acts or omissions committed while licensed as a  
8 broker or salesperson in this State.

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

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

24 (f) Prior to the issuance of a license to a nonresident  
25 broker or salesperson, the broker or salesperson shall file  
26 with the Department ~~OBRE~~ a designation in writing that appoints

1 the Commissioner to act as his or her agent upon whom all  
2 judicial and other process or legal notices directed to the  
3 broker or salesperson may be served. Service upon the agent so  
4 designated shall be equivalent to personal service upon the  
5 licensee. Copies of the appointment, certified by the  
6 Commissioner, shall be deemed sufficient evidence thereof and  
7 shall be admitted in evidence with the same force and effect as  
8 the original thereof might be admitted. In the written  
9 designation, the broker or salesperson shall agree that any  
10 lawful process against the licensee that is served upon the  
11 agent shall be of the same legal force and validity as if  
12 served upon the licensee and that the authority shall continue  
13 in force so long as any liability remains outstanding in this  
14 State. Upon the receipt of any process or notice, the  
15 Commissioner shall forthwith mail a copy of the same by  
16 certified mail to the last known business address of the  
17 licensee.

18 (g) Any person holding a valid license under this Section  
19 shall be eligible to obtain a resident broker's or  
20 salesperson's license without examination should that person  
21 change their state of domicile to Illinois and that person  
22 otherwise meets the qualifications or licensure under this Act.

23 (Source: P.A. 91-245, eff. 12-31-99; 91-702, eff. 5-12-00.)

24 (225 ILCS 454/5-65)

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

1           Sec. 5-65. Fees. The Department ~~OBRE~~ shall provide by rule  
2 for fees to be paid by applicants and licensees to cover the  
3 reasonable costs of the Department ~~OBRE~~ in administering and  
4 enforcing the provisions of this Act. The Department ~~OBRE~~ may  
5 also provide by rule for general fees to cover the reasonable  
6 expenses of carrying out other functions and responsibilities  
7 under this Act.

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

9           (225 ILCS 454/5-70)

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

11          Sec. 5-70. Continuing education requirement; broker or  
12 salesperson.

13          (a) The requirements of this Section apply to all  
14 licensees.

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

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

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

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

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

2 ~~OBRE~~; or

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

5 (c) A person who is issued an initial license as a real  
6 estate salesperson less than 90 days ~~one year~~ prior to the  
7 expiration date of that license shall not be required to  
8 complete continuing education as a condition of license  
9 renewal. A person who is issued an initial license as a real  
10 estate broker less than 90 days ~~one year~~ prior to the  
11 expiration date of that license ~~and who has not been licensed~~  
12 ~~as a real estate salesperson during the pre-renewal period~~  
13 shall not be required to complete the broker management  
14 continuing education as a condition of license renewal. The  
15 changes to this subsection made by this amendatory Act of the  
16 95th General Assembly apply on and after May 1, 2009. ~~A person~~  
17 ~~receiving an initial license as a real estate broker during the~~  
18 ~~90 days before the broker renewal date shall not be required to~~  
19 ~~complete the broker management continuing education course~~  
20 ~~provided for in subsection (b) of this Section as a condition~~  
21 ~~of initial license renewal.~~

22 (d) The continuing education requirement for salespersons  
23 and brokers shall consist of a core curriculum and an elective  
24 curriculum, to be established by the Advisory Council. In  
25 meeting the continuing education requirements of this Act, at  
26 least 3 hours per year or their equivalent shall be required to

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

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

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



1 (11) real estate financing.

2 (f) In lieu of credit for those courses listed in  
3 subsection (e) of this Section, credit may be earned for  
4 serving as a licensed instructor in an approved course of  
5 continuing education. The amount of credit earned for teaching  
6 a course shall be the amount of continuing education credit for  
7 which the course is approved for licensees taking the course.

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

10 (h) A broker or salesperson may earn credit for a specific  
11 continuing education course only once during the prerenewal  
12 period.

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

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

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

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

2 (225 ILCS 454/5-80)

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

4 Sec. 5-80. Evidence of compliance with continuing  
5 education requirements.

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

12 (b) The Department ~~OBRE~~ may require additional evidence  
13 demonstrating compliance with the continuing education  
14 requirements. The renewal applicant shall retain and produce  
15 the evidence of compliance upon request of the Department ~~OBRE~~.

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

17 (225 ILCS 454/5-85)

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

19 Sec. 5-85. Offerings not meeting continuing education  
20 requirements. The following offerings do not meet the  
21 continuing education requirements:

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

24 (2) Offerings in mechanical office and business skills

1 such as typing, speed reading, memory improvement,  
2 advertising, or psychology of sales.

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

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

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

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

13 (225 ILCS 454/15-65)

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

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

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

23 (225 ILCS 454/20-5)

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

1           Sec. 20-5. Index of decisions. The Department ~~OBRE~~ shall  
2 maintain an index of formal decisions regarding the issuance,  
3 refusal to issue, renewal, refusal to renew, revocation, and  
4 suspension of licenses and probationary or other disciplinary  
5 action taken under this Act on or after December 31, 1999. The  
6 decisions shall be indexed according to the Sections of  
7 statutes and the administrative rules, if any, that are the  
8 basis for the decision. The index shall be available to the  
9 public during regular business hours.

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

11           (225 ILCS 454/20-10)

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

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

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

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

1 (c) The civil penalty ~~fine~~ shall be paid within 60 days  
2 after the effective date of the order imposing the civil  
3 penalty ~~fine~~. The order shall constitute a judgement and may be  
4 filed and execution had thereon in the same manner from any  
5 court of record.

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

7 (225 ILCS 454/20-20)

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

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

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

19 (1) Fraud or misrepresentation in applying for, or  
20 procuring, a license under this Act or in connection with  
21 applying for renewal of a license under this Act. ~~(a) When~~  
22 the applicant or licensee has, by false or fraudulent  
23 representation, obtained or sought to obtain a license.

24 (2) The conviction of, plea of guilty or plea of nolo  
25 contendere to a felony; or a misdemeanor, ~~(b) When the~~

1 ~~applicant or licensee has been convicted of any crime,~~ an  
2 essential element of which is dishonesty or fraud or  
3 larceny, embezzlement, or obtaining money, property, or  
4 credit by false pretenses or by means of a confidence game,  
5 in ~~has been convicted in this or another state of a crime~~  
6 ~~that is a felony under the laws of this State, or any other~~  
7 ~~jurisdiction has been convicted of a felony in a federal~~  
8 ~~court.~~

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

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

22 (5) Disciplinary action of another State or  
23 jurisdiction against the license or other authorization to  
24 practice as a broker, salesperson, or leasing agent ~~(e)~~  
25 ~~Discipline of a licensee by another state, the District of~~  
26 ~~Columbia, a territory, a foreign nation, a governmental~~

1 ~~agency, or any other entity authorized to impose discipline~~  
2 if at least one of the grounds for that discipline is the  
3 same as or the equivalent of one of the grounds for  
4 discipline set forth in this Act. A certified copy of the  
5 record of the action by the other state or jurisdiction  
6 shall be prima facie evidence thereof. ~~, in which case the~~  
7 ~~only issue will be whether one of the grounds for that~~  
8 ~~discipline is the same or equivalent to one of the grounds~~  
9 ~~for discipline under this Act.~~

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

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

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

25 (9) ~~(1)~~ Making any substantial misrepresentation or  
26 untruthful advertising.

1           (10) ~~(2)~~ Making any false promises of a character  
2 likely to influence, persuade, or induce.

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

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

10          (13) ~~(5)~~ Acting for more than one party in a  
11 transaction without providing written notice to all  
12 parties for whom the licensee acts.

13          (14) ~~(6)~~ Representing or attempting to represent a  
14 broker other than the sponsoring broker.

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

18          (16) ~~(8)~~ Failure to maintain and deposit in a special  
19 account, separate and apart from personal and other  
20 business accounts, all escrow moneys belonging to others  
21 entrusted to a licensee while acting as a real estate  
22 broker, escrow agent, or temporary custodian of the funds  
23 of others or failure to maintain all escrow moneys on  
24 deposit in the account until the transactions are  
25 consummated or terminated, except to the extent that the  
26 moneys, or any part thereof, shall be disbursed prior to



1 the consummation or termination in accordance with (i) the  
2 written direction of the principals to the transaction or  
3 their duly authorized agents, (ii) directions providing  
4 for the release, payment, or distribution of escrow moneys  
5 contained in any written contract signed by the principals  
6 to the transaction or their duly authorized agents, or  
7 (iii) pursuant to an order of a court of competent  
8 jurisdiction. The account shall be noninterest bearing,  
9 unless the character of the deposit is such that payment of  
10 interest thereon is otherwise required by law or unless the  
11 principals to the transaction specifically require, in  
12 writing, that the deposit be placed in an interest bearing  
13 account.

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

20 (18) ~~(10)~~ Failing to furnish copies upon request of all  
21 documents relating to a real estate transaction to all  
22 parties executing them.

23 (19) ~~(11)~~ Failure of a sponsoring broker to timely  
24 provide information, sponsor cards, or termination of  
25 licenses to the Department ~~OBRE~~.

26 (20) ~~(12)~~ Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,  
2 defraud, or harm the public.

3 (21) ~~(13)~~ Commingling the money or property of others  
4 with his or her own money or property.

5 (22) ~~(14)~~ Employing any person on a purely temporary or  
6 single deal basis as a means of evading the law regarding  
7 payment of commission to nonlicensees on some contemplated  
8 transactions.

9 (23) ~~(15)~~ Permitting the use of his or her license as a  
10 broker to enable a salesperson or unlicensed person to  
11 operate a real estate business without actual  
12 participation therein and control thereof by the broker.

13 (24) ~~(16)~~ Any other conduct, whether of the same or a  
14 different character from that specified in this Section,  
15 that constitutes dishonest dealing.

16 (25) ~~(17)~~ Displaying a "for rent" or "for sale" sign on  
17 any property without the written consent of an owner or his  
18 or her duly authorized agent or advertising by any means  
19 that any property is for sale or for rent without the  
20 written consent of the owner or his or her authorized  
21 agent.

22 (26) Failure ~~(18)~~ ~~Failing~~ to provide information  
23 requested by the Department ~~OBRE~~, within 30 days of the  
24 request, either as the result of a formal or informal  
25 complaint to the Department ~~OBRE~~ or as a result of a random  
26 audit conducted by the Department ~~OBRE~~, which would

1 indicate a violation of this Act.

2 (27) ~~(19)~~ Advertising by means of a blind  
3 advertisement, except as otherwise permitted in Section  
4 10-30 of this Act.

5 (28) ~~(20)~~ Offering guaranteed sales plans, as defined  
6 in clause (A) of this subdivision (28) ~~(20)~~, except to the  
7 extent hereinafter set forth:

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

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

20 (C) A licensee offering a guaranteed sales plan  
21 shall provide to the party to whom the plan is offered  
22 evidence of sufficient financial resources to satisfy  
23 the commitment to purchase undertaken by the broker in  
24 the plan.

25 (D) Any licensee offering a guaranteed sales plan  
26 shall undertake to market the property of the seller

1 subject to the plan in the same manner in which the  
2 broker would market any other property, unless the  
3 agreement with the seller provides otherwise.

4 (E) Any licensee who fails to perform on a  
5 guaranteed sales plan in strict accordance with its  
6 terms shall be subject to all the penalties provided in  
7 this Act for violations thereof and, in addition, shall  
8 be subject to a civil fine payable to the party injured  
9 by the default in an amount of up to \$25,000.

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

19 (30) ~~(22)~~ Engaging in any act that constitutes a  
20 violation of any provision of Article 3 of the Illinois  
21 Human Rights Act, whether or not a complaint has been filed  
22 with or adjudicated by the Human Rights Commission.

23 (31) ~~(23)~~ Inducing any party to a contract of sale or  
24 lease or brokerage agreement to break the contract of sale  
25 or lease or brokerage agreement for the purpose of  
26 substituting, in lieu thereof, a new contract for sale or

1 lease or brokerage agreement with a third party.

2 (32) ~~(24)~~ Negotiating a sale, exchange, or lease of  
3 real estate directly with any person if the licensee knows  
4 that the person has a written exclusive brokerage agreement  
5 with another broker, unless specifically authorized by  
6 that broker.

7 (33) ~~(25)~~ When a licensee is also an attorney, acting  
8 as the attorney for either the buyer or the seller in the  
9 same transaction in which the licensee is acting or has  
10 acted as a broker or salesperson.

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

24 (35) ~~(27)~~ Disregarding or violating any provision of  
25 the Land Sales Registration Act of 1989, the Illinois Real  
26 Estate Time-Share Act, or the published rules promulgated

1 by the Department ~~OBRE~~ to enforce those Acts.

2 (36) ~~(28)~~ Violating the terms of a disciplinary order  
3 issued by the Department ~~OBRE~~.

4 (37) ~~(29)~~ Paying compensation in violation of Article  
5 10 of this Act.

6 (38) ~~(30)~~ Requiring a party to a transaction who is not  
7 a client of the licensee to allow the licensee to retain a  
8 portion of the escrow moneys for payment of the licensee's  
9 commission or expenses as a condition for release of the  
10 escrow moneys to that party.

11 (39) ~~(31)~~ Disregarding or violating any provision of  
12 this Act or the published rules promulgated by the  
13 Department ~~OBRE~~ to enforce this Act or aiding or abetting  
14 any individual, partnership, registered limited liability  
15 partnership, limited liability company, or corporation in  
16 disregarding any provision of this Act or the published  
17 rules promulgated by the Department ~~OBRE~~ to enforce this  
18 Act.

19 (40) ~~(32)~~ Failing to provide the minimum services  
20 required by Section 15-75 of this Act when acting under an  
21 exclusive brokerage agreement.

22 (41) Habitual or excessive use of or addiction to  
23 alcohol, narcotics, stimulants, or any other chemical  
24 agent or drug that results in a real estate broker's, real  
25 estate salesperson's, or leasing agent's inability to  
26 practice with reasonable skill or safety.

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

20       If the Department or Board finds an individual unable to  
21 practice because of the reasons set forth in this subsection  
22 (b), the Department or Board may require that individual to  
23 submit to care, counseling, or treatment by physicians approved  
24 or designated by the Department or Board as a condition, term,  
25 or restriction for continued, reinstated, or renewed licensure  
26 to practice; or, in lieu of care, counseling, or treatment, the

1 Department may file, or the Board may recommend to the  
2 Department to file, a complaint to immediately suspend, revoke,  
3 or otherwise discipline the license of the individual. An  
4 individual whose license was granted, continued, reinstated,  
5 renewed, disciplined, or supervised subject to such terms,  
6 conditions, or restrictions, and who fails to comply with such  
7 terms, conditions, or restrictions, shall be referred to the  
8 Secretary for a determination as to whether the individual  
9 shall have his or her license suspended immediately, pending a  
10 hearing by the Department.

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

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

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



1 (225 ILCS 454/20-21 new)

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

3 Sec. 20-21. Injunctions; criminal offenses; cease and  
4 desist order.

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

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

1        (c) Other than as provided in Section 5-20 of this Act, any  
2        licensed real estate broker, real estate salesperson, leasing  
3        agent, interested party, or person injured thereby may, in  
4        addition to the Secretary, petition for relief as provided for  
5        in subsection (a) of this Section against any person practicing  
6        as or holding himself or herself out to be a licensed real  
7        estate broker, real estate salesperson, or leasing agent who  
8        does not possess a valid and existing license issued by the  
9        Department under this Act.

10        (225 ILCS 454/20-22 new)

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

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

18        (225 ILCS 454/20-25)

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

20        Sec. 20-25. Returned checks; fees. Any person who delivers  
21        a check or other payment to the Department ~~OBRE~~ that is  
22        returned to the Department ~~OBRE~~ unpaid by the financial  
23        institution upon which it is drawn shall pay to the Department  
24        ~~OBRE~~, in addition to the amount already owed to the Department

1 ~~OBRE~~, a fee of \$50. The Department ~~OBRE~~ shall notify the person  
2 that payment of fees and fines shall be paid to the Department  
3 ~~OBRE~~ by certified check or money order within 30 calendar days  
4 of the notification. If, after the expiration of 30 days from  
5 the date of the notification, the person has failed to submit  
6 the necessary remittance, the Department ~~OBRE~~ shall  
7 automatically terminate the license or deny the application,  
8 without hearing. If, after termination or denial, the person  
9 seeks a license, he or she shall apply to the Department ~~OBRE~~  
10 for restoration or issuance of the license and pay all fees and  
11 fines due to the Department ~~OBRE~~. The Department ~~OBRE~~ may  
12 establish a fee for the processing of an application for  
13 restoration of a license to pay all expenses of processing this  
14 application. The Commissioner may waive the fees due under this  
15 Section in individual cases where the Commissioner finds that  
16 the fees would be unreasonable or unnecessarily burdensome.  
17 (Source: P.A. 91-245, eff. 12-31-99; 92-146, eff. 1-1-02.)

18 (225 ILCS 454/20-30)

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

20 Sec. 20-30. Standards of practice of leasing agents;  
21 disciplinary procedures. The Department ~~OBRE~~ may by rule, with  
22 the advice of the Board, prescribe standards of practice to be  
23 followed by licensed leasing agents. Standards of practice  
24 shall include without limitation acts or omissions that leasing  
25 agents are prohibited from engaging in, disciplinary

1 procedures, and penalties for violating provisions of this Act.  
2 Disciplinary procedures shall conform with disciplinary  
3 procedures for licensed real estate brokers and salespersons.  
4 Complaints shall be heard as provided for in this Act.  
5 (Source: P.A. 91-245, eff. 12-31-99.)

6 (225 ILCS 454/20-35)

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

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

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

16 (225 ILCS 454/20-40)

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

18 Sec. 20-40. Disciplinary action for educational loan  
19 defaults. The Department ~~OBRE~~ shall deny a license or renewal  
20 authorized by this Act to a person who has defaulted on an  
21 educational loan or scholarship provided or guaranteed by the  
22 Illinois Student Assistance Commission or any governmental  
23 agency of this State; however, the Department ~~OBRE~~ may issue a  
24 license or renewal if the person has established a satisfactory

1 repayment record as determined by the Illinois Student  
2 Assistance Commission or other appropriate governmental agency  
3 of this State. Additionally, a license issued by the Department  
4 ~~OBRE~~ may be suspended or revoked if the Commissioner, after the  
5 opportunity for a hearing under this Article, finds that the  
6 licensee has failed to make satisfactory repayment to the  
7 Illinois Student Assistance Commission for a delinquent or  
8 defaulted loan.

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

10 (225 ILCS 454/20-45)

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

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

1 of Healthcare and Family Services (formerly Department of  
2 Public Aid) has certified the licensee to be more than 30 days  
3 delinquent in the payment of child support unless the licensee  
4 has arranged for payment of past and current child support  
5 obligations in a manner satisfactory to the Department of  
6 Healthcare and Family Services (formerly Department of Public  
7 Aid). The Department ~~OBRE~~ may impose conditions, restrictions,  
8 or disciplinary action upon that renewal.

9 (Source: P.A. 91-245, eff. 12-31-99; revised 12-15-05.)

10 (225 ILCS 454/20-50)

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

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

1 in a timely manner, unless the administrative order is in the  
2 appeal process.

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

4 (225 ILCS 454/20-60)

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

6 Sec. 20-60. Hearing; investigation; notice; disciplinary  
7 consent order.

8 (a) The Department ~~OBRE~~ may conduct hearings through the  
9 Board or a duly appointed hearing officer on proceedings to  
10 suspend, revoke, or to refuse to issue or renew licenses of  
11 persons applying for licensure or licensed under this Act or to  
12 censure, reprimand, or impose a civil fine not to exceed  
13 \$25,000 upon any licensee hereunder and may revoke, suspend, or  
14 refuse to issue or renew these licenses or censure, reprimand,  
15 or impose a civil fine not to exceed \$25,000 upon any licensee  
16 hereunder.

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

25 (c) Prior to initiating any formal disciplinary

1 proceedings resulting from an investigation conducted pursuant  
2 to subsection (b) of this Section, that matter shall be  
3 reviewed by a subcommittee of the Board according to procedures  
4 established by rule. The subcommittee shall make a  
5 recommendation to the full Board as to the validity of the  
6 complaint and may recommend that the Board not proceed with  
7 formal disciplinary proceedings if the complaint is determined  
8 to be frivolous or without merit.

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

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

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

26 In case the person fails to file an answer after receiving



1 notice, his or her license may, in the discretion of the  
2 Department ~~OBRE~~, be suspended, revoked, or placed on  
3 probationary status, or the Department ~~OBRE~~ may take whatever  
4 disciplinary action deemed proper, including limiting the  
5 scope, nature, or extent of the person's practice or the  
6 imposition of a fine, without a hearing, if the act or acts  
7 charged constitute sufficient grounds for such action under  
8 this Act.

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

1 factors as the volume of cases pending, the nature and  
2 complexity of legal issues raised, the diligence of the party  
3 making the request, the availability of party's legal  
4 representative or witnesses, and the number of previous  
5 requests for continuance.

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

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

23 (h) Any circuit court or any judge thereof, upon the  
24 application of the accused person, complainant, the Department  
25 ~~OBRE~~, or the Board, may, by order entered, require the  
26 attendance of witnesses and the production of relevant books

1 and papers before the Board in any hearing relative to the  
2 application for or refusal, recall, suspension, or revocation  
3 of a license, and the court or judge may compel obedience to  
4 the court's or the judge's order by proceedings for contempt.

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

20 (j) The Board shall present to the Secretary ~~Commissioner~~  
21 its written report of its findings and recommendations. A copy  
22 of the report shall be served upon the accused, either  
23 personally or by certified mail as provided in this Act for the  
24 service of the citation. Within 20 days after the service, the  
25 accused may present to the Secretary ~~Commissioner~~ a motion in  
26 writing for a rehearing that shall specify the particular

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

1 (k) At any time after the suspension, temporary suspension,  
2 or revocation of any license, the Department ~~OBRE~~ may restore  
3 it to the accused without examination, upon the written  
4 recommendation of the Board.

5 (l) An order of revocation or suspension or a certified  
6 copy thereof, over the seal of OBRE and purporting to be signed  
7 by the Secretary ~~Commissioner~~, shall be prima facie proof that:

8 (1) The signature is the genuine signature of the  
9 Secretary ~~Commissioner~~.

10 (2) The Secretary ~~Commissioner~~ is duly appointed and  
11 qualified.

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

13 Such proof may be rebutted.

14 (m) Notwithstanding any provisions concerning the conduct  
15 of hearings and recommendations for disciplinary actions, the  
16 Department ~~OBRE~~ as directed by the Secretary ~~Commissioner~~ has  
17 the authority to negotiate agreements with licensees and  
18 applicants resulting in disciplinary consent orders. These  
19 consent orders may provide for any of the forms of discipline  
20 provided in this Act. These consent orders shall provide that  
21 they were not entered into as a result of any coercion by the  
22 Department ~~OBRE~~. Any such consent order shall be filed with the  
23 Secretary ~~Commissioner~~ along with the Board's recommendation  
24 and accepted or rejected by the Secretary ~~Commissioner~~ within  
25 60 days of the Board's recommendation.

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

1 (225 ILCS 454/20-65)

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

3 Sec. 20-65. Temporary suspension. The Secretary  
4 ~~Commissioner~~ may temporarily suspend the license of a licensee  
5 without a hearing, simultaneously with the institution of  
6 proceedings for a hearing provided for in Section 20-60 of this  
7 Act, if the Secretary ~~Commissioner~~ finds that the evidence  
8 indicates that the public interest, safety, or welfare  
9 imperatively requires emergency action. In the event that the  
10 Secretary ~~Commissioner~~ temporarily suspends the license  
11 without a hearing before the Board, a hearing shall be held  
12 within 30 days after the suspension has occurred. The suspended  
13 licensee may seek a continuance of the hearing during which the  
14 suspension shall remain in effect. The proceeding shall be  
15 concluded without appreciable delay.

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

17 (225 ILCS 454/20-75)

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

19 Sec. 20-75. Administrative Review Law; certification fee;  
20 summary report of final disciplinary actions. All final  
21 administrative decisions of the Department ~~OPRE~~ shall be  
22 subject to judicial review pursuant to the provisions of the  
23 Administrative Review Law and the rules adopted pursuant  
24 thereto. The term "administrative decision" is defined in

1 Section 3-101 of the Administrative Review Law. The Department  
2 ~~OBRE~~ shall not be required to certify any record or file any  
3 answer or otherwise appear unless the party filing the  
4 complaint pays to the Department ~~OBRE~~ the certification fee  
5 provided for by rule representing costs of the certification.  
6 Failure on the part of the plaintiff to make such a deposit  
7 shall be grounds for dismissal of the action. The Department  
8 ~~OBRE~~ shall prepare from time to time, but in no event less  
9 often than once every other month, a summary report of final  
10 disciplinary actions taken since the previous summary report.  
11 The summary report shall contain a brief description of the  
12 action that brought about the discipline and the final  
13 disciplinary action taken. The summary report shall be made  
14 available upon request.

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

16 (225 ILCS 454/20-85)

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

18 Sec. 20-85. Recovery from Real Estate Recovery Fund. The  
19 Department ~~OBRE~~ shall maintain a Real Estate Recovery Fund from  
20 which any person aggrieved by an act, representation,  
21 transaction, or conduct of a licensee or unlicensed employee of  
22 a licensee that is in violation of this Act or the rules  
23 promulgated pursuant thereto, constitutes embezzlement of  
24 money or property, or results in money or property being  
25 unlawfully obtained from any person by false pretenses,

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



1     apparently acting in such capacity and unless the aggrieved  
2     person has obtained a valid judgment as provided in Section  
3     20-90 of this Act. No person aggrieved by an act,  
4     representation, or transaction that is in violation of the  
5     Illinois Real Estate Time-Share Act or the Land Sales  
6     Registration Act of 1989 may recover from the Fund.

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

8             (225 ILCS 454/20-90)

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

10            Sec. 20-90. Collection from Real Estate Recovery Fund;  
11     procedure.

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

18            (b) When any aggrieved person commences action for a  
19     judgment that may result in collection from the Real Estate  
20     Recovery Fund, the aggrieved person must name as parties  
21     defendant to that action any and all individual real estate  
22     brokers, real estate salespersons, or their employees who  
23     allegedly committed or are responsible for acts or omissions  
24     giving rise to a right of recovery from the Real Estate  
25     Recovery Fund. Failure to name as parties defendant such

1 individual brokers, salespersons, or their employees shall  
2 preclude recovery from the Real Estate Recovery Fund of any  
3 portion of any judgment received in such an action. The  
4 aggrieved party may also name as additional parties defendant  
5 any corporations, limited liability companies, partnerships,  
6 registered limited liability partnership, or other business  
7 associations that may be responsible for acts giving rise to a  
8 right of recovery from the Real Estate Recovery Fund.

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

19 (d) When any aggrieved person commences action for a  
20 judgment that may result in collection from the Real Estate  
21 Recovery Fund, and the aggrieved person is unable to obtain  
22 legal and proper service upon the defendant under the  
23 provisions of Illinois law concerning service of process in  
24 civil actions, the aggrieved person may petition the court  
25 where the action to obtain judgment was begun for an order to  
26 allow service of legal process on the Commissioner. Service of

1 process on the Commissioner shall be taken and held in that  
2 court to be as valid and binding as if due service had been  
3 made upon the defendant. In case any process mentioned in this  
4 Section is served upon the Commissioner, the Commissioner shall  
5 forward a copy of the process by certified mail to the  
6 licensee's last address on record with the Department ~~OBRE~~. Any  
7 judgment obtained after service of process on the Commissioner  
8 under this Act shall apply to and be enforceable against the  
9 Real Estate Recovery Fund only. The Department ~~OBRE~~ may  
10 intervene in and defend any such action.

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

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

1 in all efforts to collect on the judgment.

2 (g) When any aggrieved person recovers a valid judgment in  
3 any court of competent jurisdiction against any licensee or an  
4 unlicensed employee of any broker, upon the grounds of fraud,  
5 misrepresentation, discrimination, or deceit, the aggrieved  
6 person may, upon the termination of all proceedings, including  
7 review and appeals in connection with the judgment, file a  
8 verified claim in the court in which the judgment was entered  
9 and, upon 30 days' written notice to the Department ~~OBRE~~, and  
10 to the person against whom the judgment was obtained, may apply  
11 to the court for an order directing payment out of the Real  
12 Estate Recovery Fund of the amount unpaid upon the judgment,  
13 not including interest on the judgment, and subject to the  
14 limitations stated in Section 20-85 of this Act. The aggrieved  
15 person must set out in that verified claim and at an  
16 evidentiary hearing to be held by the court upon the  
17 application the aggrieved party shall be required to show that  
18 the aggrieved person:

19 (1) Is not a spouse of the debtor or the personal  
20 representative of such spouse.

21 (2) Has complied with all the requirements of this  
22 Section.

23 (3) Has obtained a judgment stating the amount thereof  
24 and the amount owing thereon, not including interest  
25 thereon, at the date of the application.

26 (4) Has made all reasonable searches and inquiries to

1           ascertain whether the judgment debtor is possessed of real  
2           or personal property or other assets, liable to be sold or  
3           applied in satisfaction of the judgment.

4           (5) By such search has discovered no personal or real  
5           property or other assets liable to be sold or applied, or  
6           has discovered certain of them, describing them as owned by  
7           the judgment debtor and liable to be so applied and has  
8           taken all necessary action and proceedings for the  
9           realization thereof, and the amount thereby realized was  
10          insufficient to satisfy the judgment, stating the amount so  
11          realized and the balance remaining due on the judgment  
12          after application of the amount realized.

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

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

25          (h) The court shall make an order directed to the  
26          Department ~~OBRE~~ requiring payment from the Real Estate Recovery

1 Fund of whatever sum it finds to be payable upon the claim,  
2 pursuant to and in accordance with the limitations contained in  
3 Section 20-85 of this Act, if the court is satisfied, upon the  
4 hearing, of the truth of all matters required to be shown by  
5 the aggrieved person under subsection (g) of this Section and  
6 that the aggrieved person has fully pursued and exhausted all  
7 remedies available for recovering the amount awarded by the  
8 judgment of the court.

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

22 (j) If, at any time, the money deposited in the Real Estate  
23 Recovery Fund is insufficient to satisfy any duly authorized  
24 claim or portion thereof, the Department ~~OBRE~~ shall, when  
25 sufficient money has been deposited in the Real Estate Recovery  
26 Fund, satisfy such unpaid claims or portions thereof, in the

1 order that such claims or portions thereof were originally  
2 filed, plus accumulated interest at the rate prescribed in  
3 Section 12-109 of the Code of Civil Procedure.

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

5 (225 ILCS 454/20-95)

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

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

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

16 (225 ILCS 454/20-100)

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

18 Sec. 20-100. Subrogation of the Department ~~OBRE~~ to rights  
19 of judgment creditor. When, upon the order of the court, the  
20 Department ~~OBRE~~ has paid from the Real Estate Recovery Fund any  
21 sum to the judgment creditor, the Department ~~OBRE~~ shall be  
22 subrogated to all of the rights of the judgment creditor and  
23 the judgment creditor shall assign all rights, title, and  
24 interest in the judgment to the Department ~~OBRE~~ and any amount

1 and interest so recovered by the Department ~~OBRE~~ on the  
2 judgment shall be deposited in the Real Estate Recovery Fund.

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

4 (225 ILCS 454/20-110)

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

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

15 (225 ILCS 454/20-115)

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

17 Sec. 20-115. Time limit on action. No action may be taken  
18 by the Department ~~OBRE~~ against any person for violation of the  
19 terms of this Act or its rules unless the action is commenced  
20 within 5 years after the occurrence of the alleged violation.

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

22 (225 ILCS 454/25-5)

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



1           Sec. 25-5. The Department ~~OBRE~~; powers and duties. The  
2 Department ~~OBRE~~ shall exercise the powers and duties prescribed  
3 by the Civil Administrative Code of Illinois for the  
4 administration of licensing acts and shall exercise such other  
5 powers and duties as are prescribed by this Act. The Department  
6 ~~OBRE~~ may contract with third parties for services necessary for  
7 the proper administration of this Act.

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

9           (225 ILCS 454/25-10)

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

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

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

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

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

24           None of these members shall be a person who is licensed  
25 under this Act or a similar Act of another jurisdiction or who

1 ~~has a connection with the profession, the spouse of a person~~  
2 ~~licensed under this Act, or a person who has an ownership~~  
3 ~~interest in a real estate brokerage business.~~

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

1 per diem stipend in an amount to be determined by the  
2 Commissioner. Each member shall be paid his or her necessary  
3 expenses while engaged in the performance of his or her duties.  
4 Such compensation and expenses shall be paid out of the Real  
5 Estate License Administration Fund. The Commissioner shall  
6 consider the recommendations of the Board on questions  
7 involving standards of professional conduct, discipline, and  
8 examination of candidates under this Act. The Department ~~OBRE~~,  
9 after notifying and considering the recommendations of the  
10 Board, if any, may issue rules, consistent with the provisions  
11 of this Act, for the administration and enforcement thereof and  
12 may prescribe forms that shall be used in connection therewith.  
13 None of the functions, powers, or duties enumerated in Sections  
14 20-20 and 30-5 and subsections (a) and (j) of Section 20-60 of  
15 this Act shall be exercised by the Department ~~OBRE~~ except upon  
16 the action and report in writing of the Board.

17 A majority of the Board members shall constitute a quorum.  
18 A vacancy in the membership of the Board shall not impair the  
19 right of a quorum to exercise all of the rights and perform all  
20 of the duties of the Board.

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

22 (225 ILCS 454/25-13)

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

24 Sec. 25-13. Rules. The Department ~~OBRE~~, after notifying and  
25 considering the recommendations of the Board, if any, shall

1 adopt, promulgate, and issue any rules that may be necessary  
2 for the implementation and enforcement of this Act.

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

4 (225 ILCS 454/25-14)

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

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

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

17 (225 ILCS 454/25-15)

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

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

1 ~~Estate shall report to the Commissioner and shall~~ do the  
2 following:

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

5 (2) be the direct liaison between the Department ~~OBRE~~,  
6 the profession, and real estate organizations and  
7 associations;

8 (3) prepare and circulate to licensees any educational  
9 and informational material that the Department ~~OBRE~~ deems  
10 necessary for providing guidance or assistance to  
11 licensees;

12 (4) appoint any necessary committees to assist in the  
13 performance of the functions and duties of the Department  
14 ~~OBRE~~ under this Act; and

15 (5) subject to the administrative approval of the  
16 Secretary ~~Commissioner~~, supervise all real estate  
17 activities of the Department ~~OBRE~~.

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

1 In designating the Real Estate Coordinator, the Secretary  
2 ~~Director and Deputy Director of Real Estate, the Commissioner~~  
3 shall give due consideration to recommendations by members and  
4 organizations of the profession.

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

6 (225 ILCS 454/25-20)

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

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

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

11 (225 ILCS 454/25-25)

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

13 Sec. 25-25. Real Estate Research and Education Fund. A  
14 special fund to be known as the Real Estate Research and  
15 Education Fund is created and shall be held in trust in the  
16 State Treasury. Annually, on September 15th, the State  
17 Treasurer shall cause a transfer of \$125,000 to the Real Estate  
18 Research and Education Fund from the Real Estate License  
19 Administration Fund. The Real Estate Research and Education  
20 Fund shall be administered by the Department ~~OBRE~~. Money  
21 deposited in the Real Estate Research and Education Fund may be  
22 used for research and education at state institutions of higher  
23 education or other organizations for research and the  
24 advancement of education in the real estate industry. Of the

1 \$125,000 annually transferred into the Real Estate Research and  
2 Education Fund, \$15,000 shall be used to fund a scholarship  
3 program for persons of minority racial origin who wish to  
4 pursue a course of study in the field of real estate. For the  
5 purposes of this Section, "course of study" means a course or  
6 courses that are part of a program of courses in the field of  
7 real estate designed to further an individual's knowledge or  
8 expertise in the field of real estate. These courses shall  
9 include without limitation courses that a salesperson licensed  
10 under this Act must complete to qualify for a real estate  
11 broker's license, courses required to obtain the Graduate  
12 Realtors Institute designation, and any other courses or  
13 programs offered by accredited colleges, universities, or  
14 other institutions of higher education in Illinois. The  
15 scholarship program shall be administered by the Department  
16 ~~OBRE~~ or its designee. Moneys in the Real Estate Research and  
17 Education Fund may be invested and reinvested in the same  
18 manner as funds in the Real Estate Recovery Fund and all  
19 earnings, interest, and dividends received from such  
20 investments shall be deposited in the Real Estate Research and  
21 Education Fund and may be used for the same purposes as moneys  
22 transferred to the Real Estate Research and Education Fund.  
23 Moneys in the Real Estate Research and Education Fund may be  
24 transferred to the Professions Indirect Cost Fund as authorized  
25 under Section 2105-300 of the Department of Professional  
26 Regulation Law of the Civil Administrative Code of Illinois.

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

2 (225 ILCS 454/25-30)

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

4 Sec. 25-30. Real Estate License Administration Fund;  
5 audit. A special fund to be known as the Real Estate License  
6 Administration Fund is created in the State Treasury. All fees  
7 received by the Department ~~OBRE~~ under this Act shall be  
8 deposited in the Real Estate License Administration Fund. The  
9 moneys deposited in the Real Estate License Administration Fund  
10 shall be appropriated to the Department ~~OBRE~~ for expenses of  
11 the Department ~~OBRE~~ and the Board in the administration of this  
12 Act and for the administration of any Act administered by the  
13 Department ~~OBRE~~ providing revenue to this Fund. Moneys in the  
14 Real Estate License Administration Fund may be invested and  
15 reinvested in the same manner as funds in the Real Estate  
16 Recovery Fund. All earnings received from such investment shall  
17 be deposited in the Real Estate License Administration Fund and  
18 may be used for the same purposes as fees deposited in the Real  
19 Estate License Administration Fund. Moneys in the Real Estate  
20 License Administration Fund may be transferred to the  
21 Professions Indirect Cost Fund as authorized under Section  
22 2105-300 of the Department of Professional Regulation Law of  
23 the Civil Administrative Code of Illinois. Upon the completion  
24 of any audit of the Department ~~OBRE~~, as prescribed by the  
25 Illinois State Auditing Act, which includes an audit of the



1 Real Estate License Administration Fund, the Department ~~OBRE~~  
2 shall make the audit open to inspection by any interested  
3 person.

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

5 (225 ILCS 454/25-35)

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

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

1 other moneys deposited in the Real Estate License  
2 Administration Fund.

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

4 (225 ILCS 454/25-37)

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

6 Sec. 25-37. Real Estate Audit Fund; audit of special  
7 accounts; audit of fund.

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

19 (b) Upon receipt of a complaint or evidence by the  
20 Department ~~OBRE~~ sufficient to cause the Department ~~OBRE~~ to  
21 reasonably believe that funds required to be maintained in a  
22 special account by a broker have been misappropriated, the  
23 broker shall, within 30 days of written notice, submit to an  
24 audit of all special accounts. Such audit shall be performed by  
25 a licensed certified public accountant, shall result in a

1 written report by the accountant, and shall specifically refer  
2 to the escrow and record-keeping requirements of this Act and  
3 the rules adopted under this Act. If it is found, pursuant to  
4 an order issued by the Commissioner, that moneys required to be  
5 maintained in a special account by a broker were  
6 misappropriated, as further defined by rule, the broker shall  
7 reimburse the Department ~~OBRE~~, in addition to any other  
8 discipline or civil penalty imposed, for the cost of the audit  
9 performed pursuant to this Section. The Department ~~OBRE~~ may  
10 file in circuit court for a judgment to enforce the collection  
11 of the reimbursement of the cost of such audit. Any  
12 reimbursement collected by the Department ~~OBRE~~ shall be  
13 deposited into the Real Estate Audit Fund.

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

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

2 (225 ILCS 454/30-5)

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

4 Sec. 30-5. Licensing of pre-license schools, school  
5 branches, and instructors.

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

1 Disciplinary proceedings shall be conducted by the Board in the  
2 same manner as other disciplinary proceedings under this Act.

3 (b) All pre-license instructors must teach at least one  
4 course within the period of licensure or take an instructor  
5 training program approved by the Department ~~OBRE~~ in lieu  
6 thereof. A pre-license instructor may teach at more than one  
7 licensed pre-license school.

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

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

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

19 (225 ILCS 454/30-10)

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

21 Sec. 30-10. Advisory Council; powers and duties. There is  
22 created within the Department ~~OBRE~~ an Advisory Council to be  
23 comprised of 6 ~~7~~ members appointed by the Governor ~~for 4-year~~  
24 ~~staggered terms~~. The members' terms shall be 4 years or until a  
25 successor is appointed and the expiration of terms shall be

1 staggered as determined by the Governor. No member shall be  
2 reappointed to the Board for a term that would cause his or her  
3 continuous service on the Board to be longer than 12 years in a  
4 lifetime. No member shall serve more than 8 years in a  
5 lifetime. Three of the members shall be licensees who are  
6 current members of the Board, one member shall be a  
7 representative of an Illinois real estate trade organization  
8 who is not a member of the Board, one member shall be a  
9 representative of a licensed pre-license school or continuing  
10 education school, and one member shall be a representative of  
11 an institution of higher education that offers pre-license and  
12 continuing education courses. The Real Estate Coordinator  
13 Director shall serve as the chairman of the Advisory Council,  
14 ex officio, without vote. A majority of Advisory Council  
15 members shall constitute a quorum. A vacancy in the membership  
16 of the Advisory Council shall not impair the right of a quorum  
17 to exercise all the rights and perform all the duties of the  
18 Advisory Council. The Advisory Council shall recommend  
19 criteria for the licensing of pre-license schools, pre-license  
20 instructors, continuing education schools, and continuing  
21 education instructors; review applications for these licenses  
22 to determine if the applicants meet the qualifications for  
23 licensure established in this Act and by rule; approve  
24 pre-license school and continuing education curricula; and  
25 make recommendations to the Board regarding rules to be adopted  
26 for the administration of the education provisions of this Act.

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

2 (225 ILCS 454/30-15)

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

4 Sec. 30-15. Licensing of continuing education schools;  
5 approval of courses.

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

20 (b) The criteria for a continuing education license shall  
21 include the following:

22 (1) A sound financial base for establishing,  
23 promoting, and delivering the necessary courses. Budget  
24 planning for the School's courses should be clearly  
25 projected.

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

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

5           (4) Maintenance and availability of records of  
6 participation for licensees.

7           (5) The ability to provide each participant who  
8 successfully completes an approved program with a  
9 certificate of completion signed by the administrator of a  
10 licensed continuing education school on forms provided by  
11 the Department ~~OBRE~~.

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

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

17           (8) The continuing education school shall require a 70%  
18 passing grade for successful completion of any continuing  
19 education course.

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

23                   (A) appropriate credentials;

24                   (B) competence as a teacher;

25                   (C) knowledge of content area; and

26                   (D) qualification by experience.



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

3           (11) The continuing education school shall provide a  
4           proctor for each examination and shall be responsible for  
5           the conduct of the proctor. The duties and responsibilities  
6           of a proctor shall be established by the Department by  
7           rule.

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

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

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

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

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

24 (h) The Department ~~OBRE~~, upon the recommendation of the  
25 Advisory Council, may temporarily suspend a licensed  
26 continuing education school's approved courses without hearing

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

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

19 (225 ILCS 454/30-25)

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

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

22 (a) No person shall act as a core curriculum continuing  
23 education instructor at a continuing education school or branch  
24 without possessing a valid continuing education instructor  
25 license and satisfying any other criteria established by the

1 ~~Department by rule. Only persons approved by the Advisory~~  
2 ~~Council and in possession of a valid continuing education~~  
3 ~~instructor license issued by OBRE may instruct continuing~~  
4 ~~education courses.~~

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

23 (c) The Department ~~OBRE~~ may refuse to issue, suspend,  
24 revoke, or otherwise discipline a continuing education  
25 instructor for good cause. Disciplinary proceedings shall be  
26 conducted by the Board in the same manner as other disciplinary

1 proceedings under this Act. The term of a license for a  
2 continuing education instructor shall be 2 years and as  
3 established by rule. ~~All Continuing Education Instructors must~~  
4 ~~teach at least one course within the period of licensure or~~  
5 ~~take an instructor training program approved by OBRE in lieu~~  
6 ~~thereof.~~

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

8 (225 ILCS 454/35-5)

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

10 Sec. 35-5. Savings provisions.

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

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

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

1           (d) This Act does not affect any license, certificate,  
2 permit, or other form of licensure or authorization issued by  
3 the Office of Banks and Real Estate under the Real Estate  
4 License Act of 1983, and all such licenses, certificates,  
5 permits, or other form of licensure or authorization shall  
6 continue to be valid under the terms and conditions of this  
7 Act.

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

15           (f) This Act does not affect any discipline, suspension, or  
16 termination taken under the Real Estate License Act of 1983 and  
17 that discipline, suspension, or termination shall be continued  
18 under this Act.

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

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

1 (225 ILCS 454/5-10 rep.)

2 (225 ILCS 454/5-25 rep.)

3 (225 ILCS 454/5-30 rep.)

4 (225 ILCS 454/5-55 rep.)

5 (225 ILCS 454/20-80 rep.)

6 (225 ILCS 454/20-120 rep.)

7 Section 15. The Real Estate License Act of 2000 is amended  
8 by repealing Sections 5-10, 5-25, 5-30, 5-55, 20-80, and  
9 20-120.

10 Section 99. Effective date. This Act takes effect upon  
11 becoming law.

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