



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2339

Introduced 2/19/2009, by Rep. Angelo Saviano

SYNOPSIS AS INTRODUCED:

See Index

Amends the Land Sales Registration Act of 1999 and the Regulatory Sunset Act. Provides that the Secretary of Financial and Professional Regulation and the Department of Financial and Professional Regulation (instead of the Commissioner of Banks and Real Estate and the Office of Banks and Real Estate) shall administer the Act. Makes changes regarding: registration and exemption; fees; returned checks; penalties; discipline; investigations; reports; orders; suspensions and revocations; records of proceedings; and other matters. Amends the Regulatory Sunset Act by repealing the Land Sales Registration Act of 1999 on January 1, 2020 (instead of January 1, 2010). Effective immediately.

LRB096 08499 AJO 18619 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning civil law.

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 Section 4.20 and by adding Section 4.30 as follows:

6 (5 ILCS 80/4.20)

7 Sec. 4.20. Acts repealed on January 1, 2010 and December
8 31, 2010.

9 (a) The following Acts are repealed on January 1, 2010:

10 The Auction License Act.

11 The Illinois Architecture Practice Act of 1989.

12 The Illinois Landscape Architecture Act of 1989.

13 The Illinois Professional Land Surveyor Act of 1989.

14 ~~The Land Sales Registration Act of 1999.~~

15 The Orthotics, Prosthetics, and Pedorthics Practice
16 Act.

17 The Perfusionist Practice Act.

18 The Professional Engineering Practice Act of 1989.

19 The Real Estate License Act of 2000.

20 The Structural Engineering Practice Act of 1989.

21 (b) The following Act is repealed on December 31, 2010:

22 The Medical Practice Act of 1987.

23 (Source: P.A. 95-1018, eff. 12-18-08.)

1 (5 ILCS 80/4.30 new)

2 Sec. 4.30. Act repealed on January 1, 2020. The following
3 Act is repealed on January 1, 2020:

4 The Land Sales Registration Act of 1999.

5 Section 10. The Land Sales Registration Act of 1999 is
6 amended by changing Sections 1-10, 1-15, 5-5, 5-10, 5-15, 5-20,
7 5-25, 10-15, 10-20, 10-30, 15-5, 15-10, 15-15, 15-20, 15-25,
8 15-30, 15-35, 15-40, 15-45, 15-50, 15-55, 15-60, 15-65, 15-70,
9 15-75, 20-5, 20-10, 20-15, 20-20, and 20-25 and by adding
10 Sections 5-23 and 15-7 as follows:

11 (765 ILCS 86/1-10)

12 (Section scheduled to be repealed on January 1, 2010)

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

15 "Blanket encumbrance" means a trust deed, mortgage,
16 mechanics lien, or any other lien or financial encumbrance
17 securing or evidencing money debt and affecting land to be
18 subdivided or affecting more than one lot or parcel of
19 subdivided land; or an agreement affecting more than one such
20 lot or parcel by which the subdivider holds the subdivision
21 under an option, contract to purchase, or trust agreement.
22 Taxes and assessments levied by public authority are not an
23 encumbrance under this Act.

1 ~~"Commissioner" means the Commissioner of Banks and Real~~
2 ~~Estate or a natural person authorized by the Commissioner, the~~
3 ~~Office of Banks and Real Estate Act, or this Act to act in the~~
4 ~~Commissioner's stead.~~

5 "Common promotional plan" means a plan, undertaken by a
6 single developer or a group of developers acting in concert, to
7 offer lots for sale or lease. Where land is offered for sale by
8 a developer or group of developers acting in concert and the
9 land is contiguous or is known, designated, or advertised as a
10 common unit or by a common name, the land is presumed, without
11 regard to the number of lots covered by each individual
12 offering, to be offered for sale or lease as part of a common
13 promotional plan.

14 "Department" means the Illinois Department of Financial
15 and Professional Regulation.

16 "Offer" includes every inducement, solicitation, or
17 attempt to encourage a person to acquire an interest in a
18 subdivision or subdivided land, if undertaken for gain or
19 profit.

20 "Person" means an individual, corporation, government or
21 governmental subdivision or agency, business trust, estate,
22 trust, partnership, unincorporated association, 2 or more of
23 any of the foregoing having a joint or common interest, or any
24 other legal or commercial entity.

25 "Sale" includes a sale, lease, assignment, or award by
26 lottery, or any offer or solicitation of an offer to do any of

1 the foregoing, concerning a subdivision or any part of a
2 subdivision, if undertaken for gain or profit.

3 "Secretary" means the Secretary of Financial and
4 Professional Regulation.

5 "Subdivided land" and "subdivision" mean improved or
6 unimproved lands located outside the State of Illinois, divided
7 or proposed to be divided into 25 or more lots or parcels, and
8 also include any land, whether contiguous or not, if 25 or more
9 lots, parcels, units or interests are offered as a part of a
10 common promotional plan of advertising and sale.

11 (Source: P.A. 91-338, eff. 12-30-99.)

12 (765 ILCS 86/1-15)

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

14 Sec. 1-15. Powers and duties of the Department ~~Office of~~
15 ~~Banks and Real Estate~~. The Department ~~Office of Banks and Real~~
16 ~~Estate~~ shall exercise the powers and duties established by this
17 Act. The Secretary ~~Commissioner~~ may adopt rules consistent with
18 the provisions of this Act for its administration and
19 enforcement and may prescribe forms that shall be issued in
20 connection with this Act. The Department ~~Office of Banks and~~
21 ~~Real Estate~~ shall issue a certificate of registration to any
22 person who meets the qualifications set forth in this Act.

23 (Source: P.A. 91-338, eff. 12-30-99.)

24 (765 ILCS 86/5-5)

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

2 Sec. 5-5. Registration requirement; exemptions. It is
3 unlawful for any person to engage in the business of selling
4 land that is located outside the State of Illinois to any
5 individual located in Illinois without a certificate of
6 registration issued by the Department ~~Office of Banks and Real~~
7 ~~Estate~~ pursuant to this Act. Unless the method of sale is
8 adopted for the purpose of evasion of this Act, the provisions
9 of this Act do not apply to an offer or disposition of an
10 interest in land:

11 (1) by a purchaser of subdivided lands for the
12 purchaser's own account in a single or isolated
13 transaction;

14 (2) if fewer than 25 separate lots, parcels, units or
15 interests in subdivided lands are offered by a person;

16 (3) on which there is a commercial or industrial
17 building, shopping center, house, apartment house,
18 condominium structure, or town house, or as to which there
19 is a legal obligation on the part of the seller to
20 construct such a building within 2 years from the date of
21 disposition;

22 (4) that is sold for industrial, commercial, or
23 institutional purposes;

24 (5) that consists of cemetery lots or interests;

25 (6) that consists of a subdivision as to which the plan
26 of sale is to dispose of it to 10 or fewer persons; or

1 (7) in lots or parcels of 20 or more acres,
2 unconditionally, or of 10 or more acres if there is free
3 and ready access leading to county-maintained roads.

4 (Source: P.A. 91-338, eff. 12-30-99.)

5 (765 ILCS 86/5-10)

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

7 Sec. 5-10. Application for registration.

8 (a) Before subdivided lands are offered for sale, the
9 subdivider or the subdivider's agent shall file with the
10 ~~Department Office of Banks and Real Estate~~ an application on
11 forms supplied by the ~~Department Office of Banks and Real~~
12 ~~Estate~~. A registration fee shall accompany the application. The
13 application shall contain all of the following information:

14 (1) The name and address of the fee title owner of the
15 subdivided lands.

16 (2) The name and address of the subdivider.

17 (3) The name and address of an agent of the subdivider
18 in Illinois authorized to accept service of process on
19 behalf of the subdivider.

20 (4) The legal description and acreage of the lands,
21 together with a map showing the layout as recorded or
22 proposed and the relation of the lands to existing streets
23 or roads, waterways, schools, churches, shopping centers,
24 and local bus and rail transportation, with a statement of
25 distances to each.

1 (5) A true statement as to title to the subdivided
2 land, including all financial encumbrances and unpaid
3 taxes thereon.

4 (6) If subject property is in a land trust, a true
5 statement of the names and addresses of all parties with a
6 beneficial interest in the trust.

7 (7) A true statement of the terms and conditions by
8 which it is intended the subdivided land will be sold,
9 together with copies of any and all forms of contract or
10 conveyance intended to be used. If a language other than
11 English was used in advertising the property or during the
12 sales presentation, translations, in that language, of the
13 Illinois Public Property Report, any contract or lien, and
14 any note shall be provided to the purchaser before the
15 purchaser executes the contract. A receipt for these
16 translations shall be obtained and a copy of the receipt
17 shall be kept available in this State and subject to
18 inspection by the Department ~~Office of Banks and Real~~
19 ~~Estate~~ for 3 years from the date of the receipt.

20 (8) A true statement of provision for sewage disposal
21 and public utilities, if any, in the proposed or existing
22 subdivision, including water, electricity, gas, and
23 telephone facilities.

24 (9) A correct reference to applicable zoning
25 ordinances and regulations.

26 (10) Certified financial statements of the subdivider.

1 (11) A proposed public property report, suitable for
2 distribution to any proposed purchaser if a certificate of
3 registration is issued, which shall contain the following
4 information:

5 (A) the name and principal address of the
6 subdivider;

7 (B) a general description of the subdivided lands,
8 stating the total number of lots, parcels, units, or
9 interests in the offering;

10 (C) the significant terms of any encumbrances,
11 easements, liens, and restrictions, including zoning
12 and other regulations affecting the subdivided lands
13 and each lot or unit, and a statement of all existing
14 taxes and existing or proposed special taxes or
15 assessments that affect the subdivided lands;

16 (D) a statement of the use for which the property
17 is offered;

18 (E) information concerning improvements, including
19 streets, water supply, levees, drainage control
20 systems, irrigation systems, sewage disposal
21 facilities, and customary utilities, and the estimated
22 costs, date of completion, and responsibility for
23 construction and maintenance of existing and proposed
24 improvements that are referred to in connection with
25 the offering or disposition of any interest in
26 subdivided lands;

1 (F) a statement that certified financial
2 statements are available upon request; and

3 (G) such additional information consistent with
4 this Act which may be required by the Department ~~Office~~
5 ~~of Banks and Real Estate~~ to assure full and fair
6 disclosure to prospective purchasers.

7 (b) The subdivider shall report all material changes with
8 respect to subdivided lands registered for sale under this Act,
9 and the Department ~~Office of Banks and Real Estate~~ may require
10 that the public property report be amended to reflect such
11 material change. In the event the subdivider wishes to update
12 the public property report, the subdivider may do so upon
13 proper application to the Department ~~Office of Banks and Real~~
14 ~~Estate~~.

15 (c) If the subdivider registers additional subdivided
16 lands to be offered for sale, the subdivider may consolidate
17 the subsequent registration with any earlier registration
18 offering subdivided lands for sale under the same promotional
19 plan, and the public property report shall be amended to
20 include the additional subdivided lands so registered.

21 (d) The Department ~~Office of Banks and Real Estate~~ shall,
22 at the time the application is submitted or from time to time
23 thereafter, require the subdivider to furnish financial
24 assurances, in the form of a performance bond, a surety bond,
25 or an irrevocable letter of credit in the amount and subject to
26 terms and requirements approved by the Department ~~Office of~~

1 ~~Banks and Real Estate~~, for the purpose of protecting purchasers
2 of lots in the subdivision to ensure that the improvements will
3 be constructed and maintained in the manner represented by the
4 subdivider. The Department ~~Office of Banks and Real Estate~~ may
5 accept evidence that such assurances have been furnished to a
6 foreign state, or a county or municipality within such state,
7 in fulfillment of this requirement.

8 (Source: P.A. 91-338, eff. 12-30-99.)

9 (765 ILCS 86/5-15)

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

11 Sec. 5-15. Issuance ~~Notice of filing; issuance~~ of
12 certificate; exemption; renewal.

13 (a) The Department ~~Upon receipt of the application for~~
14 ~~registration in proper form, the Office of Banks and Real~~
15 ~~Estate shall issue a notice of filing to the applicant. Within~~
16 ~~60 days from the date of the notice of filing, the Office of~~
17 ~~Banks and Real Estate~~ shall enter an order registering the
18 subdivided lands or rejecting the registration. ~~If no order of~~
19 ~~rejection is entered~~ within 60 days from the date of receipt
20 ~~notice of filing, the land shall be deemed registered~~ unless
21 the applicant has consented in writing to a delay.

22 (b) If the Department ~~Office of Banks and Real Estate~~
23 affirmatively determines, upon inquiry and examination, that
24 the requirements of this Act have been met, it shall issue a
25 certificate of registration ~~registering the subdivided lands~~

1 and shall approve the form of the public property report.

2 If the Department affirmatively determines, upon inquiry
3 and examination, the exemption requirements of this Act have
4 been met, it shall issue a written approval.

5 (c) If the Department ~~Office of Banks and Real Estate~~
6 determines, upon inquiry and examination, that any of the
7 requirements of this Act have not been met, it shall notify the
8 applicant that the application for registration or exemption
9 must be corrected in the particulars specified within 15 days.
10 If the requirements are not met within the time allowed, the
11 Department ~~Office of Banks and Real Estate~~ shall enter an order
12 rejecting the registration or exemption, which shall include
13 the findings of fact upon which the order is based. The order
14 rejecting the registration shall not become effective for 20
15 days, during which time the applicant may petition for
16 reconsideration and shall be entitled to a hearing.

17 (d) The Department ~~Office of Banks and Real Estate~~ may
18 adopt rules authorizing the subdivider or the subdivider's
19 agent to file an abbreviated application ~~, as the subdivider's~~
20 ~~application for a certificate of registration in lieu of some~~
21 ~~or all of the requirements of Section 5-10, (i) a copy of the~~
22 ~~statement of record filed with respect to the subdivision~~
23 ~~pursuant to the Federal Interstate Land Sales Full Disclosure~~
24 ~~Act if the statement complies with the requirements of that Act~~
25 ~~and the regulations pertinent to that Act or (ii) an acceptable~~
26 ~~certificate of registration from another jurisdiction in which~~

1 ~~the requirements for registration are substantially the same or~~
2 ~~exceed those provided in this Act.~~ Notwithstanding the
3 requirements of Section 5-10, the Department ~~Office of Banks~~
4 ~~and Real Estate~~ may suspend or revoke any registration under
5 this Section that includes any registration, property report,
6 or similar disclosure documents accepted under this subsection
7 if the registration, property report, or similar disclosure is
8 suspended or revoked by the registering state or by the federal
9 government.

10 (e) A certificate of registration issued under this Section
11 shall expire on June 30 following the date of issuance. In the
12 absence of any reason or condition under Section 15-5 ~~10-35~~
13 that might warrant the suspension or revocation of a
14 registration, a certificate shall be renewed upon payment of
15 the required fee and submission of documentation as provided by
16 rule. An exemption issued under this Section shall not expire
17 or renew. The applicant must notify the Department of any
18 change in the status of the subdivision under which the
19 exemption was approved.

20 (Source: P.A. 91-338, eff. 12-30-99.)

21 (765 ILCS 86/5-20)

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

23 Sec. 5-20. Fees.

24 (a) The Department ~~Office of Banks and Real Estate~~ shall
25 provide, by rule, for fees to be paid by applicants and

1 registrants to cover the reasonable costs of the Department
2 ~~Office of Banks and Real Estate~~ in administering and enforcing
3 the provisions of this Act. The Department ~~Office of Banks and~~
4 ~~Real Estate~~ may also provide, by rule, for general fees to
5 cover the reasonable expenses of carrying out other functions
6 and responsibilities under this Act.

7 (b) All fees collected under this Act shall be paid into
8 the Real Estate License Administration Fund in the State
9 treasury and appropriated to the Department ~~Office of Banks and~~
10 ~~Real Estate~~ for administration of this Act or any other Act
11 administered by the Department ~~Office of Banks and Real Estate~~
12 and providing revenue to this fund.

13 (c) (Blank). ~~Any person who delivers a check or other~~
14 ~~payment to the Office of Banks and Real Estate that is returned~~
15 ~~to the Office of Banks and Real Estate unpaid by the financial~~
16 ~~institution upon which it is drawn shall pay to the Office of~~
17 ~~Banks and Real Estate, in addition to the amount already owed~~
18 ~~to the Office of Banks and Real Estate, a fee of \$50.~~

19 (d) (Blank). ~~The fees imposed by this Section are in~~
20 ~~addition to any other disciplinary action provided under this~~
21 ~~Act for unlicensed practice or practice on a non-renewed~~
22 ~~license.~~

23 (e) (Blank). ~~The Office of Banks and Real Estate shall~~
24 ~~notify the person that payment of fees and fines shall be paid~~
25 ~~to the Office of Banks and Real Estate by certified check or~~
26 ~~money order within 30 calendar days of the notification. If,~~

1 ~~after the expiration of 30 days from the date of the~~
2 ~~notification, the person has failed to submit the necessary~~
3 ~~remittance, the Office of Banks and Real Estate shall~~
4 ~~automatically terminate the certificate of registration or~~
5 ~~deny the application, without hearing. If, after termination or~~
6 ~~denial, the person seeks a certificate of registration, he or~~
7 ~~she shall apply to the Office of Banks and Real Estate for~~
8 ~~restoration or issuance of the certificate of registration and~~
9 ~~pay all fees due the Office of Banks and Real Estate. The~~
10 ~~Commissioner may waive the fees due under this Section in~~
11 ~~individual cases where the Commissioner finds that the fees~~
12 ~~would be unreasonable or unnecessarily burdensome.~~

13 (Source: P.A. 91-338, eff. 12-30-99.)

14 (765 ILCS 86/5-23 new)

15 Sec. 5-23. Returned checks; civil penalties. Any person
16 who delivers a check or other payment to the Department that is
17 returned to the Department unpaid by the financial institution
18 upon which it is drawn shall pay to the Department, in addition
19 to the amount already owed to the Department, a civil penalty
20 of \$50. The civil penalties imposed by this Section are in
21 addition to any other discipline provided under this Act for
22 unlicensed practice or practice on a nonrenewed registration.
23 The Department shall notify the person that payment of fees and
24 civil penalties shall be paid to the Department by certified
25 check or money order within 30 calendar days after the date of

1 the notification. If, after the expiration of 30 days after the
2 date of the notification, the person has failed to submit the
3 necessary remittance, the Department shall automatically
4 terminate the registration or deny the application, without a
5 hearing. If, after termination or denial, the person seeks a
6 registration, he or she shall apply to the Department for
7 restoration or issuance of the registration and pay all fees
8 and civil penalties due to the Department. The Department may
9 establish a fee for the processing of an application for
10 restoration of a registration to pay all expenses of processing
11 this application. The Secretary may waive the civil penalties
12 due under this Section in individual cases where the Secretary
13 finds that the civil penalties would be unreasonable or
14 unnecessarily burdensome.

15 (765 ILCS 86/5-25)

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

17 Sec. 5-25. Public property report. When a certificate of
18 registration is granted by the Department ~~Office of Banks and~~
19 ~~Real Estate~~, a copy of the public property report shall be
20 given by the owner, subdivider, or agent to each prospective
21 purchaser prior to the execution of any binding contract or
22 agreement for the sale of any lot or parcel in a subdivision. A
23 receipt, in duplicate, shall be taken from each purchaser to
24 evidence compliance with this Section. Receipts taken for any
25 published report shall be kept on file in possession of the

1 owner, subdivider, or agent, subject to inspection by the
2 Department ~~Office of Banks and Real Estate~~ for 3 years from the
3 date the receipt is taken. The report shall not be used for
4 advertising purposes unless the report is used in its entirety.
5 No portion of the report shall be underscored, italicized, or
6 printed in larger or heavier type than any other portion of the
7 report, unless required by this Act. The report shall contain
8 the following statement:

9 If you received this report prior to signing a contract
10 or agreement, you may cancel your contract or agreement by
11 giving notice to the seller any time before midnight of the
12 seventh day following the signing of the contract or
13 agreement.

14 If you did not receive this report before you signed a
15 contract or agreement, you may cancel the contract or
16 agreement any time within 2 years from the date of signing.

17 (Source: P.A. 91-338, eff. 12-30-99.)

18 (765 ILCS 86/10-15)

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

20 Sec. 10-15. Copies of instruments. A copy of the
21 instruments executed in connection with the sale of parcels
22 within a subdivision shall be kept available in this State and
23 subject to inspection by the Department ~~Office of Banks and~~
24 ~~Real Estate~~. The Department ~~Office of Banks and Real Estate~~
25 shall be notified of any change of address affecting the

1 location of the owner's, subdivider's, or agent's records, or
2 of any change in the depository for purchasers' payments under
3 this Act.

4 (Source: P.A. 91-338, eff. 12-30-99.)

5 (765 ILCS 86/10-20)

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

7 Sec. 10-20. Sale of encumbered lots prohibited;
8 exceptions. It is unlawful for the owner or subdivider to sell
9 lots or parcels within a subdivision subject to a blanket
10 encumbrance unless one of the following conditions is met:

11 (1) All sums paid or advanced by a purchaser are placed
12 in an escrow or other depository account acceptable to the
13 Department ~~Office of Banks and Real Estate~~ until (i) the
14 fee title contracted for is delivered to the purchaser by
15 deed together with complete release from all financial
16 encumbrances; (ii) the owner, subdivider, or purchaser
17 defaults and fails to perform under the contract of sale
18 and there is final determination as to the disposition of
19 such moneys; or (iii) the funds in the escrow or other
20 account are voluntarily returned to the contract
21 purchaser.

22 (2) The fee title to the subdivision is placed in trust
23 under an agreement or trust acceptable to the Department
24 ~~Office of Banks and Real Estate~~ until a proper release from
25 each blanket encumbrance, including all taxes, is obtained

1 and title is delivered to the purchaser.

2 (3) A bond to the State of Illinois is furnished to the
3 Department ~~Office of Banks and Real Estate~~ for the benefit
4 and protection of purchasers of such lots or parcels, in
5 the amount and subject to terms approved by the Department
6 ~~Office of Banks and Real Estate~~. The bond shall be executed
7 by a surety company that is authorized to do business in
8 the State of Illinois and has given consent to be sued in
9 this State. The bond shall provide for the return of moneys
10 paid or advanced by a purchaser if (i) the title contracted
11 for is not delivered and (ii) a full release from each
12 blanket encumbrance is not obtained. If it is determined
13 that the purchaser, by reason of default or otherwise, is
14 not entitled to the return of those moneys, or any portion
15 of those moneys, then the bond is released by the amount of
16 moneys to which the purchaser of parcel is not entitled.

17 (4) The blanket encumbrance contains provisions
18 evidencing the subordination of the lien of the holder of
19 the blanket encumbrance to the rights of those persons
20 purchasing from the subdivider, and further evidencing
21 that the subdivider is able to secure releases from such
22 blanket encumbrances with respect to the property.

23 (Source: P.A. 91-338, eff. 12-30-99.)

24 (765 ILCS 86/10-30)

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

1 Sec. 10-30. Failure to pay registration, ~~and~~ inspection, or
2 renewal fees; civil penalty. Any owner, subdivider, or agent
3 who fails to pay the registration, inspection, or renewal fees
4 when due shall be assessed a late fee or civil penalty ~~of \$100~~
5 ~~per day for each day past the due date that the fee is not paid.~~
6 Practice by a registrant while in a non-renewed status
7 constitutes unregistered practice. Any penalties collected
8 under this Act shall be deposited into the Real Estate License
9 Administration Fund.

10 (Source: P.A. 91-338, eff. 12-30-99.)

11 (765 ILCS 86/15-5)

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

13 Sec. 15-5. Disciplinary action; civil penalty.

14 (a) The Department may refuse to issue or renew, or may
15 revoke, suspend, place on probation, reprimand, or take other
16 disciplinary action as the Department may deem appropriate,
17 including imposing civil penalties not to exceed \$25,000 for
18 each violation, with regard to any registration for any one or
19 combination of the following ~~Office of Banks and Real Estate~~
20 ~~may refuse to issue or renew any certificate of registration,~~
21 ~~or revoke or suspend any certificate of registration, or place~~
22 ~~on probation or administrative supervision or reprimand a~~
23 ~~registrant registered under this Act, or impose a civil penalty~~
24 ~~not to exceed \$25,000, for any one or any combination of the~~
25 ~~following causes:~~

1 (1) Violations of this Act, or of the rules promulgated
2 under this Act. ~~A registrant's disregard or violation of~~
3 ~~any provision of this Act or of the rules adopted by the~~
4 ~~Office of Banks and Real Estate to enforce this Act.~~

5 (2) (Blank). ~~A conviction of the registrant or any~~
6 ~~principal of the registrant of (i) a felony under the laws~~
7 ~~of any U.S. jurisdiction, (ii) a misdemeanor under the laws~~
8 ~~of any U.S. jurisdiction if an essential element of the~~
9 ~~offense is dishonesty, or (iii) a crime under the laws of~~
10 ~~any U.S. jurisdiction if the crime relates directly to the~~
11 ~~practice of the profession regulated by this Act.~~

12 (3) A registrant's making any misrepresentation for
13 the purpose of obtaining an exemption or certificate of
14 registration ~~a registration or certificate.~~

15 (4) Disciplinary action against a registrant by
16 another U.S. jurisdiction, state agency, or foreign nation
17 regarding the making of land sales regulated by this Act,
18 if at least one of the grounds for the discipline is the
19 same as or substantially equivalent to one of those set
20 forth in this Act.

21 (5) A finding by the Department ~~Office of Banks and~~
22 ~~Real Estate~~ that the registrant, after having his or her
23 registration placed on probationary status, has violated
24 the terms of probation.

25 (6) A registrant's practicing or attempting to
26 practice under a name other than the name as shown on his

1 or her registration or any other legally authorized name.

2 (7) Failure to pay. ~~A registrant's failure to file a~~
3 ~~return, or to pay the tax, penalty, or interest shown in a~~
4 ~~filed return, or to pay any final assessment of tax,~~
5 ~~penalty, or interest, as required by any tax Act~~
6 ~~administered by the Illinois Department of Revenue, until~~
7 ~~the requirements of any such tax Act are satisfied.~~

8 (A) Violation of tax Acts. The Department may
9 refuse to issue or renew or may suspend the
10 registration of any person who fails to file a return,
11 pay the tax, penalty, or interest shown in a filed
12 return, or pay any final assessment of tax, penalty, or
13 interest, as required by any tax Act administered by
14 the Department of Revenue, until such time as the
15 requirements of that tax Act are satisfied in
16 accordance with subsection (g) of Section 2105-15 of
17 the Civil Administrative Code of Illinois.

18 (B) Educational loan defaults. The Department
19 shall deny a registration or renewal authorized by this
20 Act to a person who has defaulted on an educational
21 loan or scholarship provided or guaranteed by the
22 Illinois Student Assistance Commission or any
23 governmental agency of this State in accordance with
24 paragraph (a) (5) of Section 2105-15 of the Civil
25 Administrative Code of Illinois.

26 (C) Child support delinquency. In cases where the

1 Department of Healthcare and Family Services (formerly
2 Department of Public Aid) has previously determined
3 that a registrant or a potential registrant is more
4 than 30 days delinquent in the payment of child support
5 and has subsequently certified the delinquency to the
6 Department may refuse to issue or renew or may revoke
7 or suspend that person's registration or may take other
8 disciplinary action against that person based solely
9 upon the certification of delinquency made by the
10 Department of Healthcare and Family Services in
11 accordance with paragraph (a) (5) of Section 2105-15 of
12 the Civil Administrative Code of Illinois.

13 (8) A registrant's engaging in dishonorable,
14 unethical, or unprofessional conduct of a character likely
15 to deceive, defraud, or harm the public.

16 (9) A registrant's aiding or abetting another person or
17 persons in disregarding or violating any provision of this
18 Act or of the rules adopted by the Department ~~Office of~~
19 ~~Banks and Real Estate~~ to enforce this Act.

20 (10) Any representation in any document or information
21 filed with the Department ~~Office of Banks and Real Estate~~
22 which is false or misleading.

23 (11) A registrant's disseminating or causing to be
24 disseminated any false or misleading promotional materials
25 or advertisements in connection with a registered
26 subdivision.

1 (12) A registrant's concealing, diverting, or
2 disposing of any funds or assets of any person in a manner
3 that impairs the rights of purchasers of lots within a
4 registered subdivision.

5 (13) A registrant's failure to perform any stipulation
6 or agreement made to induce the Department ~~Office of Banks~~
7 ~~and Real Estate~~ to issue an order relating to the
8 registered subdivision.

9 (14) A registrant's engaging in any act that
10 constitutes a violation of Section 3-102, 3-103, 3-104, or
11 3-105 of the Illinois Human Rights Act.

12 (15) A registrant's failure to provide information
13 requested in writing by the Department ~~Office of Banks and~~
14 ~~Real Estate~~, within 30 days of the request, ~~either as the~~
15 ~~result of a formal or informal complaint to the Office of~~
16 ~~Banks and Real Estate or as a result of a random audit~~
17 ~~conducted by the Office of Banks and Real Estate, which~~
18 ~~would indicate a violation of this Act.~~

19 (16) A registrant's failure to account for or remit any
20 escrow funds coming into his or her possession which
21 belonged to others.

22 (17) A registrant's failure to make available to
23 Department ~~Office of Banks and Real Estate~~ personnel during
24 normal business hours all escrow records and related
25 documents maintained in connection therewith, within 24
26 hours of a request from Department ~~Office of Banks and Real~~

1 ~~Estate~~ personnel.

2 (18) A registrant's failure to comply with any
3 provision of this Act or the rules implementing this Act,
4 or any order made by the Department ~~Office of Banks and~~
5 ~~Real Estate~~.

6 (19) A person's offering for sale, as an agent,
7 salesman, or broker for a subdivider, developer, or owner,
8 subdivided lands or a subdivision, wherever situated,
9 without first complying with this Act.

10 (20) A registrant's failure to provide to the purchaser
11 a translation of the Illinois Public Property Report or any
12 contract, lien, or note as required by this Act.

13 (21) A registrant's advertising for sale in this State
14 any parcel in a subdivision, or in any other manner
15 assisting an owner, subdivider, or developer of a
16 subdivision who has not complied with this Act to offer
17 subdivided land within this State.

18 (22) A registrant's making any material change in the
19 plan of disposition and development of the subdivision or
20 subdivided lands subsequent to receiving a certificate of
21 registration, without obtaining written approval of an
22 amendment to the registration.

23 (23) A registrant's encumbering a lot or parcel, or
24 allowing a lot or parcel to be encumbered, after a contract
25 for its sale has been signed by the parties to the
26 contract.

1 (b) (Blank). ~~A civil penalty imposed under subsection (a)~~
2 ~~shall be paid within 60 days after the effective date of the~~
3 ~~order imposing the civil penalty. The order shall constitute a~~
4 ~~judgment and may be filed and execution had thereon in the same~~
5 ~~manner as any judgment from any court of record.~~

6 (Source: P.A. 91-338, eff. 12-30-99.)

7 (765 ILCS 86/15-7 new)

8 Sec. 15-7. Civil penalties.

9 (a) In addition to any other penalty provided by law, any
10 person who violates this Act shall forfeit and pay a civil
11 penalty to the Department in an amount not to exceed \$25,000
12 for each violation as determined by the Department. The civil
13 penalty shall be assessed by the Department in accordance with
14 the provisions of this Act.

15 (b) The Department has the authority and power to
16 investigate any and all unlicensed activity.

17 (c) The civil penalty shall be paid within 60 days after
18 the effective date of the order imposing the civil penalty. The
19 order shall constitute a judgment and may be filed and
20 execution had thereon in the same manner as any judgment from
21 any court of record.

22 (d) All moneys collected under this Section shall be
23 deposited into the Real Estate License Administration Fund.

24 (765 ILCS 86/15-10)

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

2 Sec. 15-10. Investigation. The Department ~~Office of Banks~~
3 ~~and Real Estate~~ may investigate the actions or qualifications
4 of any person or persons holding or claiming to hold a
5 certificate of registration under this Act. Such a person is
6 referred to as "the respondent" in this Article.

7 (Source: P.A. 91-338, eff. 12-30-99.)

8 (765 ILCS 86/15-15)

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

10 Sec. 15-15. Disciplinary hearings; record; appointment of
11 administrative law judge.

12 (a) The Department ~~Office of Banks and Real Estate~~ has the
13 authority to conduct hearings before an administrative law
14 judge on proceedings to revoke, suspend, or refuse to issue or
15 renew a certificate of registration issued under this Act, or
16 to place on probation or administrative supervision or
17 reprimand a registrant registered under this Act, or to impose
18 a civil penalty not to exceed \$25,000 upon any registrant
19 registered under this Act.

20 (b) The Department ~~Office of Banks and Real Estate~~, at its
21 expense, shall preserve a record of all proceedings at the
22 formal hearing of any case involving the refusal to issue or
23 the revocation or suspension of a certificate of registration
24 issued under this Act or involving other discipline of a
25 registrant registered under this Act. The notice of hearing,

1 complaint, and all other documents in the nature of pleadings
2 and written motions filed in the proceedings, the transcript of
3 testimony, the report of the administrative law judge, and the
4 orders of the Department ~~Office of Banks and Real Estate~~ shall
5 be the record of proceeding. At all hearings or ~~prehearing~~
6 ~~conferences~~, the Department ~~Office of Banks and Real Estate~~ and
7 the respondent shall be entitled to have a court reporter in
8 attendance for purposes of transcribing the proceeding or
9 prehearing conference.

10 (c) The Secretary ~~Commissioner~~ has the authority to appoint
11 any attorney duly licensed to practice law in the State of
12 Illinois to serve as an administrative law judge in any action
13 for refusal to issue or renew a certificate of registration or
14 to discipline a registrant or person holding a certificate of
15 registration. The administrative law judge has full authority
16 to conduct the hearing. The administrative law judge shall
17 report his or her findings and recommendations to the Secretary
18 ~~Commissioner~~. If the Secretary ~~Commissioner~~ disagrees with the
19 recommendation of the administrative law judge, the Secretary
20 ~~Commissioner~~ may issue an order in contravention of the
21 recommendation.

22 (Source: P.A. 91-338, eff. 12-30-99.)

23 (765 ILCS 86/15-20)

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

25 Sec. 15-20. Investigations; notice and hearing. ~~Notice of~~

1 ~~proposed disciplinary action; hearing.~~ The Department may
2 investigate the actions of any applicant or of any person or
3 persons rendering or offering to render land sales services or
4 any person holding or claiming to hold a certificate of
5 registration as a registered land sales developer or
6 subdivision. The Department shall, before revoking,
7 suspending, placing on probation, reprimanding, or taking any
8 other disciplinary action under Section 80 of this Act, at
9 least 30 days before the date set for the hearing: (i) notify
10 the accused in writing of the charges made and the time and
11 place for the hearing on the charges, (ii) direct him or her to
12 file a written answer to the charges with the Department under
13 oath within 20 days after the service on him or her of the
14 notice, and (iii) inform the accused that, if he or she fails
15 to answer, default will be taken against him or her or that his
16 or her registration may be suspended, revoked, placed on
17 probationary status, or other disciplinary action taken with
18 regard to the registration, including limiting the scope,
19 nature, or extent of his or her practice, as the Department may
20 consider proper. At the time and place fixed in the notice, the
21 Department shall proceed to hear the charges and the parties or
22 their counsel shall be accorded ample opportunity to present
23 any pertinent statements, testimony, evidence, and arguments.
24 The Department may continue the hearing from time to time. In
25 case the person, after receiving the notice, fails to file an
26 answer, his or her registration may, in the discretion of the

1 Department, be suspended, revoked, placed on probationary
2 status, or the Department may take whatever disciplinary action
3 considered proper, including limiting the scope, nature, or
4 extent of the person's practice or the imposition of a fine,
5 without a hearing, if the act or acts charged constitute
6 sufficient grounds for that action under this Act. The written
7 notice may be served by personal delivery or by certified mail
8 to the address specified by the accused in his or her last
9 notification with the Department.

10 ~~(a) Before taking any disciplinary action with regard to~~
11 ~~any registrant, the Office of Banks and Real Estate shall:~~

12 ~~(1) notify the respondent in writing, at least 30~~
13 ~~calendar days prior to the date set for the hearing, of any~~
14 ~~charges made, the time and place for the hearing of the~~
15 ~~charges, and that testimony at the hearing will be heard~~
16 ~~under oath; and~~

17 ~~(2) inform the respondent that upon failure to file an~~
18 ~~answer and request a hearing before the date originally set~~
19 ~~for the hearing, default will be taken against the~~
20 ~~respondent and the respondent's certificate of~~
21 ~~registration may be suspended or revoked, or other~~
22 ~~disciplinary action may be taken against the respondent, as~~
23 ~~the Office of Banks and Real Estate may deem proper.~~

24 ~~(b) If the respondent fails to file an answer after~~
25 ~~receiving notice, the respondent's certificate of registration~~
26 ~~may, in the discretion of the Office of Banks and Real Estate,~~

1 ~~be revoked or suspended, or other disciplinary action may be~~
2 ~~taken against the respondent, as deemed proper, without a~~
3 ~~hearing, if the act or acts charged constitute sufficient~~
4 ~~grounds for that action under this Act.~~

5 ~~(c) At the time and place fixed in the notice, the Office~~
6 ~~of Banks and Real Estate shall proceed to hearing of the~~
7 ~~charges. Both the respondent and the complainant shall be~~
8 ~~accorded ample opportunity to present in person, or by counsel,~~
9 ~~statements, testimony, evidence, and argument that may be~~
10 ~~pertinent to the charges or any defense to the charges.~~

11 (Source: P.A. 91-338, eff. 12-30-99.)

12 (765 ILCS 86/15-25)

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

14 Sec. 15-25. Subpoenas; attendance of witnesses; oaths.

15 (a) The Department ~~Office of Banks and Real Estate~~ has the
16 power to issue subpoenas ad testificandum and to bring before
17 it any persons, and to take testimony either orally or by
18 deposition, or both, with the same fees and mileage and in the
19 same manner as prescribed in civil cases in the courts of this
20 State. The Department ~~Office of Banks and Real Estate~~ has the
21 power to issue subpoenas duces tecum and to bring before it any
22 documents, papers, files, books, and records, with the same
23 costs and in the same manner as prescribed in civil cases in
24 the courts of this State.

25 (b) Upon application of the Department ~~Office of Banks and~~

1 ~~Real Estate~~ or its designee or of the applicant, registrant, or
2 person holding a certificate of registration against whom
3 proceedings under this Act are pending, any circuit court may
4 enter an order compelling the enforcement of any subpoena
5 issued by the Department ~~Office of Banks and Real Estate~~ in
6 connection with any hearing or investigation.

7 (c) The Secretary ~~Commissioner~~ and the designated
8 administrative law judge have power to administer oaths to
9 witnesses at any hearing that the Department ~~Office of Banks~~
10 ~~and Real Estate~~ is authorized to conduct under this Act.

11 (Source: P.A. 91-338, eff. 12-30-99.)

12 (765 ILCS 86/15-30)

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

14 Sec. 15-30. Administrative law judge's findings of fact,
15 conclusions of law, and recommendations. At the conclusion of
16 the hearing, the administrative law judge shall present to the
17 Secretary ~~Commissioner~~ a written report of the administrative
18 law judge's findings of fact, conclusions of law, and
19 recommendations regarding discipline or a civil penalty. The
20 report shall contain a finding of whether or not the respondent
21 violated this Act or failed to comply with the conditions
22 required in this Act. The administrative law judge shall
23 specify the nature of the violation or failure to comply. If
24 the Secretary ~~Commissioner~~ disagrees in any regard with the
25 report of the administrative law judge, the Secretary

1 ~~Commissioner~~ may issue an order in contravention of the report.
2 ~~The Commissioner shall provide a written report to the~~
3 ~~administrative law judge on any deviation and shall specify~~
4 ~~with particularity the reasons for that action in the final~~
5 ~~order.~~

6 (Source: P.A. 91-338, eff. 12-30-99.)

7 (765 ILCS 86/15-35)

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

9 Sec. 15-35. Rehearing. After any hearing involving
10 disciplinary action against a registrant, a copy of the
11 administrative law judge's report shall be served on the
12 respondent by the Department ~~Office of Banks and Real Estate~~,
13 either personally or as provided in this Act for the service of
14 the notice of hearing. Within 20 calendar days after the
15 service, the respondent may present to the Department ~~Office of~~
16 ~~Banks and Real Estate~~ a motion in writing for a rehearing. The
17 motion shall specify the particular grounds for rehearing. If
18 the respondent orders a transcript of the record from the
19 reporting service and pays for it within the time for filing a
20 motion for rehearing, the 20 calendar day period within which a
21 motion for rehearing may be filed shall commence upon the
22 delivery of the transcript to the respondent.

23 If no motion for rehearing is filed, then upon the
24 expiration of the time specified for filing a motion, or if a
25 motion for rehearing is denied, then upon denial, the Secretary

1 ~~Commissioner~~ may enter an order in accordance with the
2 recommendations of the administrative law judge, except as
3 otherwise provided in this Article. Whenever the Secretary
4 ~~Commissioner~~ is not satisfied that substantial justice has been
5 done in the hearing or in the administrative law judge's
6 report, the Secretary ~~Commissioner~~ may order a rehearing by the
7 same or some other duly qualified administrative law judge.

8 (Source: P.A. 91-338, eff. 12-30-99.)

9 (765 ILCS 86/15-40)

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

11 Sec. 15-40. Disciplinary consent orders. Notwithstanding
12 any other provisions of this Act concerning the conduct of
13 hearings and recommendations for disciplinary actions, the
14 Department ~~Office of Banks and Real Estate~~ has the authority to
15 negotiate agreements with registrants and applicants resulting
16 in disciplinary or non-disciplinary consent orders. Any such
17 consent order may provide for any form of discipline provided
18 for in the Act. Any such consent order shall provide that it is
19 not entered into as a result of any coercion by the Department
20 ~~Office of Banks and Real Estate~~. The consent order shall be
21 final upon signature of the Secretary ~~Any such consent order~~
22 ~~shall be accepted by signature or rejected by the Commissioner~~
23 ~~in a timely manner.~~

24 (Source: P.A. 91-338, eff. 12-30-99.)

1 (765 ILCS 86/15-45)

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

3 Sec. 15-45. Order or certified copy. An order or a
4 certified copy of an order, over the seal of the Department
5 ~~Office of Banks and Real Estate~~ and purporting to be signed by
6 the Secretary Commissioner, shall be prima facie proof of the
7 following:

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

10 (2) That the Secretary Commissioner is duly appointed
11 and qualified.

12 (3) That the administrative law judge is duly appointed
13 and qualified.

14 (Source: P.A. 91-338, eff. 12-30-99.)

15 (765 ILCS 86/15-50)

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

17 Sec. 15-50. Restoration of certificate of registration.
18 Upon petition, after the successful completion of the term of
19 ~~At any time after~~ the suspension or revocation of any
20 certificate of registration, the Department ~~Office of Banks and~~
21 ~~Real Estate~~ may restore the certificate of registration to the
22 respondent upon the written recommendation of the
23 administrative law judge, unless after an investigation and a
24 hearing the administrative law judge determines that
25 restoration is not in the public interest.

1 (Source: P.A. 91-338, eff. 12-30-99.)

2 (765 ILCS 86/15-55)

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

4 Sec. 15-55. Surrender of certificate of registration. Upon
5 the revocation or suspension of a certificate of registration,
6 the registrant shall immediately surrender the certificate of
7 registration to the Department ~~Office of Banks and Real Estate~~.
8 If the registrant fails to do so, the Department ~~Office of~~
9 ~~Banks and Real Estate~~ has the right to seize the certificate of
10 registration.

11 (Source: P.A. 91-338, eff. 12-30-99.)

12 (765 ILCS 86/15-60)

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

14 Sec. 15-60. Administrative Review Law; transcripts;
15 certifications of record; costs. All final administrative
16 decisions of the Department ~~Office of Banks and Real Estate~~
17 under this Act are subject to judicial review under the
18 Administrative Review Law and the rules implementing that Law.
19 The term "administrative decision" is defined as in Section
20 3-101 of the Code of Civil Procedure. Proceedings for judicial
21 review shall be commenced in the circuit court of the county in
22 which the party applying for review resides, but if the party
23 is not a resident of this State, the venue shall be in Cook or
24 Sangamon County.

1 Pending the court's final decision on administrative
2 review, the acts, orders, sanctions, and rulings of the
3 ~~Department Office of Banks and Real Estate~~ regarding any
4 registration shall remain in full force and effect unless
5 modified or suspended by court order pending a final judicial
6 decision.

7 The Department, at its own expense, shall preserve a record
8 of all proceedings at the formal hearing of a case involving
9 the refusal to issue or renew a license. The notice of hearing,
10 complaint, and all other documents in the nature of pleadings
11 and written motions filed in the proceedings, the transcript of
12 testimony, the report, and orders of the Department shall be in
13 the record of the proceeding.

14 The Department shall not be required to certify any record
15 to the court or file any answer in court or otherwise appear in
16 any court in a judicial review proceeding unless there is filed
17 in the court a receipt from the Department acknowledging
18 payment of the costs of furnishing and certifying the record,
19 which shall be computed at the rate of 20 cents per page of the
20 record. Failure on the part of a plaintiff to file a receipt in
21 court shall be grounds for dismissal of the action.

22 ~~The Office of Banks and Real Estate shall not be required~~
23 ~~to certify any record to the court or file any answer in court~~
24 ~~or otherwise appear in any court in a judicial review~~
25 ~~proceeding unless there is filed in the court, with the~~
26 ~~complaint, a receipt from the Office of Banks and Real Estate~~

1 ~~acknowledging payment of the costs of furnishing and certifying~~
2 ~~the record. Failure on the part of the plaintiff to file a~~
3 ~~receipt in the court is grounds for dismissal of the action.~~

4 (Source: P.A. 91-338, eff. 12-30-99.)

5 (765 ILCS 86/15-65)

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

7 Sec. 15-65. Public interest, safety, or welfare; summary
8 suspension. The Secretary ~~Commissioner~~ may temporarily suspend
9 any registration pursuant to this Act, without hearing,
10 simultaneously with the institution of proceedings for a
11 hearing provided for in this Section, if the Secretary
12 ~~Commissioner~~ finds that the evidence indicates that imminent
13 danger exists to the public interest, safety, or welfare
14 ~~imperatively requires emergency action~~. If the Secretary
15 ~~Commissioner~~ temporarily suspends any registration without a
16 hearing, a hearing must be held within 30 calendar days after
17 the suspension. The person whose registration is suspended may
18 seek a continuance of the hearing, during which the suspension
19 shall remain in effect. The proceeding shall be concluded
20 without appreciable delay.

21 (Source: P.A. 91-338, eff. 12-30-99.)

22 (765 ILCS 86/15-70)

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

24 Sec. 15-70. Non-registered practice; civil penalty;

1 injunction.

2 (a) Any person who practices, offers to practice, attempts
3 to practice, or holds himself or herself out to practice as a
4 registrant under this Act without being registered under this
5 Act shall, in addition to any other penalty provided by law,
6 pay a civil penalty to the Department ~~Office of Banks and Real~~
7 ~~Estate~~ in an amount not to exceed \$25,000 for each offense as
8 determined by the Department ~~Office of Banks and Real Estate~~.
9 The civil penalty shall be assessed by the Department ~~Office of~~
10 ~~Banks and Real estate~~ after a hearing is held in accordance
11 with the provisions set forth in this Act regarding the
12 provision of a hearing for the discipline of a registration.

13 (b) Whenever, in the opinion of the Department, a person
14 violates any provision of this Act, the Department may issue a
15 rule to show cause why an order to cease and desist should not
16 be entered against that person. The rule shall clearly set
17 forth the grounds relied upon by the Department and shall allow
18 at least 7 days after the date of the rule to file an answer
19 satisfactory to the Department. Failure to answer to the
20 satisfaction of the Department shall cause an order to cease
21 and desist to be issued ~~The Office of Banks and Real Estate has~~
22 ~~the authority and power to investigate any and all activity~~
23 ~~subject to registration under this Act.~~

24 (c) A civil penalty imposed under subsection (a) shall be
25 paid within 60 days after the effective date of the order
26 imposing the civil penalty. The order shall constitute a

1 judgment and may be filed and execution had thereon in the same
2 manner as any judgment from any court of record.

3 (d) Engaging in the sale of land located outside the State
4 of Illinois but offered for sale in Illinois by any entity not
5 holding a valid and current registration under this Act is
6 declared to be inimical to the public welfare, to constitute a
7 public nuisance, and to cause irreparable harm to the public
8 welfare. The Secretary ~~Commissioner~~, the Attorney General, the
9 State's Attorney of any county in the State, or any person may
10 maintain an action in the name of the People of the State of
11 Illinois, and may apply for injunctive relief in any circuit
12 court to enjoin the entity from engaging in the conduct
13 prohibited under this subsection. Upon the filing of a verified
14 petition in the court, the court, if satisfied by affidavit or
15 otherwise that the entity has been engaged in that conduct
16 without a valid and current registration, may enter a temporary
17 restraining order without notice or bond, enjoining the
18 defendant from such further conduct. Only the showing of
19 nonregistration, by affidavit or otherwise, is necessary in
20 order for a temporary injunction to issue. A copy of the
21 verified complaint shall be served upon the defendant and the
22 proceedings shall thereafter be conducted as in other civil
23 cases except as modified by this Section. If it is established
24 that the defendant has been or is engaged in such unlawful
25 conduct, the court may enter an order or judgment perpetually
26 enjoining the defendant from further unlawful conduct. In all

1 proceedings hereunder, the court, in its discretion, may
2 apportion the costs among the parties interested in the action,
3 including cost of filing the complaint, service of process,
4 witness fees and expenses, court reporter charges and
5 reasonable attorneys' fees. In the case of a violation of any
6 injunctive order entered under the provisions of this Section,
7 the court may summarily try and punish the offender for
8 contempt of court. Proceedings for an injunction under this
9 Section shall be in addition to, and not in lieu of, all
10 penalties and other remedies provided in this Act.

11 (Source: P.A. 91-338, eff. 12-30-99.)

12 (765 ILCS 86/15-75)

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

14 Sec. 15-75. Cease and desist orders. The Department Office
15 ~~of Banks and Real Estate~~ may issue a cease and desist order to
16 any person who engages in any activity prohibited by this Act.
17 Any person in violation of a cease and desist order entered by
18 the Department Office of Banks and Real Estate is subject to
19 all of the remedies provided by law.

20 (Source: P.A. 91-338, eff. 12-30-99.)

21 (765 ILCS 86/20-5)

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

23 Sec. 20-5. Administration of Act. The Department Office of
24 ~~Banks and Real Estate~~ shall exercise the powers and duties

1 prescribed by the Civil Administrative Code of Illinois and
2 shall exercise other powers and duties necessary for
3 effectuating the purposes of this Act. The Department ~~Office of~~
4 ~~Banks and Real Estate~~ may contract with third parties for
5 services necessary for the proper administration of this Act.
6 The Department ~~Office of Banks and Real Estate~~ has the
7 authority to establish public policies and procedures
8 necessary for the administration of this Act.

9 (Source: P.A. 91-338, eff. 12-30-99.)

10 (765 ILCS 86/20-10)

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

12 Sec. 20-10. Administrative rules. The Department ~~Office of~~
13 ~~Banks and Real Estate~~ shall adopt rules for the implementation
14 and enforcement of this Act.

15 (Source: P.A. 91-338, eff. 12-30-99.)

16 (765 ILCS 86/20-15)

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

18 Sec. 20-15. Investigation of subdivisions. The Department
19 ~~may~~ ~~Office of Banks and Real Estate shall~~ investigate any ~~every~~
20 subdivision offered for sale in this State and may:

21 (1) Require the applicant to submit reports prepared by
22 competent engineers concerning any hazard to which any
23 subdivision offered for sale is subject in the opinion of
24 the Department ~~Office of Banks and Real Estate~~, or any

1 factor that affects the utility of lots or parcels within
2 the subdivision, and require evidence of compliance.

3 (2) Make an on-site inspection of each subdivision. In
4 connection with any on-site inspection, the owner,
5 subdivider, or agent shall defray all expenses incurred by
6 the inspector in the course of the inspection.

7 (3) Make additional on-site inspections of each
8 subdivision for which the owner, subdivider, or agent shall
9 defray all expenses incurred by the inspector in the course
10 of the inspection.

11 (4) Require the owner, subdivider, or agent to deposit
12 the expenses to be incurred in any inspection, in advance,
13 based upon an estimate by the Department ~~Office of Banks~~
14 ~~and Real Estate~~ of the expenses likely to be incurred.

15 (5) In those cases where an on-site inspection of any
16 subdivision has been made under the provisions of this Act,
17 waive an inspection of a subsequent registration submitted
18 as an amendment to the registration covering subdivided
19 land to be sold under the same common promotional plan. An
20 inspection of the subsequent registration may be made in
21 connection with the next succeeding on-site inspection.

22 (Source: P.A. 91-338, eff. 12-30-99.)

23 (765 ILCS 86/20-20)

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

25 Sec. 20-20. Forms. The Department ~~Office of Banks and Real~~

1 ~~Estate~~ may prescribe forms and procedures for submitting to the
2 Department ~~Office of Banks and Real Estate~~.

3 (Source: P.A. 91-338, eff. 12-30-99.)

4 (765 ILCS 86/20-25)

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

6 Sec. 20-25. Real Estate License Administration Fund. All
7 fees collected for registration and for civil penalties
8 pursuant to this Act and administrative rules adopted under
9 this Act shall be deposited into the Real Estate Administration
10 Fund. The moneys deposited in the Real Estate Administration
11 License Fund shall be appropriated to the Department ~~Office of~~
12 ~~Banks and Real Estate~~ for expenses for the administration and
13 enforcement of this Act.

14 (Source: P.A. 91-338, eff. 12-30-99.)

15 Section 99. Effective date. This Act takes effect upon
16 becoming law.

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