



Rep. Kevin A. McCarthy

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LRB096 04161 JDS 27846 a

1 AMENDMENT TO SENATE BILL 268

2 AMENDMENT NO. _____. Amend Senate Bill 268, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Regulatory Sunset Act is amended by
6 changing Section 4.20 and by adding Section 4.30 as follows:

7 (5 ILCS 80/4.20)

8 Sec. 4.20. Acts repealed on January 1, 2010 and December
9 31, 2010.

10 (a) The following Acts are repealed on January 1, 2010:

11 The Auction License Act.

12 The Illinois Architecture Practice Act of 1989.

13 The Illinois Landscape Architecture Act of 1989.

14 The Illinois Professional Land Surveyor Act of 1989.

15 The Land Sales Registration Act of 1999.

16 The Orthotics, Prosthetics, and Pedorthics Practice

1 Act.

2 The Perfusionist Practice Act.

3 The Professional Engineering Practice Act of 1989.

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

5 The Structural Engineering Practice Act of 1989.

6 (b) The following Act is repealed on December 31, 2010:

7 The Medical Practice Act of 1987.

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

9 (5 ILCS 80/4.30 new)

10 Sec. 4.30. Act repealed on January 1, 2020. The following

11 Act is repealed on January 1, 2020:

12 The Real Estate License Act of 2000.

13 Section 10. The Illinois Municipal Code is amended by
14 changing Sections 11-20-7, 11-20-8, 11-20-12, and 11-20-13 and
15 by adding Sections 11-20-15, 11-20-15.1, and 11-31-1.01 as
16 follows:

17 (65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

18 Sec. 11-20-7. Cutting and removal of neglected weeds,
19 grass, trees, and bushes.

20 (a) The corporate authorities of each municipality may
21 provide for the removal of nuisance greenery from any parcel of
22 private property within ~~cutting of weeds or grass, the trimming~~
23 ~~of trees or bushes, and the removal of nuisance bushes or trees~~

1 ~~in~~ the municipality ~~if, when~~ the owners of that parcel, after
2 reasonable notice, ~~real estate~~ refuse or neglect to remove the
3 nuisance greenery. The municipality may ~~cut, trim, or remove~~
4 ~~them and to collect,~~ from the owners of that parcel, ~~private~~
5 ~~property~~ the reasonable removal cost thereof.

6 (b) The municipality's removal cost under this Section is a
7 lien upon the underlying parcel in accordance with Section
8 11-20-15.

9 (c) For the purpose of this Section:

10 "Removal of nuisance greenery" or "removal activities"
11 means the cutting of weeds or grass, the trimming of trees or
12 bushes, and the removal of nuisance bushes or trees.

13 "Removal cost" means the total cost of the removal
14 activity.

15 (d) In the case of an abandoned residential property as
16 defined in Section 11-20-15.1, the municipality may elect to
17 obtain a lien for the removal cost pursuant to Section
18 11-20-15.1, in which case the provisions of Section 11-20-15.1
19 shall be the exclusive remedy for the removal cost.

20 The provisions of this subsection (d), other than this
21 sentence, are inoperative upon certification by the Secretary
22 of the Illinois Department of Financial and Professional
23 Regulation, after consultation with the United States
24 Department of Housing and Urban Development, that the Mortgage
25 Electronic Registration System program is effectively
26 registering substantially all mortgaged residential properties

1 located in the State of Illinois, is available for access by
2 all municipalities located in the State of Illinois without
3 charge to them, and such registration includes the telephone
4 number for the mortgage servicer.

5 ~~This cost is a lien upon the real estate affected, superior~~
6 ~~to all other liens and encumbrances, except tax liens; provided~~
7 ~~that within 60 days after such cost and expense is incurred the~~
8 ~~municipality, or person performing the service by authority of~~
9 ~~the municipality, in his or its own name, files notice of lien~~
10 ~~in the office of the recorder in the county in which such real~~
11 ~~estate is located or in the office of the Registrar of Titles~~
12 ~~of such county if the real estate affected is registered under~~
13 ~~the Torrens system. The notice shall consist of a sworn~~
14 ~~statement setting out (1) a description of the real estate~~
15 ~~sufficient for identification thereof, (2) the amount of money~~
16 ~~representing the cost and expense incurred or payable for the~~
17 ~~service, and (3) the date or dates when such cost and expense~~
18 ~~was incurred by the municipality. However, the lien of such~~
19 ~~municipality shall not be valid as to any purchaser whose~~
20 ~~rights in and to such real estate have arisen subsequent to the~~
21 ~~cutting of weeds or grass, the trimming of trees or bushes, or~~
22 ~~the removal of nuisance bushes or trees and prior to the filing~~
23 ~~of such notice, and the lien of such municipality shall not be~~
24 ~~valid as to any mortgagee, judgment creditor or other lienor~~
25 ~~whose rights in and to such real estate arise prior to the~~
26 ~~filing of such notice. Upon payment of the cost and expense by~~

1 ~~the owner of or persons interested in such property after~~
2 ~~notice of lien has been filed, the lien shall be released by~~
3 ~~the municipality or person in whose name the lien has been~~
4 ~~filed and the release may be filed of record as in the case of~~
5 ~~filing notice of lien.~~

6 ~~The cost of the cutting, trimming, or removal of weeds,~~
7 ~~grass, trees, or bushes shall not be lien on the real estate~~
8 ~~affected unless a notice is personally served on, or sent by~~
9 ~~certified mail to, the person to whom was sent the tax bill for~~
10 ~~the general taxes on the property for the last preceding year.~~
11 ~~The notice shall be delivered or sent after the cutting,~~
12 ~~trimming, or removal of weeds, grass, trees, or bushes on the~~
13 ~~property. The notice shall state the substance of this Section~~
14 ~~and the substance of any ordinance of the municipality~~
15 ~~implementing this Section and shall identify the property, by~~
16 ~~common description, and the location of the weeds to be cut.~~

17 (Source: P.A. 95-183, eff. 8-14-07.)

18 (65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

19 Sec. 11-20-8. Pest extermination; liens.

20 (a) The corporate authorities of each municipality may
21 provide pest-control activities on any parcel of private
22 property ~~for the extermination of pests~~ in the municipality if,
23 ~~and charge to and collect from the owners of and persons~~
24 ~~interested in private property the reasonable cost and expense~~
25 ~~of preventing ingress of pests to their property and of pest~~

1 ~~extermination therein,~~ after reasonable notice, the owners of
2 that parcel refuse or neglect to prevent the ingress of pests
3 to their property or to exterminate pests on their property.
4 The municipality may collect, from the owners of the underlying
5 parcel, the reasonable removal cost ~~notice to such owners or~~
6 ~~persons as provided by ordinance and failures of such owners or~~
7 ~~persons to comply.~~

8 (b) The municipality's removal cost under this Section is a
9 lien upon the underlying parcel in accordance with Section
10 11-20-15. ~~This cost and expense is a lien upon the real estate~~
11 ~~affected, superior to all other existing liens and~~
12 ~~encumbrances, except tax liens if within 60 days after such~~
13 ~~cost and expense is incurred the municipality, or person~~
14 ~~performing the service by authority of the municipality, in his~~
15 ~~or its own name, files notice of lien in the office of the~~
16 ~~recorder in the county in which the real estate is located or~~
17 ~~in the office of the Registrar of Titles of such county if the~~
18 ~~real estate affected is registered under "An Act concerning~~
19 ~~land titles", approved May 1, 1897, as amended. The notice~~
20 ~~shall consist of a sworn statement setting out (1) a~~
21 ~~description of the real estate sufficient for identification~~
22 ~~thereof, (2) the amount of money representing the cost and~~
23 ~~expense incurred or payable for the service, and (3) the date~~
24 ~~or dates when such cost and expense was incurred by the~~
25 ~~municipality. However, the lien of such municipality shall not~~
26 ~~be valid as to any purchaser, mortgagee, judgment creditor, or~~

1 ~~other lienor whose rights in and to the real estate arise~~
2 ~~subsequent to the pest extermination and prior to the filing of~~
3 ~~the notice of such lien in the office of the recorder, or in~~
4 ~~the office of the Registrar of Titles, as aforesaid. Upon~~
5 ~~payment of the cost and expense by the owner of or persons~~
6 ~~interested in the property after notice of lien has been filed,~~
7 ~~the lien shall be released by the municipality or person in~~
8 ~~whose name the lien has been filed and the release may be filed~~
9 ~~of record as in the case of filing notice of lien. The lien may~~
10 ~~be enforced by proceedings to foreclose as in case of mortgages~~
11 ~~or mechanics' liens. Actions to foreclose this lien shall be~~
12 ~~commenced within one year after the date of filing notice of~~
13 ~~lien.~~

14 (c) For the purpose of this Section:

15 "Pests", ~~as used in this Section 11-20-8,~~ means undesirable
16 arthropods (including certain insects, spiders, mites, ticks,
17 and related organisms), wood infesting organisms, rats, mice,
18 and other obnoxious undesirable animals, but does not include a
19 feral cat, a "companion animal" as that term is defined in the
20 Humane Care for Animals Act (510 ILCS 70/), "animals" as that
21 term is defined in the Illinois Diseased Animals Act (510 ILCS
22 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

23 "Pest-control activity" means the extermination of pests
24 or the prevention of the ingress of pests.

25 "Removal cost" means the total cost of the pest-control
26 activity.

1 (d) In the case of an abandoned residential property as
2 defined in Section 11-20-15.1, the municipality may elect to
3 obtain a lien for the removal cost pursuant to Section
4 11-20-15.1, in which case the provisions of Section 11-20-15.1
5 shall be the exclusive remedy for the removal cost.

6 The provisions of this subsection (d), other than this
7 sentence, are inoperative upon certification by the Secretary
8 of the Illinois Department of Financial and Professional
9 Regulation, after consultation with the United States
10 Department of Housing and Urban Development, that the Mortgage
11 Electronic Registration System program is effectively
12 registering substantially all mortgaged residential properties
13 located in the State of Illinois, is available for access by
14 all municipalities located in the State of Illinois without
15 charge to them, and such registration includes the telephone
16 number for the mortgage servicer.

17 (Source: P.A. 94-572, eff. 8-12-05.)

18 (65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

19 Sec. 11-20-12. Removal of infected trees.

20 (a) The corporate authorities of each municipality may
21 provide for the removal of elm trees infected with Dutch elm
22 disease or ash trees infected with the emerald ash borer
23 (Agrilus planipennis Fairmaire) from any parcel of private
24 property within the municipality if the owners of that parcel,
25 after reasonable notice, refuse or neglect to remove the

1 infected trees. The municipality may collect, from the owners
2 of the parcel, not owned by the municipality or dedicated for
3 public use when the owner of such property refuses or neglects
4 to remove any such tree, and to collect from the property owner
5 the reasonable removal cost thereof.

6 (b) The municipality's removal cost under this Section is a
7 lien upon the underlying parcel in accordance with Section
8 11-20-15.

9 (c) For the purpose of this Section, "removal cost" means
10 the total cost of the removal of the infected trees.

11 (d) In the case of an abandoned residential property as
12 defined in Section 11-20-15.1, the municipality may elect to
13 obtain a lien for the removal cost pursuant to Section
14 11-20-15.1, in which case the provisions of Section 11-20-15.1
15 shall be the exclusive remedy for the removal cost.

16 The provisions of this subsection (d), other than this
17 sentence, are inoperative upon certification by the Secretary
18 of the Illinois Department of Financial and Professional
19 Regulation, after consultation with the United States
20 Department of Housing and Urban Development, that the Mortgage
21 Electronic Registration System program is effectively
22 registering substantially all mortgaged residential properties
23 located in the State of Illinois, is available for access by
24 all municipalities located in the State of Illinois without
25 charge to them, and such registration includes the telephone
26 number for the mortgage servicer.

1 ~~This cost is a lien upon the real estate affected, superior~~
2 ~~to all other liens and encumbrances, except tax liens; provided~~
3 ~~that notice has been given as hereinafter described, and~~
4 ~~further provided that within 60 days after such cost and~~
5 ~~expense is incurred the municipality, or person performing the~~
6 ~~service by authority of the municipality, in his or its own~~
7 ~~name, files notice of lien in the office of the recorder in the~~
8 ~~county in which such real estate is located or in the office of~~
9 ~~the Registrar of Titles of such county if the real estate~~
10 ~~affected is registered under "An Act concerning land titles",~~
11 ~~approved May 1, 1897, as amended. The notice shall consist of a~~
12 ~~sworn statement setting out (1) a description of the real~~
13 ~~estate sufficient for identification thereof, (2) the amount of~~
14 ~~money representing the cost and expense incurred or payable for~~
15 ~~the service, and (3) the date or dates when such cost and~~
16 ~~expense was incurred by the municipality. However, the lien of~~
17 ~~such municipality shall not be valid as to any purchaser whose~~
18 ~~rights in and to such real estate have arisen subsequent to the~~
19 ~~tree removal and prior to the filing of such notice, and the~~
20 ~~lien of such municipality shall not be valid as to any~~
21 ~~mortgagee, judgment creditor or other lienor whose rights in~~
22 ~~and to such real estate arise prior to the filing of such~~
23 ~~notice. Upon payment of the cost and expense by the owner of or~~
24 ~~persons interested in such property after notice of lien has~~
25 ~~been filed, the lien shall be released by the municipality or~~
26 ~~person in whose name the lien has been filed and the release~~

1 ~~may be filed of record as in the case of filing notice of lien.~~

2 ~~The cost of such tree removal shall not be a lien upon the~~
3 ~~real estate affected unless a notice shall be personally served~~
4 ~~or sent by registered mail to the person to whom was sent the~~
5 ~~tax bill for the general taxes for the last preceding year on~~
6 ~~the property, such notice to be delivered or sent not less than~~
7 ~~30 days prior to the removal of the tree or trees located~~
8 ~~thereon. The notice shall contain the substance of this~~
9 ~~section, and of any ordinance of the municipality implementing~~
10 ~~its provisions, and identify the property, by common~~
11 ~~description, and the tree or trees affected.~~

12 (Source: P.A. 95-183, eff. 8-14-07.)

13 (65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

14 Sec. 11-20-13. Removal of garbage, debris, and graffiti.

15 (a) The corporate authorities of each municipality may
16 provide for the removal of garbage, debris, and graffiti from
17 any parcel of private property within the municipality if ~~when~~
18 the owner of that parcel ~~such property~~, after reasonable
19 notice, refuses or neglects to remove the ~~such~~ garbage, debris,
20 and graffiti. The municipality ~~and~~ may collect, from the ~~such~~
21 owner of the parcel, the reasonable removal cost ~~thereof except~~
22 ~~in the case of graffiti.~~

23 (b) The municipality's removal cost under this Section is a
24 lien upon the underlying parcel in accordance with Section
25 11-20-15. ~~This cost is a lien upon the real estate affected,~~

1 ~~superior to all subsequent liens and encumbrances, except tax~~
2 ~~liens, if within 60 days after such cost and expense is~~
3 ~~incurred the municipality, or person performing the service by~~
4 ~~authority of the municipality, in his or its own name, files~~
5 ~~notice of lien in the office of the recorder in the county in~~
6 ~~which such real estate is located or in the office of the~~
7 ~~Registrar of Titles of such county if the real estate affected~~
8 ~~is registered under "An Act concerning land titles", approved~~
9 ~~May 1, 1897, as amended. The notice shall consist of a sworn~~
10 ~~statement setting out (1) a description of the real estate~~
11 ~~sufficient for identification thereof, (2) the amount of money~~
12 ~~representing the cost and expense incurred or payable for the~~
13 ~~service, and (3) the date or dates when such cost and expense~~
14 ~~was incurred by the municipality. However, the lien of such~~
15 ~~municipality shall not be valid as to any purchaser whose~~
16 ~~rights in and to such real estate have arisen subsequent to~~
17 ~~removal of the garbage and debris and prior to the filing of~~
18 ~~such notice, and the lien of such municipality shall not be~~
19 ~~valid as to any mortgagee, judgment creditor or other lienor~~
20 ~~whose rights in and to such real estate arise prior to the~~
21 ~~filing of such notice. Upon payment of the cost and expense by~~
22 ~~the owner of or persons interested in such property after~~
23 ~~notice of lien has been filed, the lien shall be released by~~
24 ~~the municipality or person in whose name the lien has been~~
25 ~~filed and the release may be filed of record as in the case of~~
26 ~~filing notice of lien. The lien may be enforced by proceedings~~

1 ~~to foreclose as in case of mortgages or mechanics' liens. An~~
2 ~~action to foreclose this lien shall be commenced within 2 years~~
3 ~~after the date of filing notice of lien.~~

4 (c) This amendatory Act of 1973 does not apply to any
5 municipality which is a home rule unit.

6 (d) For the purpose of this Section, "removal cost" means
7 the total cost of the removal of garbage and debris. The term
8 "removal cost" does not include any cost associated with the
9 removal of graffiti.

10 (e) In the case of an abandoned residential property as
11 defined in Section 11-20-15.1, the municipality may elect to
12 obtain a lien for the removal cost pursuant to Section
13 11-20-15.1, in which case the provisions of Section 11-20-15.1
14 shall be the exclusive remedy for the removal cost.

15 The provisions of this subsection (e), other than this
16 sentence, are inoperative upon certification by the Secretary
17 of the Illinois Department of Financial and Professional
18 Regulation, after consultation with the United States
19 Department of Housing and Urban Development, that the Mortgage
20 Electronic Registration System program is effectively
21 registering substantially all mortgaged residential properties
22 located in the State of Illinois, is available for access by
23 all municipalities located in the State of Illinois without
24 charge to them, and such registration includes the telephone
25 number for the mortgage servicer.

26 (Source: P.A. 90-292, eff. 1-1-98.)

1 (65 ILCS 5/11-20-15 new)

2 Sec. 11-20-15. Lien for removal costs.

3 (a) If the municipality incurs a removal cost under Section
4 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
5 underlying parcel, then that cost is a lien upon that
6 underlying parcel. This lien is superior to all other liens and
7 encumbrances, except tax liens and as otherwise provided in
8 subsection (c) of this Section.

9 (b) To perfect a lien under this Section, the municipality
10 must, within one year after the removal cost is incurred, file
11 notice of lien in the office of the recorder in the county in
12 which the underlying parcel is located or, if the underlying
13 parcel is registered under the Torrens system, in the office of
14 the Registrar of Titles of that county. The notice must consist
15 of a sworn statement setting out:

16 (1) a description of the underlying parcel that
17 sufficiently identifies the parcel;

18 (2) the amount of the removal cost; and

19 (3) the date or dates when the removal cost was
20 incurred by the municipality.

21 If, for any one parcel, the municipality engaged in any
22 removal activity on more than one occasion during the course of
23 one year, then the municipality may combine any or all of the
24 costs of each of those activities into a single notice of lien.

25 (c) A lien under this Section is not valid as to: (i) any

1 purchaser whose rights in and to the underlying parcel arose
2 after the removal activity but before the filing of the notice
3 of lien; or (ii) any mortgagee, judgment creditor, or other
4 lienor whose rights in and to the underlying parcel arose
5 before the filing of the notice of lien.

6 (d) The removal cost is not a lien on the underlying parcel
7 unless a notice is personally served on, or sent by certified
8 mail to, the person to whom was sent the tax bill for the
9 general taxes on the property for the taxable year immediately
10 preceding the removal activities. The notice must be delivered
11 or sent after the removal activities have been performed, and
12 it must: (i) state the substance of this Section and the
13 substance of any ordinance of the municipality implementing
14 this Section; (ii) identify the underlying parcel, by common
15 description; and (iii) describe the removal activity.

16 (e) A lien under this Section may be enforced by
17 proceedings to foreclose as in case of mortgages or mechanics'
18 liens. An action to foreclose a lien under this Section must be
19 commenced within 2 years after the date of filing notice of
20 lien.

21 (f) Any person who performs a removal activity by the
22 authority of the municipality may, in his or her own name, file
23 a lien and foreclose on that lien in the same manner as a
24 municipality under this Section.

25 (g) A failure to file a foreclosure action does not, in any
26 way, affect the validity of the lien against the underlying

1 parcel.

2 (h) Upon payment of the lien cost by the owner of the
3 underlying parcel after notice of lien has been filed, the
4 municipality (or its agent under subsection (f)) shall release
5 the lien, and the release may be filed of record by the owner
6 at his or her sole expense as in the case of filing notice of
7 lien.

8 (i) This Section shall not apply to a lien filed pursuant
9 to Section 11-20-15.1.

10 (65 ILCS 5/11-20-15.1 new)

11 Sec. 11-20-15.1. Lien for costs of removal, securing, and
12 enclosing on abandoned residential property.

13 (a) If the municipality elects to incur a removal cost
14 pursuant to subsection (d) of Section 11-20-7, subsection (d)
15 of Section 11-20-8, subsection (d) of Section 11-20-12, or
16 subsection (e) of Section 11-20-13, or a securing or enclosing
17 cost pursuant to Section 11-31-1.01 with respect to an
18 abandoned residential property, then that cost is a lien upon
19 the underlying parcel of that abandoned residential property.
20 This lien is superior to all other liens and encumbrances,
21 except tax liens and as otherwise provided in this Section.

22 (b) To perfect a lien under this Section, the municipality
23 must, within one year after the cost is incurred for the
24 activity, file notice of the lien in the office of the recorder
25 in the county in which the abandoned residential property is

1 located or, if the abandoned residential property is registered
2 under the Torrens system, in the office of the Registrar of
3 Titles of that county, a sworn statement setting out:

4 (1) a description of the abandoned residential
5 property that sufficiently identifies the parcel;

6 (2) the amount of the cost of the activity;

7 (3) the date or dates when the cost for the activity
8 was incurred by the municipality; and

9 (4) a statement that the lien has been filed pursuant
10 to subsection (d) of Section 11-20-7, subsection (d) of
11 Section 11-20-8, subsection (d) of Section 11-20-12,
12 subsection (e) of Section 11-20-13, or 11-31-1.01, as
13 applicable.

14 If, for any abandoned residential property, the
15 municipality engaged in any activity on more than one occasion
16 during the course of one year, then the municipality may
17 combine any or all of the costs of each of those activities
18 into a single notice of lien.

19 (c) To enforce a lien pursuant to this Section, the
20 municipality must maintain contemporaneous records that
21 include, at a minimum: (i) a dated statement of finding by the
22 municipality that the property for which the work is to be
23 performed has become abandoned residential property, which
24 shall include (1) the date when the property was first known or
25 observed to be unoccupied by any lawful occupant or occupants,
26 (2) a description of the actions taken by the municipality to

1 contact the legal owner or owners of the property identified on
2 the recorded mortgage, or, if known, any agent of the owner or
3 owners, including the dates such actions were taken, and (3) a
4 statement that no contacts were made with the legal owner or
5 owners or their agents as a result of such actions, (ii) a
6 dated certification by an authorized official of the
7 municipality of the necessity and specific nature of the work
8 to be performed, (iii) a copy of the agreement with the person
9 or entity performing the work that includes the legal name of
10 the person or entity, the rate or rates to be charged for
11 performing the work, and an estimate of the total cost of the
12 work to be performed, (iv) detailed invoices and payment
13 vouchers for all payments made by the municipality for such
14 work, and (v) a statement as to whether the work was engaged
15 through a competitive bidding process, and if so, a copy of all
16 proposals submitted by the bidders for such work.

17 (d) A lien under this Section shall be enforceable
18 exclusively at the hearing for confirmation of sale of the
19 abandoned residential property that is held pursuant to
20 subsection (b) of Section 15-1508 of the Code of Civil
21 Procedure and shall be limited to a claim of interest in the
22 proceeds of the sale and subject to the requirements of this
23 Section. Any mortgagee who holds a mortgage on the property, or
24 any beneficiary or trustee who holds a deed of trust on the
25 property, may contest the lien or the amount of the lien at any
26 time during the foreclosure proceeding upon motion and notice

1 in accordance with court rules applicable to motions generally.
2 Grounds for forfeiture of the lien or the superior status of
3 the lien granted by subsection (a) of this Section shall
4 include, but not be limited to, a finding by the court that:
5 (i) the municipality has not complied with subsection (b) or
6 (c) of this Section, (ii) the scope of the work was not
7 reasonable under the circumstances, (iii) the work exceeded the
8 authorization for the work to be performed under subsection (a)
9 of Section 11-20-7, subsection (a) of Section 11-20-8,
10 subsection (a) of Section 11-20-12, subsection (a) of Section
11 11-20-13, or subsection (a) of Section 11-31-1.01, as
12 applicable, or (iv) the cost of the services rendered or
13 materials provided was not commercially reasonable. Forfeiture
14 of the superior status of the lien otherwise granted by this
15 Section shall not constitute a forfeiture of the lien as a
16 subordinate lien.

17 (e) Upon payment of the amount of a lien filed under this
18 Section by the mortgagee, servicer, owner, or any other person,
19 the municipality shall release the lien, and the release may be
20 filed of record by the person making such payment at the
21 person's sole expense as in the case of filing notice of lien.

22 (f) Notwithstanding any other provision of this Section, a
23 municipality may not file a lien pursuant to this Section for
24 activities performed pursuant to Section 11-20-7, Section
25 11-20-8, Section 11-20-12, Section 11-20-13, or Section
26 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned

1 residential property has provided notice to the municipality
2 that the mortgagee or servicer has performed or will perform
3 the remedial actions specified in the notice that the
4 municipality otherwise might perform pursuant to subsection
5 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
6 subsection (d) of Section 11-20-12, subsection (e) of Section
7 11-20-13, or Section 11-31-1.01, provided that the remedial
8 actions specified in the notice have been performed or are
9 performed or initiated in good faith within 30 days of such
10 notice; or (ii) the municipality has provided notice to the
11 mortgagee or servicer of a problem with the property requiring
12 the remedial actions specified in the notice that the
13 municipality otherwise would perform pursuant to subsection
14 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
15 subsection (d) of Section 11-20-12, subsection (e) of Section
16 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
17 has performed or performs or initiates in good faith the
18 remedial actions specified in the notice within 30 days of such
19 notice.

20 (g) This Section and subsection (d) of Section 11-20-7,
21 subsection (d) of Section 11-20-8, subsection (d) of Section
22 11-20-12, subsection (e) of Section 11-20-13, or Section
23 11-31-1.01 shall apply only to activities performed, costs
24 incurred, and liens filed after the effective date of this
25 amendatory Act of the 96th General Assembly.

26 (h) For the purposes of this Section and subsection (d) of

1 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
2 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
3 Section 11-31-1.01:

4 "Abandoned residential property" means any type of
5 permanent residential dwelling unit, including detached single
6 family structures, and townhouses, condominium units and
7 multifamily rental apartments covering the entire property,
8 and manufactured homes treated under Illinois law as real
9 estate and not as personal property, that has been unoccupied
10 by any lawful occupant or occupants for at least 90 days, and
11 for which after such 90 day period, the municipality has made
12 good faith efforts to contact the legal owner or owners of the
13 property identified on the recorded mortgage, or, if known, any
14 agent of the owner or owners, and no contact has been made. A
15 property for which the municipality has been given notice of
16 the order of confirmation of sale pursuant to subsection (b-10)
17 of Section 15-1508 of the Code of Civil Procedure shall not be
18 deemed to be an abandoned residential property for the purposes
19 of subsection (d) of Section 11-20-7, subsection (d) of Section
20 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
21 Section 11-20-13, and Section 11-31-1.01 of this Code.

22 "MERS program" means the nationwide Mortgage Electronic
23 Registration System approved by Fannie Mae, Freddie Mac, and
24 Ginnie Mae that has been created by the mortgage banking
25 industry with the mission of registering every mortgage loan in
26 the United States to lawfully make information concerning each

1 residential mortgage loan and the property securing it
2 available by internet access to mortgage originators,
3 servicers, warehouse lenders, wholesale lenders, retail
4 lenders, document custodians, settlement agents, title
5 companies, insurers, investors, county recorders, units of
6 local government, and consumers.

7 (i) Any entity or person who performs a removal, securing,
8 or enclosing activity pursuant to the authority of a
9 municipality under subsection (d) of Section 11-20-7,
10 subsection (d) of Section 11-20-8, subsection (d) of Section
11 11-20-12, subsection (e) of Section 11-20-13, or Section
12 11-31-1.01, may, in its, his, or her own name, file a lien
13 pursuant to subsection (b) of this Section and appear in a
14 foreclosure action on that lien pursuant to subsection (d) of
15 this Section in the place of the municipality, provided that
16 the municipality shall remain subject to subsection (c) of this
17 Section, and such party shall be subject to all of the
18 provisions in this Section as if such party were the
19 municipality.

20 (j) If prior to subsection (d) of Section 11-20-7,
21 subsection (d) of Section 11-20-8, subsection (d) of Section
22 11-20-12, and subsection (e) of Section 11-20-13 becoming
23 inoperative a lien is filed pursuant to any of those
24 subsections, then the lien shall remain in full force and
25 effect after the subsections have become inoperative, subject
26 to all of the provisions of this Section. If prior to the

1 repeal of Section 11-31-1.01 a lien is filed pursuant to
2 Section 11-31-1.01, then the lien shall remain in full force
3 and effect after the repeal of Section 11-31-1.01, subject to
4 all of the provisions of this Section.

5 (65 ILCS 5/11-31-1.01 new)

6 Sec. 11-31-1.01. Securing or enclosing abandoned
7 residential property.

8 (a) In the case of securing or enclosing an abandoned
9 residential property as defined in Section 11-20-15.1, the
10 municipality may elect to secure or enclose the exterior of a
11 building or the underlying parcel on which it is located under
12 this Section without application to the circuit court, in which
13 case the provisions of Section 11-20-15.1 shall be the
14 exclusive remedy for the recovery of the costs of such
15 activity.

16 (b) For the purposes of this Section:

17 (1) "Secure" or "securing" means boarding up, closing
18 off, or locking windows or entrances or otherwise making
19 the interior of a building inaccessible to the general
20 public; and

21 (2) "Enclose" or "enclosing" means surrounding part or
22 all of the abandoned residential property's underlying
23 parcel with a fence or wall or otherwise making part or all
24 of the abandoned residential property's underlying parcel
25 inaccessible to the general public.

1 (c) This Section is repealed upon certification by the
2 Secretary of the Illinois Department of Financial and
3 Professional Regulation, after consultation with the United
4 States Department of Housing and Urban Development, that the
5 Mortgage Electronic Registration System program is effectively
6 registering substantially all mortgaged residential properties
7 located in the State of Illinois, is available for access by
8 all municipalities located in the State of Illinois without
9 charge to them, and such registration includes the telephone
10 number for the mortgage servicer.

11 Section 15. The Illinois Banking Act is amended by changing
12 Section 5c as follows:

13 (205 ILCS 5/5c) (from Ch. 17, par. 312.2)

14 Sec. 5c. Ownership of a bankers' bank. A bank may acquire
15 shares of stock of a bank or holding company which owns or
16 controls such bank if the stock of such bank or company is
17 owned exclusively (except to the extent directors' qualifying
18 shares are required by law) by depository institutions or
19 depository institution holding companies and such bank or
20 company and all subsidiaries thereof are engaged exclusively in
21 providing services to or for other financial institutions,
22 their holding companies, and the officers, directors, and
23 employees of such institutions and companies, and in providing
24 services at the request of other financial institutions or

1 their holding companies (also referred to as a "bankers'
2 bank"). The bank may also provide products and services to its
3 officers, directors, and employees. In no event shall the total
4 amount of such stock held by a bank in such bank or holding
5 company exceed 10 percent of its capital and surplus (including
6 undivided profits) and in no event shall a bank acquire more
7 than 15 ~~5~~ percent of any class of voting securities of such
8 bank or company.

9 (Source: P.A. 95-924, eff. 8-26-08.)

10 Section 20. The Real Estate License Act of 2000 is amended
11 by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-25, 5-35,
12 5-40, 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-15, 10-30,
13 15-15, 15-35, 15-45, 15-65, 20-5, 20-10, 20-20, 20-25, 20-50,
14 20-55, 20-60, 20-65, 20-75, 20-85, 20-90, 20-95, 20-100,
15 20-110, 20-115, 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25,
16 25-30, 25-35, 25-37, 30-5, 30-10, 30-15, 30-20, and 30-25 and
17 by adding Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 5-46,
18 5-47, 10-35, 10-40, 20-21, 20-22, 20-62, 20-63, 20-64, 20-66,
19 20-67, 20-68, 20-69, 20-72, 20-73, 20-82, and 25-21 as follows:

20 (225 ILCS 454/1-10)

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

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

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

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

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

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

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

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

25 "Board" means the Real Estate Administration and
26 Disciplinary Board of the Department as created by Section

1 25-10 of this Act ~~OPRE~~.

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 "Coordinator" means the Coordinator of Real Estate created
14 in Section 25-15 of this Act.

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

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

21 "Department" means the Department of Financial and
22 Professional Regulation.

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

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

4 ~~"Director" means the Director of the Real Estate Division,~~
5 ~~OBRE.~~

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

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

21 "Escrow moneys" means all moneys, promissory notes or any
22 other type or manner of legal tender or financial consideration
23 deposited with any person for the benefit of the parties to the
24 transaction. A transaction exists once an agreement has been
25 reached and an accepted real estate contract signed or lease
26 agreed to by the parties. Escrow moneys includes without

1 limitation earnest moneys and security deposits, except those
2 security deposits in which the person holding the security
3 deposit is also the sole owner of the property being leased and
4 for which the security deposit is being held.

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

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

17 "Leads" means the name or names of a potential buyer,
18 seller, lessor, lessee, or client of a licensee.

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

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

26 "Licensed activities" means those activities listed in the

1 definition of "broker" under this Section.

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

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

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

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

17 "Ministerial acts" means those acts that a licensee may
18 perform for a consumer that are informative or clerical in
19 nature and do not rise to the level of active representation on
20 behalf of a consumer. Examples of these acts include without
21 limitation (i) responding to phone inquiries by consumers as to
22 the availability and pricing of brokerage services, (ii)
23 responding to phone inquiries from a consumer concerning the
24 price or location of property, (iii) attending an open house
25 and responding to questions about the property from a consumer,
26 (iv) setting an appointment to view property, (v) responding to

1 questions of consumers walking into a licensee's office
2 concerning brokerage services offered or particular
3 properties, (vi) accompanying an appraiser, inspector,
4 contractor, or similar third party on a visit to a property,
5 (vii) describing a property or the property's condition in
6 response to a consumer's inquiry, (viii) completing business or
7 factual information for a consumer on an offer or contract to
8 purchase on behalf of a client, (ix) showing a client through a
9 property being sold by an owner on his or her own behalf, or
10 (x) referral to another broker or service provider.

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

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

16 "Person" means and includes individuals, entities,
17 corporations, limited liability companies, registered limited
18 liability partnerships, and partnerships, foreign or domestic,
19 except that when the context otherwise requires, the term may
20 refer to a single individual or other described entity.

21 "Personal assistant" means a licensed or unlicensed person
22 who has been hired for the purpose of aiding or assisting a
23 sponsored licensee in the performance of the sponsored
24 licensee's job.

25 "Pocket card" means the card issued by the Department ~~OBRE~~
26 to signify that the person named on the card is currently

1 licensed under this Act.

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

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

10 "Proctor" means any person, including, but not limited to,
11 an instructor, who has a written agreement to administer
12 examinations fairly and impartially with a licensed
13 pre-license school or a licensed continuing education school.

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

19 "Regular employee" means a person working an average of 20
20 hours per week for a person or entity who would be considered
21 as an employee under the Internal Revenue Service eleven main
22 tests in three categories being behavioral control, financial
23 control and the type of relationship of the parties, formerly
24 the twenty factor test.

25 ~~"Real Estate Administration and Disciplinary Board" or~~
26 ~~"Board" means the Real Estate Administration and Disciplinary~~

1 ~~Board created by Section 25-10 of this Act.~~

2 "Salesperson" means any individual, other than a real
3 estate broker or leasing agent, who is employed by a real
4 estate broker or is associated by written agreement with a real
5 estate broker as an independent contractor and participates in
6 any activity described in the definition of "broker" under this
7 Section.

8 "Secretary" means the Secretary of the Department of
9 Financial and Professional Regulation, or a person authorized
10 by the Secretary to act in the Secretary's stead.

11 "Sponsoring broker" means the broker who has issued a
12 sponsor card to a licensed salesperson, another licensed
13 broker, or a leasing agent.

14 "Sponsor card" means the temporary permit issued by the
15 sponsoring real estate broker certifying that the real estate
16 broker, real estate salesperson, or leasing agent named thereon
17 is employed by or associated by written agreement with the
18 sponsoring real estate broker, as provided for in Section 5-40
19 of this Act.

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

21 (225 ILCS 454/5-5)

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

23 Sec. 5-5. Leasing agent license.

24 (a) The purpose of this Section is to provide for a limited
25 scope license to enable persons who wish to engage in

1 activities limited to the leasing of residential real property
2 for which a license is required under this Act, and only those
3 activities, to do so by obtaining the license provided for
4 under this Section.

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

19 (c) The Department ~~OBRE~~, by rule, ~~with the advice of the~~
20 ~~Board~~, shall provide for the licensing of leasing agents,
21 including the issuance, renewal, and administration of
22 licenses.

23 (d) Notwithstanding any other provisions of this Act to the
24 contrary, a person may engage in residential leasing activities
25 for which a license is required under this Act, for a period of
26 120 consecutive days without being licensed, so long as the

1 person is acting under the supervision of a licensed real
2 estate broker and the broker has notified the Department ~~OBRE~~
3 that the person is pursuing licensure under this Section.
4 During the 120 day period all requirements of Sections 5-10 and
5 5-65 of this Act with respect to education, successful
6 completion of an examination, and the payment of all required
7 fees must be satisfied. The Department ~~OBRE~~ may adopt rules to
8 ensure that the provisions of this subsection are not used in a
9 manner that enables an unlicensed person to repeatedly or
10 continually engage in activities for which a license is
11 required under this Act.

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

13 (225 ILCS 454/5-6 new)

14 Sec. 5-6. Social Security Number or Tax Identification
15 Number on license application. In addition to any other
16 information required to be contained in the application, every
17 application for an original or renewal license under this Act
18 shall include the applicant's Social Security Number or Tax
19 Identification Number.

20 (225 ILCS 454/5-7 new)

21 Sec. 5-7. Application for leasing agent license. Every
22 person who desires to obtain a leasing agent license shall
23 apply to the Department in writing on forms provided by the
24 Department which application shall be accompanied by the

1 required non-refundable fee. Any such application shall
2 require such information as in the judgment of the Department
3 will enable the Department to pass on the qualifications of the
4 applicant for licensure.

5 (225 ILCS 454/5-10)

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

7 Sec. 5-10. Requirements for license as leasing agent.

8 ~~Application for leasing agent license.~~

9 (a) Every applicant for licensure as a leasing agent must
10 meet the following qualifications:

11 (1) Every person who desires to obtain a leasing agent
12 license shall apply to OBRE in writing on forms provided by
13 OBRE. In addition to any other information required to be
14 contained in the application, every application for an
15 original or renewed leasing agent license shall include the
16 applicant's Social Security number. All application or
17 license fees must accompany the application. Each
18 applicant must be at least 18 years of age;

19 (2) , must be of good moral character; , shall have

20 (3) successfully complete ~~completed~~ a 4-year course of
21 study in a high school or secondary school or an equivalent
22 course of study approved by the Illinois State Board of
23 Education; , and shall successfully complete

24 (4) personally take and pass a written examination
25 authorized by the Department ~~OBRE~~ sufficient to

1 demonstrate the applicant's knowledge of the provisions of
2 this Act relating to leasing agents and the applicant's
3 competence to engage in the activities of a licensed
4 leasing agent; ~~Applicants must successfully complete~~

5 (5) provide satisfactory evidence of having completed
6 15 hours of instruction in an approved course of study
7 relating to the leasing of residential real property. The
8 course of study shall, among other topics, cover the
9 provisions of this Act applicable to leasing agents; fair
10 housing issues relating to residential leasing;
11 advertising and marketing issues; leases, applications,
12 and credit reports; owner-tenant relationships and
13 owner-tenant laws; the handling of funds; and
14 environmental issues relating to residential real
15 property;

16 (6) complete any other requirements as set forth by
17 rule; and

18 (7) present a valid application for issuance of an
19 initial license accompanied by a sponsor card and the fees
20 specified by rule.

21 (b) No applicant shall engage in any of the activities
22 covered by this Act until a valid sponsor card has been issued
23 to such applicant. The sponsor card shall be valid for a
24 maximum period of 45 days after the date of issuance unless
25 extended for good cause as provided by rule.

26 (c) Successfully completed course work, completed pursuant

1 to the requirements of this Section, may be applied to the
2 course work requirements to obtain a real estate broker's or
3 salesperson's license as provided by rule. The Advisory Council
4 may ~~shall~~ recommend through the Board to the Department ~~OBRE~~
5 and the Department may ~~OBRE shall~~ adopt requirements for
6 approved courses, course content, and the approval of courses,
7 instructors, and schools, as well as school and instructor
8 fees. The Department ~~OBRE~~ may establish continuing education
9 requirements for licensed leasing agents, by rule, with the
10 advice of the Advisory Council and Board.

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

12 (225 ILCS 454/5-15)

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

14 Sec. 5-15. Necessity of managing broker, broker,
15 salesperson, or leasing agent license or sponsor card;
16 ownership restrictions.

17 (a) It is unlawful for any person, corporation, limited
18 liability company, registered limited liability partnership,
19 or partnership to act as a managing broker, real estate broker,
20 real estate salesperson, or leasing agent or to advertise or
21 assume to act as such broker, salesperson, or leasing agent
22 without a properly issued sponsor card or a license issued
23 under this Act by the Department ~~OBRE~~, either directly or
24 through its authorized designee.

25 (b) No corporation shall be granted a license or engage in

1 the business or capacity, either directly or indirectly, of a
2 real estate broker, unless every officer of the corporation who
3 actively participates in the real estate activities of the
4 corporation holds a license as a managing broker or ~~real estate~~
5 broker and unless every employee who acts as a salesperson, or
6 leasing agent for the corporation holds a license as a ~~real~~
7 ~~estate~~ broker, salesperson, or leasing agent.

8 (c) No partnership shall be granted a license or engage in
9 the business or serve in the capacity, either directly or
10 indirectly, of a real estate broker, unless every general
11 partner in the partnership holds a license as a managing broker
12 or ~~real estate~~ broker and unless every employee who acts as a
13 salesperson or leasing agent for the partnership holds a
14 license as a ~~real estate~~ broker, salesperson, or leasing agent.
15 In the case of a registered limited liability partnership
16 (LLP), every partner in the LLP must hold a license as a
17 managing broker or ~~real estate~~ broker and every employee who
18 acts as a salesperson or leasing agent must hold a license as a
19 ~~real estate~~ broker, salesperson, or leasing agent.

20 (d) No limited liability company shall be granted a license
21 or engage in the business or serve in the capacity, either
22 directly or indirectly, of a ~~real estate~~ broker unless every
23 manager in the limited liability company or every member in a
24 member managed limited liability company holds a license as a
25 managing broker or ~~real estate~~ broker and unless every other
26 member and employee who acts as a salesperson or leasing agent

1 for the limited liability company holds a license as a ~~real~~
2 ~~estate~~ broker, salesperson, or leasing agent.

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

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

11 (225 ILCS 454/5-20)

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

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

16 (1) Any person, partnership, or corporation that as owner
17 or lessor performs any of the acts described in the definition
18 of "broker" under Section 1-10 of this Act with reference to
19 property owned or leased by it, or to the regular employees
20 thereof with respect to the property so owned or leased, where
21 such acts are performed in the regular course of or as an
22 incident to the management, sale, or other disposition of such
23 property and the investment therein, provided that such regular
24 employees do not perform any of the acts described in the
25 definition of "broker" under Section 1-10 of this Act in

1 connection with a vocation of selling or leasing any real
2 estate or the improvements thereon not so owned or leased.

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

7 (3) Any person acting as receiver, trustee in bankruptcy,
8 administrator, executor, or guardian or while acting under a
9 court order or under the authority of a will or testamentary
10 trust.

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

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

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

22 (7) Any multiple listing service or other similar
23 information exchange that is engaged in the collection and
24 dissemination of information concerning real estate available
25 for sale, purchase, lease, or exchange for the purpose of
26 providing licensees with a system by which licensees may

1 cooperatively share information along with which no other
2 licensed activities, as defined in Section 1-10 of this Act,
3 are provided.

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

10 (9) Any medium of advertising in the routine course of
11 selling or publishing advertising along with which no other
12 licensed activities, as defined in Section 1-10 of this Act,
13 are provided.

14 (10) Any resident lessee of a residential dwelling unit who
15 refers for compensation to the owner of the dwelling unit, or
16 to the owner's agent, prospective lessees of dwelling units in
17 the same building or complex as the resident lessee's unit, but
18 only if the resident lessee (i) refers no more than 3
19 prospective lessees in any 12-month period, (ii) receives
20 compensation of no more than \$1,500 ~~\$1,000~~ or the equivalent of
21 one month's rent, whichever is less, in any 12-month period,
22 and (iii) limits his or her activities to referring prospective
23 lessees to the owner, or the owner's agent, and does not show a
24 residential dwelling unit to a prospective lessee, discuss
25 terms or conditions of leasing a dwelling unit with a
26 prospective lessee, or otherwise participate in the

1 negotiation of the leasing of a dwelling unit.

2 (11) An exchange company registered under the Real Estate
3 Timeshare Act of 1999 and the regular employees of that
4 registered exchange company but only when conducting an
5 exchange program as defined in that Act.

6 (12) An existing timeshare owner who, for compensation,
7 refers prospective purchasers, but only if the existing
8 timeshare owner (i) refers no more than 20 prospective
9 purchasers in any calendar year, (ii) receives no more than
10 \$1,000, or its equivalent, for referrals in any calendar year
11 and (iii) limits his or her activities to referring prospective
12 purchasers of timeshare interests to the developer or the
13 developer's employees or agents, and does not show, discuss
14 terms or conditions of purchase or otherwise participate in
15 negotiations with regard to timeshare interests.

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

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

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

26 (C) the person has had no lapse in his or her

1 license as an auctioneer; and

2 (D) the license issued under the Auction License
3 Act has not been disciplined for violation of those
4 provisions of Article 20 of the Auction License Act
5 dealing with or related to the sale or lease of real
6 estate at auction.

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

13 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;
14 91-603, eff. 1-1-00; 92-16, eff. 6-28-01; 92-217, eff. 8-2-01;
15 revised 10-24-08.)

16 (225 ILCS 454/5-25)

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

18 Sec. 5-25. Good moral character. ~~Application for and~~
19 ~~issuance of broker or salesperson license.~~

20 ~~(a) Every person who desires to obtain a license shall make~~
21 ~~application to OBRE in writing upon forms prepared and~~
22 ~~furnished by OBRE. In addition to any other information~~
23 ~~required to be contained in the application, every application~~
24 ~~for an original or renewed license shall include the~~
25 ~~applicant's Social Security number. Each applicant shall be at~~

1 ~~least 21 years of age, be of good moral character, and have~~
2 ~~successfully completed a 4-year course of study in a high~~
3 ~~school or secondary school approved by the Illinois State Board~~
4 ~~of Education or an equivalent course of study as determined by~~
5 ~~an examination conducted by the Illinois State Board of~~
6 ~~Education and shall be verified under oath by the applicant.~~
7 ~~The minimum age of 21 years shall be waived for any person~~
8 ~~seeking a license as a real estate salesperson who has attained~~
9 ~~the age of 18 and can provide evidence of the successful~~
10 ~~completion of at least 4 semesters of post-secondary school~~
11 ~~study as a full-time student or the equivalent, with major~~
12 ~~emphasis on real estate courses, in a school approved by OBRE.~~

13 ~~(b)~~ When an applicant has had his or her license revoked on
14 a prior occasion or when an applicant is found to have
15 committed any of the practices enumerated in Section 20-20 of
16 this Act or when an applicant has been convicted of or enters a
17 plea of guilty or nolo contendere to forgery, embezzlement,
18 obtaining money under false pretenses, larceny, extortion,
19 conspiracy to defraud, or any other similar offense or offenses
20 or has been convicted of a felony involving moral turpitude in
21 any court of competent jurisdiction in this or any other state,
22 district, or territory of the United States or of a foreign
23 country, the Board may consider the prior revocation, conduct,
24 or conviction in its determination of the applicant's moral
25 character and whether to grant the applicant a license. In its
26 consideration of the prior revocation, conduct, or conviction,

1 the Board shall take into account the nature of the conduct,
2 any aggravating or extenuating circumstances, the time elapsed
3 since the revocation, conduct, or conviction, the
4 rehabilitation or restitution performed by the applicant, and
5 any other factors that the Board deems relevant. When an
6 applicant has made a false statement of material fact on his or
7 her application, the false statement may in itself be
8 sufficient grounds to revoke or refuse to issue a license.

9 ~~(c) Every valid application for issuance of an initial~~
10 ~~license shall be accompanied by a sponsor card and the fees~~
11 ~~specified by rule.~~

12 ~~(d) No applicant shall engage in any of the activities~~
13 ~~covered by this Act until a valid sponsor card has been issued~~
14 ~~to such applicant. The sponsor card shall be valid for a~~
15 ~~maximum period of 45 days from the date of issuance unless~~
16 ~~extended for good cause as provided by rule.~~

17 ~~(e) OBRE shall issue to each applicant entitled thereto a~~
18 ~~license in such form and size as shall be prescribed by OBRE.~~
19 ~~The procedure for terminating a license shall be printed on the~~
20 ~~reverse side of the license. Each license shall bear the name~~
21 ~~of the person so qualified, shall specify whether the person is~~
22 ~~qualified to act in a broker or salesperson capacity, and shall~~
23 ~~contain such other information as shall be recommended by the~~
24 ~~Board and approved by OBRE. Each person licensed under this Act~~
25 ~~shall display his or her license conspicuously in his or her~~
26 ~~place of business.~~

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

2 (225 ILCS 454/5-26 new)

3 Sec. 5-26. Requirements for license as a salesperson.

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

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

14 (2) Be of good moral character;

15 (3) Successfully complete a 4-year course of study in a
16 high school or secondary school approved by the Illinois
17 State Board of Education or an equivalent course of study
18 as determined by an examination conducted by the Illinois
19 State Board of Education, which shall be verified under
20 oath by the applicant;

21 (4) Provide satisfactory evidence of having completed
22 at least 45 hours of instruction in real estate courses
23 approved by the Advisory Council, except applicants who are
24 currently admitted to practice law by the Supreme Court of
25 Illinois and are currently in active standing;

1 (5) Shall personally take and pass a written
2 examination authorized by the Department; and

3 (6) Present a valid application for issuance of a
4 license accompanied by a sponsor card and the fees
5 specified by rule.

6 (b) No applicant shall engage in any of the activities
7 covered by this Act until a valid sponsor card has been issued
8 to the applicant. The sponsor card shall be valid for a maximum
9 period of 45 days after the date of issuance unless extended
10 for good cause as provided by rule.

11 (c) All licenses should be readily available to the public
12 at their sponsoring place of business.

13 (d) No new salesperson licenses shall be issued after April
14 30, 2011 and all existing salesperson licenses shall terminate
15 on May 1, 2012.

16 (225 ILCS 454/5-27 new)

17 Sec. 5-27. Requirements for licensure as a broker.

18 (a) Every applicant for licensure as a broker must meet the
19 following qualifications:

20 (1) Be at least 21 years of age. After April 30, 2011,
21 the minimum age of 21 years shall be waived for any person
22 seeking a license as a broker who has attained the age of
23 18 and can provide evidence of the successful completion of
24 at least 4 semesters of post-secondary school study as a
25 full-time student or the equivalent, with major emphasis on

1 real estate courses, in a school approved by the
2 Department;

3 (2) Be of good moral character;

4 (3) Successfully complete a 4-year course of study in a
5 high school or secondary school approved by the Illinois
6 State Board of Education or an equivalent course of study
7 as determined by an examination conducted by the Illinois
8 State Board of Education which shall be verified under oath
9 by the applicant;

10 (4) Prior to May 1, 2011, provide (i) satisfactory
11 evidence of having completed at least 120 classroom hours,
12 45 of which shall be those hours required to obtain a
13 salesperson's license plus 15 hours in brokerage
14 administration courses, in real estate courses approved by
15 the Advisory Council or (ii) for applicants who currently
16 hold a valid real estate salesperson's license, give
17 satisfactory evidence of having completed at least 75 hours
18 in real estate courses, not including the courses that are
19 required to obtain a salesperson's license, approved by the
20 Advisory Council;

21 (5) After April 30, 2011, provide satisfactory
22 evidence of having completed 90 hours of instruction in
23 real estate courses approved by the Advisory Council, 15
24 hours of which must consist of situational and case studies
25 presented in the classroom or by other interactive delivery
26 method presenting instruction and real time discussion

1 between the instructor and the students;

2 (6) Personally take and pass a written examination
3 authorized by the Department;

4 (7) Present a valid application for issuance of a
5 license accompanied by a sponsor card and the fees
6 specified by rule.

7 (b) The requirements specified in items (4) and (5) of
8 subsection (a) of this Section do not apply to applicants who
9 are currently admitted to practice law by the Supreme Court of
10 Illinois and are currently in active standing.

11 (c) No applicant shall engage in any of the activities
12 covered by this Act until a valid sponsor card has been issued
13 to such applicant. The sponsor card shall be valid for a
14 maximum period of 45 days after the date of issuance unless
15 extended for good cause as provided by rule.

16 (d) All licenses should be readily available to the public
17 at their place of business.

18 (225 ILCS 454/5-28 new)

19 Sec. 5-28. Requirements for licensure as a managing broker.

20 (a) Effective May 1, 2012, every applicant for licensure as
21 a managing broker must meet the following qualifications:

22 (1) be at least 21 years of age;

23 (2) be of good moral character;

24 (3) have been licensed at least 2 out of the preceding
25 3 years as a real estate broker or salesperson;

1 (4) successfully complete a 4-year course of study in
2 high school or secondary school approved by the Illinois
3 State Board of Education or an equivalent course of study
4 as determined by an examination conducted by the Illinois
5 State Board of Education, which shall be verified under
6 oath by the applicant;

7 (5) provide satisfactory evidence of having completed
8 at least 165 hours, 120 of which shall be those hours
9 required pre and post-licensure to obtain a broker's
10 license, and 45 additional hours completed within the year
11 immediately preceding the filing of an application for a
12 managing broker's license, which hours shall focus on
13 brokerage administration and management and include at
14 least 15 hours in the classroom or by other interactive
15 delivery method presenting instructional and real time
16 discussion between the instructor and the students;

17 (6) personally take and pass a written examination
18 authorized by the Department; and

19 (7) present a valid application for issuance of a
20 license accompanied by a sponsor card, an appointment as a
21 managing broker, and the fees specified by rule.

22 (b) The requirements specified in item (5) of subsection
23 (a) of this Section do not apply to applicants who are
24 currently admitted to practice law by the Supreme Court of
25 Illinois and are currently in active standing.

26 (c) No applicant shall act as a managing broker for more

1 than 90 days after an appointment as a managing broker has been
2 filed with the Department without obtaining a managing broker's
3 license.

4 (225 ILCS 454/5-35)

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

6 Sec. 5-35. Examination; managing broker, broker, or
7 salesperson, or leasing agent.

8 (a) The Department shall authorize ~~Every person who makes~~
9 ~~application for an original license as a broker or salesperson~~
10 ~~shall personally take and pass a written examination authorized~~
11 ~~by OBRE and answer any questions that may be required to~~
12 ~~determine the good moral character of the applicant and the~~
13 ~~applicant's competency to transact the business of broker or~~
14 ~~salesperson, as the case may be, in such a manner as to~~
15 ~~safeguard the interests of the public. In determining this~~
16 ~~competency, OBRE shall require proof that the applicant has a~~
17 ~~good understanding and the knowledge to conduct real estate~~
18 ~~brokerage and of the provisions of this Act. The examination~~
19 ~~shall be prepared by an independent testing service designated~~
20 ~~by OBRE, subject to the approval of the examinations by the~~
21 ~~Board. The designated independent testing service shall~~
22 ~~conduct the~~ examinations at such times and places as it may
23 designate. The examination shall be of a character to give a
24 fair test of the qualifications of the applicant to practice as
25 a managing broker, broker, salesperson, or leasing agent.

1 Applicants for examination as a managing broker, broker,
2 salesperson, or leasing agent shall be required to pay, either
3 to the Department or the designated testing service, a fee
4 covering the cost of providing the examination. Failure to
5 appear for the examination on the scheduled date, at the time
6 and place specified, after the applicant's application for
7 examination has been received and acknowledged by the
8 Department or the designated testing service, shall result in
9 the forfeiture of the examination fee. ~~OBRE shall approve. In~~
10 addition, ~~every person who desires to take the written~~
11 examination shall make application to do so to OBRE or to the
12 designated independent testing service in writing upon forms
13 approved by OBRE. An applicant shall be eligible to take the
14 examination only after successfully completing the education
15 requirements, ~~set forth in Section 5-30 of this Act,~~ and
16 attaining the minimum age provided for ~~specified~~ in Article 5
17 of this Act. Each applicant shall be required to establish
18 compliance with the eligibility requirements in the manner
19 provided by the rules promulgated for the administration of
20 this Act.

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

1 (c) If an applicant has failed an examination 4 ~~3~~ times,
2 the applicant must repeat the pre-license education required to
3 sit for the examination. For the purposes of this Section, the
4 fifth ~~fourth~~ attempt shall be the same as the first. Approved
5 education, as prescribed by this Act for licensure as a
6 salesperson or broker, shall be valid for 4 ~~3~~ years after the
7 date of satisfactory completion of the education.

8 (d) The Department may employ consultants for the purposes
9 of preparing and conducting examinations.

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

11 (225 ILCS 454/5-40)

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

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

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

1 any broker to issue a sponsor card to any licensee or applicant
2 unless the licensee or applicant presents in hand a valid
3 license or other authorization as provided by rule.

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

20 (c) When a licensee accepts employment or association with
21 a new sponsoring broker, the new sponsoring broker shall send
22 to the Department, ~~by certified mail, return receipt requested,~~
23 ~~or other delivery service requiring a signature upon delivery,~~
24 ~~to OBRE~~ a duplicate sponsor card, along with the licensee's
25 endorsed license or an affidavit of the licensee of why the
26 endorsed license is not surrendered, and shall pay the

1 appropriate fee prescribed by rule to cover administrative
2 expenses attendant to the changes in the registration of the
3 licensee.

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

5 (225 ILCS 454/5-41 new)

6 Sec. 5-41. Change of address. A licensee shall notify the
7 Department of the address or addresses, and of every change of
8 address, where the licensee practices as a leasing agent,
9 salesperson, broker or managing broker.

10 (225 ILCS 454/5-45)

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

12 Sec. 5-45. Offices.

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

22 (b) The sponsoring broker shall name a managing broker for
23 each branch office and the sponsoring broker shall be
24 responsible for supervising all managing brokers. The

1 sponsoring broker shall notify the Department ~~OBRE~~ in writing
2 of the name of all managing brokers of the sponsoring broker
3 and the office or offices they manage. Any person initially
4 named as a managing broker after April 30, 2011 must either (i)
5 be licensed as a managing broker or (ii) meet all the
6 requirements to be licensed as a managing broker except the
7 required education and examination and secure the managing
8 broker's license within 90 days of being named as a managing
9 broker. Any changes in managing brokers shall be reported to
10 the Department ~~OBRE~~ in writing within 15 days of the change.
11 Failure to do so shall subject the sponsoring broker to
12 discipline under Section 20-20 of this Act.

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

16 (d) Except as provided in this Section, each sponsoring
17 broker shall maintain a definite office, or place of business
18 within this State for the transaction of real estate business,
19 shall conspicuously display an identification sign on the
20 outside of his or her office of adequate size and visibility,
21 ~~and shall conspicuously display his or her license in his or~~
22 ~~her office or place of business and also the licenses of all~~
23 ~~persons associated with or employed by the sponsoring broker~~
24 ~~who primarily work at that location.~~ The office or place of
25 business shall not be located in any retail or financial
26 business establishment unless it is separated from the other

1 business by a separate and distinct area within the
2 establishment. A broker who is licensed in this State by
3 examination or pursuant to the provisions of Section 5-60 of
4 this Act shall not be required to maintain a definite office or
5 place of business in this State provided all of the following
6 conditions are met:

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

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

11 (3) the broker has filed with the Department ~~OBRE~~
12 written statements appointing the Secretary ~~Commissioner~~
13 to act as the broker's agent upon whom all judicial and
14 other process or legal notices directed to the licensee may
15 be served and agreeing to abide by all of the provisions of
16 this Act with respect to his or her real estate activities
17 within the State of Illinois and submitting to the
18 jurisdiction of the Department ~~OBRE~~.

19 The statements under subdivision (3) of this Section shall
20 be in form and substance the same as those statements required
21 under Section 5-60 of this Act and shall operate to the same
22 extent.

23 (e) Upon the loss of a managing broker who is not replaced
24 by the sponsoring broker or in the event of the death or
25 adjudicated disability of the sole proprietor of an office, a
26 written request for authorization allowing the continued

1 operation of the office may be submitted to the Department ~~OBRE~~
2 within 15 days of the loss. The Department ~~OBRE~~ may issue a
3 written authorization allowing the continued operation,
4 provided that a licensed broker, or in the case of the death or
5 adjudicated disability of a sole proprietor, the
6 representative of the estate, assumes responsibility, in
7 writing, for the operation of the office and agrees to
8 personally supervise the operation of the office. No such
9 written authorization shall be valid for more than 60 days
10 unless extended by the Department ~~OBRE~~ for good cause shown and
11 upon written request by the broker or representative.

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

13 (225 ILCS 454/5-46 new)

14 Sec. 5-46. Transition from salesperson's license to
15 broker's license.

16 (a) No new salesperson licenses shall be issued by the
17 Department after April 30, 2011 and existing salesperson
18 licenses shall end as of 11:59 p.m. on April 30, 2012. The
19 following transition rules shall apply to individuals holding a
20 salesperson's license as of April 30, 2011 and seeking to
21 obtain a broker's license:

22 (1) provide evidence of having completed 30 hours of
23 post-license education in courses approved by the Advisory
24 Council and having passed a written examination approved by
25 the Department and administered by a licensed pre-license

1 school; or

2 (2) provide evidence of passing a Department-approved
3 proficiency examination administered by a licensed
4 pre-license school, which proficiency examination may only
5 be taken one time by any one individual salesperson; and

6 (3) present a valid application for a broker's license
7 no later than April 30, 2012 accompanied by a sponsor card
8 and the fees specified by rule.

9 (b) The education requirements specified in clause (1) of
10 subsection (a) of this Section do not apply to applicants who
11 are currently admitted to practice law by the Supreme Court of
12 Illinois and are currently in active standing.

13 (c) No applicant may engage in any of the activities
14 covered by this Act until a valid sponsor card has been issued
15 to such applicant. The sponsor card shall be valid for a
16 maximum period of 45 days after the date of issuance unless
17 extended for good cause as provided by rule.

18 (225 ILCS 454/5-47 new)

19 Sec. 5-47. Transition to managing broker's license.

20 (a) A new license for managing brokers is created effective
21 May 1, 2011. The following transition rules shall apply for
22 those brokers listed as managing brokers with the Department as
23 of April 30, 2011. Those individuals licensed as brokers and
24 listed as managing brokers with the Department as of April 30,
25 2011 must meet the following qualifications to obtain a

1 managing broker's license:

2 (1) provide evidence of having completed the 45 hours
3 of broker management education approved by the Advisory
4 Council and having passed a written examination approved by
5 the Department and administered by a licensed pre-license
6 school; or

7 (2) provide evidence of passing a Department-approved
8 proficiency examination administered by a licensed
9 pre-license school, which proficiency examination may only
10 be taken one time by any one individual broker; and

11 (3) present a valid application for a managing broker's
12 license no later than April 30, 2012 accompanied by a
13 sponsor card and the fees specified by rule.

14 (b) The education requirements specified in item (1) of
15 subsection (a) of this Section do not apply to applicants who
16 are currently admitted to practice law by the Supreme Court of
17 Illinois and are currently in active standing.

18 (225 ILCS 454/5-50)

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

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

23 (a) The expiration date and renewal period for each license
24 issued under this Act shall be set by rule, except that the
25 first renewal period ending after the effective date of this

1 Act for those licensed as a salesperson shall be extended
2 through April 30, 2012. Except as otherwise provided in this
3 ~~Section 5-55 of this Act,~~ the holder of a license may renew the
4 license within 90 days preceding the expiration date thereof by
5 completing the continuing education required by this Act and
6 paying the fees specified by rule. ~~Upon written request from~~
7 ~~the sponsoring broker, OBRE shall prepare and mail to the~~
8 ~~sponsoring broker a listing of licensees under this Act who,~~
9 ~~according to the records of OBRE, are sponsored by that broker.~~
10 ~~Every licensee associated with or employed by a broker whose~~
11 ~~license is revoked, suspended, terminated, or expired shall be~~
12 ~~considered as inoperative until such time as the sponsoring~~
13 ~~broker's license is reinstated or renewed, or the licensee~~
14 ~~changes employment as set forth in subsection (c) of Section~~
15 ~~5-40 of this Act.~~

16 (b) An individual whose first license is that of a broker
17 received after April 30, 2011, must provide evidence of having
18 completed 30 hours of post-license education in courses
19 approved by the Advisory Council, 15 hours of which must
20 consist of situational and case studies presented in the
21 classroom or by other interactive delivery method presenting
22 instruction and real time discussion between the instructor and
23 the students, and personally take and pass an examination
24 approved by the Department prior to the first renewal of their
25 broker's license. ~~OBRE shall establish and maintain a register~~
26 ~~of all persons currently licensed by the State and shall issue~~

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

17 (c) Any managing broker, broker, salesperson or leasing
18 agent whose license under this Act has expired shall be
19 eligible to renew the license during the 2-year period
20 following the expiration date, provided the managing broker,
21 broker, salesperson or leasing agent pays the fees as
22 prescribed by rule and completes continuing education and other
23 requirements provided for by the Act or by rule. A managing
24 broker, broker, salesperson or leasing agent whose license has
25 been expired for more than 2 years shall be required to meet
26 the requirements for a new license. Any person licensed as a

1 ~~broker shall be entitled at any renewal date to change his or~~
2 ~~her license status from broker to salesperson.~~

3 (d) Notwithstanding any other provisions of this Act to the
4 contrary, any managing broker, broker, salesperson or leasing
5 agent whose license expired while he or she was (i) on active
6 duty with the Armed Forces of the United States or called into
7 service or training by the state militia, (ii) engaged in
8 training or education under the supervision of the United
9 States preliminary to induction into military service, or (iii)
10 serving as the Coordinator of Real Estate in the State of
11 Illinois or as an employee of the Department may have his or
12 her license renewed, reinstated or restored without paying any
13 lapsed renewal fees if within 2 years after the termination of
14 the service, training or education by furnishing the Department
15 with satisfactory evidence of service, training, or education
16 and it has been terminated under honorable conditions.

17 (e) The Department shall establish and maintain a register
18 of all persons currently licensed by the State and shall issue
19 and prescribe a form of pocket card. Upon payment by a licensee
20 of the appropriate fee as prescribed by rule for engagement in
21 the activity for which the licensee is qualified and holds a
22 license for the current period, the Department shall issue a
23 pocket card to the licensee. The pocket card shall be
24 verification that the required fee for the current period has
25 been paid and shall indicate that the person named thereon is
26 licensed for the current renewal period as a managing broker,

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

10 (f) The Department shall provide to the sponsoring broker a
11 notice of renewal for all sponsored licensees by mailing the
12 notice to the sponsoring broker's address of record, or, at the
13 Department's discretion, by an electronic means as provided for
14 by rule.

15 (g) Upon request from the sponsoring broker, the Department
16 shall make available to the sponsoring broker, either by mail
17 or by an electronic means at the discretion of the Department,
18 a listing of licensees under this Act who, according to the
19 records of the Department, are sponsored by that broker. Every
20 licensee associated with or employed by a broker whose license
21 is revoked, suspended, terminated, or expired shall be
22 considered as inoperative until such time as the sponsoring
23 broker's license is reinstated or renewed, or the licensee
24 changes employment as set forth in subsection (c) of Section
25 5-40 of this Act.

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

1 (225 ILCS 454/5-60)

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

3 Sec. 5-60. Managing broker ~~Broker~~ licensed in another
4 state; broker licensed in another state; ~~nonresident~~
5 salesperson licensed in another state; reciprocal agreements;
6 agent for service of process.

7 (a) Effective May 1, 2011, a managing broker's license may
8 be issued by the Department to a managing broker or its
9 equivalent licensed under the laws of another state of the
10 United States, under the following conditions:

11 (1) the managing broker holds a managing broker's
12 license in a state that has entered into a reciprocal
13 agreement with the Department;

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

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

21 (4) the managing broker furnishes the Department with a
22 statement under seal of the proper licensing authority of
23 the state in which the managing broker is licensed showing
24 that the managing broker has an active managing broker's
25 license, that the managing broker is in good standing, and

1 that no complaints are pending against the managing broker
2 in that state;

3 (5) the managing broker passes a test on Illinois
4 specific real estate brokerage laws; and

5 (6) the managing broker was licensed by an examination
6 in the state that has entered into a reciprocal agreement
7 with the Department.

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

12 (1) the broker holds a broker's license in a state that
13 has entered into a reciprocal agreement with the Department
14 ~~his or her state of domicile;~~

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

18 (3) if the application is made prior to May 1, 2012,
19 then the broker has been actively practicing as a broker in
20 the broker's state of licensure ~~domicile~~ for a period of
21 not less than 2 years, immediately prior to the date of
22 application;

23 (4) the broker furnishes the Department ~~OBRE~~ with a
24 statement under seal of the proper licensing authority of
25 the state in which the broker is licensed showing that the
26 broker has an active broker's license, that the broker is

1 in good standing, and that no complaints are pending
2 against the broker in that state;

3 (5) the broker ~~completes a course of education and~~
4 passes a test on Illinois specific real estate brokerage
5 laws; and

6 (6) the broker was licensed by an examination in a
7 state that has entered into ~~OBRE has~~ a reciprocal agreement
8 with the Department ~~that state that includes the provisions~~
9 ~~of this Section.~~

10 (c) (b) Prior to May 1, 2011, a salesperson ~~A nonresident~~
11 ~~salesperson employed by or associated with a nonresident broker~~
12 ~~holding a broker's license in this State pursuant to this~~
13 ~~Section~~ may, in the discretion of the Department ~~OBRE~~, be
14 issued a ~~nonresident~~ salesperson's license ~~under the~~
15 ~~nonresident broker~~ provided all of the following conditions are
16 met:

17 (1) the salesperson maintains an active license in the
18 state that has entered into a reciprocal agreement with the
19 Department ~~in which he or she is domiciled;~~

20 (2) the salesperson passes a test on Illinois specific
21 real estate brokerage laws; and ~~is domiciled in the same~~
22 ~~state as the broker with whom he or she is associated;~~

23 (3) the salesperson was licensed by an examination in
24 the state that has entered into a reciprocal agreement with
25 the Department. ~~completes a course of education and passes~~
26 ~~a test on Illinois specific real estate brokerage laws; and~~

1 ~~(4) OBRE has a reciprocal agreement with that state~~
2 ~~that includes the provisions of this Section.~~

3 The ~~nonresident~~ broker with whom the salesperson is
4 associated shall comply with the provisions of this Act and
5 issue the salesperson a sponsor card upon the form provided by
6 the Department OBRE.

7 (d) ~~(e)~~ As a condition precedent to the issuance of a
8 license to a managing broker, ~~nonresident~~ broker, or
9 salesperson pursuant to this Section, the managing broker or
10 salesperson shall agree in writing to abide by all the
11 provisions of this Act with respect to his or her real estate
12 activities within the State of Illinois and submit to the
13 jurisdiction of the Department OBRE as provided in this Act.
14 The agreement shall be filed with the Department OBRE and shall
15 remain in force for so long as the managing broker, ~~nonresident~~
16 broker or salesperson is licensed by this State and thereafter
17 with respect to acts or omissions committed while licensed as a
18 broker or salesperson in this State.

19 (e) ~~(d)~~ Prior to the issuance of any license to any
20 managing broker, broker, or salesperson licensed pursuant to
21 this Section ~~nonresident,~~ verification of active licensure
22 issued for the conduct of such business in any other state must
23 be filed with the Department OBRE by the managing broker,
24 broker, or salesperson ~~nonresident,~~ and the same fees must be
25 paid as provided in this Act for the obtaining of a managing
26 broker's, broker's or salesperson's license in this State.

1 (f) ~~(e)~~ Licenses previously granted under reciprocal
2 agreements with other states shall remain in force so long as
3 the Department ~~OBRE~~ has a reciprocal agreement with the state
4 that includes the requirements of this Section, unless that
5 license is suspended, revoked, or terminated by the Department
6 ~~OBRE~~ for any reason provided for suspension, revocation, or
7 termination of a resident licensee's license. Licenses granted
8 under reciprocal agreements may be renewed in the same manner
9 as a resident's license.

10 (g) ~~(f)~~ Prior to the issuance of a license to a nonresident
11 managing broker, broker or salesperson, the managing broker,
12 broker or salesperson shall file with the Department ~~OBRE~~ a
13 designation in writing that appoints the Secretary
14 ~~Commissioner~~ to act as his or her agent upon whom all judicial
15 and other process or legal notices directed to the managing
16 broker, broker or salesperson may be served. Service upon the
17 agent so designated shall be equivalent to personal service
18 upon the licensee. Copies of the appointment, certified by the
19 Secretary ~~Commissioner~~, shall be deemed sufficient evidence
20 thereof and shall be admitted in evidence with the same force
21 and effect as the original thereof might be admitted. In the
22 written designation, the managing broker, broker or
23 salesperson shall agree that any lawful process against the
24 licensee that is served upon the agent shall be of the same
25 legal force and validity as if served upon the licensee and
26 that the authority shall continue in force so long as any

1 liability remains outstanding in this State. Upon the receipt
2 of any process or notice, the Secretary ~~Commissioner~~ shall
3 forthwith mail a copy of the same by certified mail to the last
4 known business address of the licensee.

5 (h) ~~(g)~~ Any person holding a valid license under this
6 Section shall be eligible to obtain a resident managing
7 broker's license, a broker's license, or, prior to May 1, 2011,
8 a salesperson's license without examination should that person
9 change their state of domicile to Illinois and that person
10 otherwise meets the qualifications for ~~or~~ licensure under this
11 Act.

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

13 (225 ILCS 454/5-65)

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

15 Sec. 5-65. Fees. The Department ~~OBRE~~ shall provide by rule
16 for fees to be paid by applicants and licensees to cover the
17 reasonable costs of the Department ~~OBRE~~ in administering and
18 enforcing the provisions of this Act. The Department ~~OBRE~~ may
19 also provide by rule for general fees to cover the reasonable
20 expenses of carrying out other functions and responsibilities
21 under this Act.

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

23 (225 ILCS 454/5-70)

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

1 Sec. 5-70. Continuing education requirement; managing
2 broker, broker, or salesperson.

3 (a) The requirements of this Section apply to all managing
4 brokers, brokers, and salespersons licensees.

5 (b) Except as otherwise provided in this Section, each
6 person who applies for renewal of his or her license as a
7 managing broker, real estate broker, or real estate salesperson
8 must successfully complete 6 hours of real estate continuing
9 education courses approved by the Advisory Council for each
10 year of the pre-renewal period. Broker licensees must
11 successfully complete a 6-hour broker management continuing
12 education course approved by the Department for the pre-renewal
13 period ending April 30, 2010 at the rate of 6 hours per year or
14 its equivalent. In addition, beginning with the pre-renewal
15 period for managing broker licensees that begins after the
16 effective date of this Act, those licensees renewing or
17 obtaining a managing ~~amendatory Act of the 93rd General~~
18 ~~Assembly, to renew a real estate broker's license, the licensee~~
19 must successfully complete a 12-hour ~~6-hour~~ broker management
20 continuing education course approved by Department each
21 pre-renewal period. The broker management continuing education
22 course must be completed in the classroom or by other
23 interactive delivery method presenting instruction and real
24 time discussion between the instructor and the students ~~OPRE.~~
25 Successful completion of the course shall include achieving a
26 passing score as provided by rule on a test developed and

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

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

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

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

18 ~~OBRE~~; or

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

21 (c) A person licensed as a salesperson as of April 30, 2011
22 ~~who is issued an initial license as a real estate salesperson~~
23 ~~less than one year prior to the expiration date of that license~~
24 shall not be required to complete the 18 hours of continuing
25 education for the pre-renewal period ending April 30, 2012 if
26 that person takes the 30-hour post-licensing course to obtain a

1 broker's license. A person licensed as a broker as of April 30,
2 2011 shall not be required to complete the 12 hours of broker
3 management continuing education for the pre-renewal period
4 ending April 30, 2012, unless that person passes the
5 proficiency exam provided for in Section 5-47 of this Act to
6 qualify for a managing broker's license ~~continuing education as~~
7 ~~a condition of license renewal. A person who is issued an~~
8 ~~initial license as a real estate broker less than one year~~
9 ~~prior to the expiration date of that license and who has not~~
10 ~~been licensed as a real estate salesperson during the~~
11 ~~pre-renewal period shall not be required to complete continuing~~
12 ~~education as a condition of license renewal.~~

13 (d) A person receiving an initial license ~~as a real estate~~
14 ~~broker~~ during the 90 days before the ~~broker~~ renewal date shall
15 not be required to complete the ~~broker management~~ continuing
16 education courses ~~course~~ provided for in subsection (b) of this
17 Section as a condition of initial license renewal.

18 (e) ~~(d)~~ The continuing education requirement for
19 salespersons, brokers and managing brokers shall consist of a
20 core curriculum and an elective curriculum, to be established
21 by the Advisory Council. In meeting the continuing education
22 requirements of this Act, at least 3 hours per year or their
23 equivalent, 6 hours for each two-year pre-renewal period, shall
24 be required to be completed in the core curriculum. In
25 establishing the core curriculum, the Advisory Council shall
26 consider subjects that will educate licensees on recent changes

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

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

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

25 (g) ~~(f)~~ In lieu of credit for those courses listed in
26 subsection (f) ~~(e)~~ of this Section, credit may be earned for

1 serving as a licensed instructor in an approved course of
2 continuing education. The amount of credit earned for teaching
3 a course shall be the amount of continuing education credit for
4 which the course is approved for licensees taking the course.

5 (h) ~~(g)~~ Credit hours may be earned for self-study programs
6 approved by the Advisory Council.

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

10 (j) ~~(i)~~ No more than 6 hours of continuing education credit
11 may be taken or earned in one calendar day.

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

23 (l) Except as specifically provided in this Act, continuing
24 education credit hours may not be earned for completion of pre
25 or post-license courses. The approved 30-hour post-license
26 course for broker licensees shall satisfy the continuing

1 education requirement for the pre-renewal period in which the
2 course is taken. The approved 45-hour brokerage administration
3 and management course shall satisfy the 12-hour broker
4 management continuing education requirement for the
5 pre-renewal period in which the course is taken.

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

7 (225 ILCS 454/5-80)

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

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

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

17 (b) The Department ~~OBRE~~ may require additional evidence
18 demonstrating compliance with the continuing education
19 requirements. The renewal applicant shall retain and produce
20 the evidence of compliance upon request of the Department ~~OBRE~~.

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

22 (225 ILCS 454/5-85)

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

24 Sec. 5-85. Offerings not meeting continuing education

1 requirements. The following offerings do not meet the
2 continuing education requirements:

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

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

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

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

13 The offerings listed in this Section do not limit the
14 Advisory Council's authority to disapprove any course that
15 fails to meet the standards of this Article 5 or rules adopted
16 by the Department ~~ODPE~~.

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

18 (225 ILCS 454/10-15)

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

20 Sec. 10-15. No compensation to persons in violation of Act;
21 compensation to unlicensed persons; consumer.

22 (a) No compensation may be paid to any unlicensed person in
23 exchange for the person performing licensed activities in
24 violation of this Act.

25 (b) No action or suit shall be instituted, nor recovery

1 therein be had, in any court of this State by any person,
2 partnership, registered limited liability partnership, limited
3 liability company, or corporation for compensation for any act
4 done or service performed, the doing or performing of which is
5 prohibited by this Act to other than licensed managing brokers,
6 brokers, salespersons, or leasing agents unless the person,
7 partnership, registered limited liability partnership, limited
8 liability company, or corporation was duly licensed hereunder
9 as a managing broker, broker, salesperson, or leasing agent
10 under this Act at the time that any such act was done or
11 service performed that would give rise to a cause of action for
12 compensation.

13 (c) A licensee may offer compensation, including prizes,
14 merchandise, services, rebates, discounts, or other
15 consideration to an unlicensed person who is a party to a
16 contract to buy or sell real estate or is a party to a contract
17 for the lease of real estate, so long as the offer complies
18 with the provisions of subdivision (35) ~~(26)~~ of subsection (a)
19 ~~(h)~~ of Section 20-20 of this Act.

20 (d) A licensee may offer cash, gifts, prizes, awards,
21 coupons, merchandise, rebates or chances to win a game of
22 chance, if not prohibited by any other law or statute, to a
23 consumer as an inducement to that consumer to use the services
24 of the licensee even if the licensee and consumer do not
25 ultimately enter into a broker-client relationship so long as
26 the offer complies with the provisions of subdivision (35) ~~(26)~~

1 of subsection (a) ~~(b)~~ of Section 20-20 of this Act.

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

3 (225 ILCS 454/10-30)

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

5 Sec. 10-30. Advertising.

6 (a) No advertising, whether in print, via the Internet, or
7 through any other media, shall be fraudulent, deceptive,
8 inherently misleading, or proven to be misleading in practice.
9 Advertising ~~It~~ shall be considered misleading or untruthful if,
10 when taken as a whole, there is a distinct and reasonable
11 possibility that it will be misunderstood or will deceive the
12 ordinary purchaser, seller, lessee, lessor, or owner.
13 Advertising shall contain all information necessary to
14 communicate the information contained therein to the public in
15 an accurate, a direct, and readily comprehensible manner.

16 (b) No blind advertisements may be used by any licensee, in
17 any media, except as provided for in this Section.

18 (c) A licensee shall disclose, in writing, to all parties
19 in a transaction his or her status as a licensee and any and
20 all interest the licensee has or may have in the real estate
21 constituting the subject matter thereof, directly or
22 indirectly, according to the following guidelines:

23 (1) On broker yard signs or in broker advertisements,
24 no disclosure of ownership is necessary. However, the
25 ownership shall be indicated on any property data form and

1 disclosed to persons responding to any advertisement or any
2 sign. The term "broker owned" or "agent owned" is
3 sufficient disclosure.

4 (2) A sponsored or inoperative licensee selling or
5 leasing property, owned solely by the sponsored or
6 inoperative licensee, without utilizing brokerage services
7 of their sponsoring broker or any other licensee, may
8 advertise "By Owner". For purposes of this Section,
9 property is "solely owned" by a sponsored or inoperative
10 licensee if he or she (i) has a 100% ownership interest
11 alone, (ii) has ownership as a joint tenant or tenant by
12 the entirety, or (iii) holds a 100% beneficial interest in
13 a land trust. Sponsored or inoperative licensees selling or
14 leasing "By Owner" shall comply with the following if
15 advertising by owner:

16 (A) On "By Owner" yard signs, the sponsored or
17 inoperative licensee shall indicate "broker owned" or
18 "agent owned." "By Owner" advertisements used in any
19 medium of advertising shall include the term "broker
20 owned" or "agent owned."

21 (B) If a sponsored or inoperative licensee runs
22 advertisements, for the purpose of purchasing or
23 leasing real estate, he or she shall disclose in the
24 advertisements his or her status as a licensee.

25 (C) A sponsored or inoperative licensee shall not
26 use the sponsoring broker's name or the sponsoring

1 broker's company name in connection with the sale,
2 lease, or advertisement of the property nor utilize the
3 sponsoring broker's or company's name in connection
4 with the sale, lease, or advertising of the property in
5 a manner likely to create confusion among the public as
6 to whether or not the services of a real estate company
7 are being utilized or whether or not a real estate
8 company has an ownership interest in the property.

9 (d) A sponsored licensee may not advertise under his or her
10 own name. Advertising in any media shall be under the direct
11 supervision of the sponsoring or managing broker and in the
12 sponsoring broker's business name, which in the case of a
13 franchise shall include the franchise affiliation as well as
14 the name of the individual firm. This provision does not apply
15 under the following circumstances:

16 (1) When a licensee enters into a brokerage agreement
17 relating to his or her own real estate, or real estate in
18 which he or she has an ownership interest, with another
19 licensed broker; or

20 (2) When a licensee is selling or leasing his or her
21 own real estate or buying or leasing real estate for
22 himself or herself, after providing the appropriate
23 written disclosure of his or her ownership interest as
24 required in paragraph (2) of subsection (c) of this
25 Section.

26 (e) No licensee shall list his or her name under the

1 heading or title "Real Estate" in the telephone directory or
2 otherwise advertise in his or her own name to the general
3 public through any medium of advertising as being in the real
4 estate business without listing his or her sponsoring broker's
5 business name.

6 (f) The sponsoring broker's business name and the name of
7 the licensee must appear in all advertisements, including
8 business cards. Nothing in this Act shall be construed to
9 require specific print size as between the broker's business
10 name and the name of the licensee.

11 (g) Those individuals licensed as a managing broker and
12 designated with the Department as a managing broker by their
13 sponsoring broker shall identify themselves to the public in
14 advertising as a managing broker. No other individuals holding
15 a managing broker's license may hold themselves out to the
16 public or other licensees as a managing broker.

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

18 (225 ILCS 454/10-35 new)

19 Sec. 10-35. Internet and related advertising.

20 (a) Licensees intending to sell or share consumer
21 information gathered from or through the Internet or other
22 electronic communication media shall disclose that intention
23 to consumers in a timely and readily apparent manner.

24 (b) A licensee using Internet or other similar electronic
25 advertising media must not:

1 (1) use a URL or domain name that is deceptive or
2 misleading;

3 (2) deceptively or without authorization frame another
4 real estate brokerage or multiple listing service website;
5 or

6 (3) engage in the deceptive use of metatags, keywords
7 or other devices and methods to direct, drive or divert
8 Internet traffic or otherwise mislead consumers.

9 (225 ILCS 454/10-40 new)

10 Sec. 10-40. Company policy. Every brokerage company or
11 entity, other than a sole proprietorship with no other
12 sponsored licensees, shall adopt a company or office policy
13 dealing with topics such as:

14 (1) the agency policy of the entity;

15 (2) fair housing, nondiscrimination and harassment;

16 (3) confidentiality of client information;

17 (4) advertising;

18 (5) training and supervision of sponsored licensees;

19 (6) required disclosures and use of forms;

20 (7) handling of risk management matters; and

21 (8) handling of earnest money and escrows.

22 These topics are provided as an example and are not
23 intended to be inclusive or exclusive of other topics.

24 (225 ILCS 454/15-15)

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

2 Sec. 15-15. Duties of licensees representing clients.

3 (a) A licensee representing a client shall:

4 (1) Perform the terms of the brokerage agreement
5 between a broker and the client.

6 (2) Promote the best interest of the client by:

7 (A) Seeking a transaction at the price and terms
8 stated in the brokerage agreement or at a price and
9 terms otherwise acceptable to the client.

10 (B) Timely presenting all offers to and from the
11 client, unless the client has waived this duty.

12 (C) Disclosing to the client material facts
13 concerning the transaction of which the licensee has
14 actual knowledge, unless that information is
15 confidential information. Material facts do not
16 include the following when located on or related to
17 real estate that is not the subject of the transaction:
18 (i) physical conditions that do not have a substantial
19 adverse effect on the value of the real estate, (ii)
20 fact situations, or (iii) occurrences.

21 (D) Timely accounting for all money and property
22 received in which the client has, may have, or should
23 have had an interest.

24 (E) Obeying specific directions of the client that
25 are not otherwise contrary to applicable statutes,
26 ordinances, or rules.

1 (F) Acting in a manner consistent with promoting
2 the client's best interests as opposed to a licensee's
3 or any other person's self-interest.

4 (3) Exercise reasonable skill and care in the
5 performance of brokerage services.

6 (4) Keep confidential all confidential information
7 received from the client.

8 (5) Comply with all requirements of this Act and all
9 applicable statutes and regulations, including without
10 limitation fair housing and civil rights statutes.

11 (b) A licensee representing a client does not breach a duty
12 or obligation to the client by showing alternative properties
13 to prospective buyers or tenants, ~~or~~ by showing properties in
14 which the client is interested to other prospective buyers or
15 tenants, or by making or preparing contemporaneous offers or
16 contracts to purchase or lease the same property. However, a
17 licensee shall provide written disclosure to all clients for
18 whom the licensee is preparing or making contemporaneous offers
19 or contracts to purchase or lease the same property and shall
20 refer to another designated agent any client that requests such
21 referral.

22 (c) A licensee representing a buyer or tenant client will
23 not be presumed to have breached a duty or obligation to that
24 client by working on the basis that the licensee will receive a
25 higher fee or compensation based on higher selling price or
26 lease cost.

1 (d) A licensee shall not be liable to a client for
2 providing false information to the client if the false
3 information was provided to the licensee by a customer unless
4 the licensee knew or should have known the information was
5 false.

6 (e) Nothing in the Section shall be construed as changing a
7 licensee's duty under common law as to negligent or fraudulent
8 misrepresentation of material information.

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

10 (225 ILCS 454/15-35)

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

12 Sec. 15-35. Agency relationship disclosure.

13 (a) A licensee shall advise a consumer in writing ~~shall be~~
14 ~~advised~~ of the following no later than beginning to work as a
15 designated agent on behalf of the consumer ~~entering into a~~
16 ~~brokerage agreement with the sponsoring broker:~~

17 (1) That a designated agency relationship exists,
18 unless there is written agreement between the sponsoring
19 broker and the consumer providing for a different brokerage
20 relationship.

21 (2) The name or names of his or her designated agent or
22 agents. The written disclosure can be included in a
23 brokerage agreement or be a separate document, a copy of
24 which is retained by the sponsoring broker for the licensee
25 ~~in writing.~~

1 (b) ~~(3)~~ The licensee representing the consumer shall
2 discuss with the consumer the sponsoring broker's
3 compensation and policy with regard to cooperating with
4 brokers who represent other parties in a transaction.

5 (c) ~~(b)~~ A licensee shall disclose in writing to a customer
6 that the licensee is not acting as the agent of the customer at
7 a time intended to prevent disclosure of confidential
8 information from a customer to a licensee, but in no event
9 later than the preparation of an offer to purchase or lease
10 real property. ~~This subsection (b) does not apply to~~
11 ~~residential lease or rental transactions unless the lease or~~
12 ~~rental agreement includes an option to purchase real estate.~~

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

14 (225 ILCS 454/15-45)

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

16 Sec. 15-45. Dual agency.

17 (a) A licensee may act as a dual agent only with the
18 informed written consent of all clients. Informed written
19 consent shall be presumed to have been given by any client who
20 signs a document that includes the following:

21 "The undersigned (insert name(s)), ("Licensee"), may
22 undertake a dual representation (represent both the seller
23 or landlord and the buyer or tenant) for the sale or lease
24 of property. The undersigned acknowledge they were
25 informed of the possibility of this type of representation.

1 Before signing this document please read the following:
2 Representing more than one party to a transaction presents
3 a conflict of interest since both clients may rely upon
4 Licensee's advice and the client's respective interests
5 may be adverse to each other. Licensee will undertake this
6 representation only with the written consent of ALL clients
7 in the transaction. Any agreement between the clients as to
8 a final contract price and other terms is a result of
9 negotiations between the clients acting in their own best
10 interests and on their own behalf. You acknowledge that
11 Licensee has explained the implications of dual
12 representation, including the risks involved, and
13 understand that you have been advised to seek independent
14 advice from your advisors or attorneys before signing any
15 documents in this transaction.

16 WHAT A LICENSEE CAN DO FOR CLIENTS

17 WHEN ACTING AS A DUAL AGENT

- 18 1. Treat all clients honestly.
- 19 2. Provide information about the property to the buyer or
20 tenant.
- 21 3. Disclose all latent material defects in the property
22 that are known to the Licensee.
- 23 4. Disclose financial qualification of the buyer or tenant
24 to the seller or landlord.
- 25 5. Explain real estate terms.
- 26 6. Help the buyer or tenant to arrange for property

1 inspections.

2 7. Explain closing costs and procedures.

3 8. Help the buyer compare financing alternatives.

4 9. Provide information about comparable properties that
5 have sold so both clients may make educated decisions on
6 what price to accept or offer.

7 WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN

8 ACTING AS A DUAL AGENT

9 1. Confidential information that Licensee may know about a
10 client, without that client's permission.

11 2. The price or terms the seller or landlord will take
12 other than the listing price without permission of the
13 seller or landlord.

14 3. The price or terms the buyer or tenant is willing to pay
15 without permission of the buyer or tenant.

16 4. A recommended or suggested price or terms the buyer or
17 tenant should offer.

18 5. A recommended or suggested price or terms the seller or
19 landlord should counter with or accept.

20 If either client is uncomfortable with this disclosure
21 and dual representation, please let Licensee know. You are
22 not required to sign this document unless you want to allow
23 Licensee to proceed as a Dual Agent in this transaction. By
24 signing below, you acknowledge that you have read and
25 understand this form and voluntarily consent to Licensee
26 acting as a Dual Agent (that is, to represent BOTH the

1 seller or landlord and the buyer or tenant) should that
2 become necessary."

3 (b) The dual agency disclosure form provided for in
4 subsection (a) of this Section must be presented by a licensee,
5 who offers dual representation, to the client at the time the
6 brokerage agreement is entered into and may be signed by the
7 client at that time or at any time before the licensee acts as
8 a dual agent as to the client.

9 (c) A licensee acting in a dual agency capacity in a
10 transaction must obtain a written confirmation from the
11 licensee's clients of their prior consent for the licensee to
12 act as a dual agent in the transaction. This confirmation
13 should be obtained at the time the clients are executing any
14 offer or contract to purchase or lease in a transaction in
15 which the licensee is acting as a dual agent. This confirmation
16 may be included in another document, such as a contract to
17 purchase, in which case the client must not only sign the
18 document but also initial the confirmation of dual agency
19 provision. That confirmation must state, at a minimum, the
20 following:

21 "The undersigned confirm that they have previously
22 consented to (insert name(s)), ("Licensee"), acting as a
23 Dual Agent in providing brokerage services on their behalf
24 and specifically consent to Licensee acting as a Dual Agent
25 in regard to the transaction referred to in this document."

26 (d) No cause of action shall arise on behalf of any person

1 against a dual agent for making disclosures allowed or required
2 by this Article, and the dual agent does not terminate any
3 agency relationship by making the allowed or required
4 disclosures.

5 (e) In the case of dual agency, each client and the
6 licensee possess only actual knowledge and information. There
7 shall be no imputation of knowledge or information among or
8 between clients, brokers, or their affiliated licensees.

9 (f) In any transaction, a licensee may without liability
10 withdraw from representing a client who has not consented to a
11 disclosed dual agency. The withdrawal shall not prejudice the
12 ability of the licensee to continue to represent the other
13 client in the transaction or limit the licensee from
14 representing the client in other transactions. When a
15 withdrawal as contemplated in this subsection (f) occurs, the
16 licensee shall not receive a referral fee for referring a
17 client to another licensee unless written disclosure is made to
18 both the withdrawing client and the client that continues to be
19 represented by the licensee.

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

21 (225 ILCS 454/15-65)

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

23 Sec. 15-65. Regulatory enforcement. Nothing contained in
24 this Article limits the Department ~~ORRE~~ in its regulation of
25 licensees under other Articles of this Act and the substantive

1 rules adopted by the Department ~~OBRE~~. The Department ~~OBRE~~, with
2 the advice of the Board, is authorized to promulgate any rules
3 that may be necessary for the implementation and enforcement of
4 this Article 15.

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

6 (225 ILCS 454/20-5)

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

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

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

18 (225 ILCS 454/20-10)

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

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

21 (a) Any person who practices, offers to practice, attempts
22 to practice, or holds oneself out to practice as a real estate
23 broker, real estate salesperson, or leasing agent without being
24 licensed under this Act shall, in addition to any other penalty

1 provided by law, pay a civil penalty ~~fine~~ to the Department
2 ~~OBRE~~ in an amount not to exceed \$25,000 for each offense as
3 determined by the Department ~~OBRE~~. The civil penalty ~~fine~~ shall
4 be assessed by the Department ~~OBRE~~ after a hearing is held in
5 accordance with the provisions set forth in this Act regarding
6 the provision of a hearing for the discipline of a license.

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

9 (c) The civil penalty ~~fine~~ shall be paid within 60 days
10 after the effective date of the order imposing the civil
11 penalty ~~fine~~. The order shall constitute a judgment ~~judgement~~
12 and may be filed and execution had thereon in the same manner
13 from any court of record.

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

15 (225 ILCS 454/20-20)

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

17 Sec. 20-20. Grounds for discipline ~~Disciplinary actions;~~
18 ~~causes.~~

19 (a) The Department ~~OBRE~~ may refuse to issue or renew a
20 license, may place on probation, suspend, or revoke any
21 license, ~~or may censure,~~ reprimand, or take any other
22 disciplinary or non-disciplinary action as the Department may
23 deem proper ~~otherwise discipline~~ or impose a ~~civil~~ fine not to
24 exceed \$25,000 upon any licensee under this Act or against a
25 licensee in handling his or her own property, whether held by

1 deed, option, or otherwise, hereunder for any one or any
2 combination of the following causes:

3 (1) Fraud or misrepresentation in applying for, or
4 procuring, a license under this Act or in connection with
5 applying for renewal of a license under this Act. ~~(a) When~~
6 ~~the applicant or licensee has, by false or fraudulent~~
7 ~~representation, obtained or sought to obtain a license.~~

8 (2) The conviction of, plea of guilty or plea of nolo
9 contendere to a felony or misdemeanor ~~(b) When the applicant~~
10 ~~or licensee has been convicted of any crime,~~ an essential
11 element of which is dishonesty or fraud or larceny,
12 embezzlement, or obtaining money, property, or credit by
13 false pretenses or by means of a confidence game, in has
14 ~~been convicted in this or another state of a crime that is~~
15 ~~a felony under the laws of this State, or~~ any other
16 jurisdiction ~~has been convicted of a felony in a federal~~
17 ~~court.~~

18 (3) Inability to practice the profession with
19 reasonable judgment, skill, or safety as a result of a
20 physical illness, including, but not limited to,
21 deterioration through the aging process or loss of motor
22 skill, or a mental illness or disability ~~(c) When the~~
23 ~~applicant or licensee has been adjudged to be a person~~
24 ~~under legal disability or subject to involuntary admission~~
25 ~~or to meet the standard for judicial admission as provided~~
26 ~~in the Mental Health and Developmental Disabilities Code.~~

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

7 (5) Disciplinary action of another state or
8 jurisdiction against the license or other authorization to
9 practice as a managing broker, broker, salesperson, or
10 leasing agent ~~(e) Discipline of a licensee by another~~
11 ~~state, the District of Columbia, a territory, a foreign~~
12 ~~nation, a governmental agency, or any other entity~~
13 ~~authorized to impose discipline~~ if at least one of the
14 grounds for that discipline is the same as or the
15 equivalent of one of the grounds for discipline set forth
16 in this Act. A certified copy of the record of the action
17 by the other state or jurisdiction shall be prima facie
18 evidence thereof, ~~in which case the only issue will be~~
19 ~~whether one of the grounds for that discipline is the same~~
20 ~~or equivalent to one of the grounds for discipline under~~
21 ~~this Act.~~

22 (6) Engaging in the practice of ~~(f) When the applicant~~
23 ~~or licensee has engaged in~~ real estate brokerage activity
24 without a license or after the licensee's license was
25 expired or while the license was inoperative.

26 (7) Cheating on or attempting ~~(g) When the applicant or~~

1 ~~licensee attempts~~ to subvert ~~or cheat on~~ the Real Estate
2 License Exam or continuing education exam.

3 (8) Aiding or abetting ~~aids and abets~~ an applicant to
4 subvert or cheat on the Real Estate License Exam or
5 continuing education exam administered pursuant to this
6 Act.

7 (9) Advertising that is inaccurate, misleading, or
8 contrary to the provisions of the Act. ~~(h) When the~~
9 ~~licensee in performing, attempting to perform, or~~
10 ~~pretending to perform any act as a broker, salesperson, or~~
11 ~~leasing agent or when the licensee in handling his or her~~
12 ~~own property, whether held by deed, option, or otherwise,~~
13 ~~is found guilty of:~~

14 (10) ~~(1)~~ Making any substantial misrepresentation or
15 untruthful advertising.

16 (11) ~~(2)~~ Making any false promises of a character
17 likely to influence, persuade, or induce.

18 (12) ~~(3)~~ Pursuing a continued and flagrant course of
19 misrepresentation or the making of false promises through
20 licensees, employees, agents, advertising, or otherwise.

21 (13) ~~(4)~~ Any misleading or untruthful advertising, or
22 using any trade name or insignia of membership in any real
23 estate organization of which the licensee is not a member.

24 (14) ~~(5)~~ Acting for more than one party in a
25 transaction without providing written notice to all
26 parties for whom the licensee acts.

1 (15) ~~(6)~~ Representing or attempting to represent a
2 broker other than the sponsoring broker.

3 (16) ~~(7)~~ Failure to account for or to remit any moneys
4 or documents coming into his or her possession that belong
5 to others.

6 (17) ~~(8)~~ Failure to maintain and deposit in a special
7 account, separate and apart from personal and other
8 business accounts, all escrow moneys belonging to others
9 entrusted to a licensee while acting as a real estate
10 broker, escrow agent, or temporary custodian of the funds
11 of others or failure to maintain all escrow moneys on
12 deposit in the account until the transactions are
13 consummated or terminated, except to the extent that the
14 moneys, or any part thereof, shall be:

15 (A) disbursed prior to the consummation or
16 termination (i) in accordance with the written
17 direction of the principals to the transaction or their
18 duly authorized agents, (ii) in accordance with
19 directions providing for the release, payment, or
20 distribution of escrow moneys contained in any written
21 contract signed by the principals to the transaction or
22 their duly authorized agents, or (iii) pursuant to an
23 order of a court of competent jurisdiction; or

24 (B) deemed abandoned and transferred to the Office
25 of the State Treasurer to be handled as unclaimed
26 property pursuant to the Uniform Disposition of

1 Unclaimed Property Act. Escrow moneys may be deemed
2 abandoned under this subparagraph (B) only: (i) in the
3 absence of disbursement under subparagraph (A); (ii)
4 in the absence of notice of the filing of any claim in
5 a court of competent jurisdiction; and (iii) if 6
6 months have elapsed after the receipt of a written
7 demand for the escrow moneys from one of the principals
8 to the transaction or the principal's duly authorized
9 agent.

10 The account shall be noninterest bearing, unless the
11 character of the deposit is such that payment of interest
12 thereon is otherwise required by law or unless the
13 principals to the transaction specifically require, in
14 writing, that the deposit be placed in an interest bearing
15 account.

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

22 (19) ~~(10)~~ Failing to furnish copies upon request of ~~all~~
23 documents relating to a real estate transaction to a party
24 who has executed that document ~~all parties executing them.~~

25 (20) ~~(11)~~ Failure of a sponsoring broker to timely
26 provide information, sponsor cards, or termination of

1 licenses to the Department ~~OBRE~~.

2 (21) ~~(12)~~ Engaging in dishonorable, unethical, or
3 unprofessional conduct of a character likely to deceive,
4 defraud, or harm the public.

5 (22) ~~(13)~~ Commingling the money or property of others
6 with his or her own money or property.

7 (23) ~~(14)~~ Employing any person on a purely temporary or
8 single deal basis as a means of evading the law regarding
9 payment of commission to nonlicensees on some contemplated
10 transactions.

11 (24) ~~(15)~~ Permitting the use of his or her license as a
12 broker to enable a salesperson or unlicensed person to
13 operate a real estate business without actual
14 participation therein and control thereof by the broker.

15 (25) ~~(16)~~ Any other conduct, whether of the same or a
16 different character from that specified in this Section,
17 that constitutes dishonest dealing.

18 (26) ~~(17)~~ Displaying a "for rent" or "for sale" sign on
19 any property without the written consent of an owner or his
20 or her duly authorized agent or advertising by any means
21 that any property is for sale or for rent without the
22 written consent of the owner or his or her authorized
23 agent.

24 (27) ~~(18)~~ Failing to provide information requested by
25 the Department, or otherwise respond to that request ~~OBRE~~,
26 within 30 days of the request, ~~either as the result of a~~

1 ~~formal or informal complaint to OBRE or as a result of a~~
2 ~~random audit conducted by OBRE, which would indicate a~~
3 ~~violation of this Act.~~

4 (28) ~~(19)~~ Advertising by means of a blind
5 advertisement, except as otherwise permitted in Section
6 10-30 of this Act.

7 (29) ~~(20)~~ Offering guaranteed sales plans, as defined
8 in clause (A) of this subdivision (29) ~~(20)~~, except to the
9 extent hereinafter set forth:

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

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

24 (C) A licensee offering a guaranteed sales plan
25 shall provide to the party to whom the plan is offered
26 evidence of sufficient financial resources to satisfy

1 the commitment to purchase undertaken by the broker in
2 the plan.

3 (D) Any licensee offering a guaranteed sales plan
4 shall undertake to market the property of the seller
5 subject to the plan in the same manner in which the
6 broker would market any other property, unless the
7 agreement with the seller provides otherwise.

8 (E) The licensee cannot purchase seller's property
9 until the brokerage agreement has ended according to
10 its terms or is otherwise terminated.

11 (F) Any licensee who fails to perform on a
12 guaranteed sales plan in strict accordance with its
13 terms shall be subject to all the penalties provided in
14 this Act for violations thereof and, in addition, shall
15 be subject to a civil fine payable to the party injured
16 by the default in an amount of up to \$25,000.

17 (30) ~~(21)~~ Influencing or attempting to influence, by
18 any words or acts, a prospective seller, purchaser,
19 occupant, landlord, or tenant of real estate, in connection
20 with viewing, buying, or leasing real estate, so as to
21 promote or tend to promote the continuance or maintenance
22 of racially and religiously segregated housing or so as to
23 retard, obstruct, or discourage racially integrated
24 housing on or in any street, block, neighborhood, or
25 community.

26 (31) ~~(22)~~ Engaging in any act that constitutes a

1 violation of any provision of Article 3 of the Illinois
2 Human Rights Act, whether or not a complaint has been filed
3 with or adjudicated by the Human Rights Commission.

4 (32) ~~(23)~~ Inducing any party to a contract of sale or
5 lease or brokerage agreement to break the contract of sale
6 or lease or brokerage agreement for the purpose of
7 substituting, in lieu thereof, a new contract for sale or
8 lease or brokerage agreement with a third party.

9 (33) ~~(24)~~ Negotiating a sale, exchange, or lease of
10 real estate directly with any person if the licensee knows
11 that the person has an ~~a written~~ exclusive brokerage
12 agreement with another broker, unless specifically
13 authorized by that broker.

14 (34) ~~(25)~~ When a licensee is also an attorney, acting
15 as the attorney for either the buyer or the seller in the
16 same transaction in which the licensee is acting or has
17 acted as a broker or salesperson.

18 (35) ~~(26)~~ Advertising or offering merchandise or
19 services as free if any conditions or obligations necessary
20 for receiving the merchandise or services are not disclosed
21 in the same advertisement or offer. These conditions or
22 obligations include without limitation the requirement
23 that the recipient attend a promotional activity or visit a
24 real estate site. As used in this subdivision (35) ~~(26)~~,
25 "free" includes terms such as "award", "prize", "no
26 charge", "free of charge", "without charge", and similar

1 words or phrases that reasonably lead a person to believe
2 that he or she may receive or has been selected to receive
3 something of value, without any conditions or obligations
4 on the part of the recipient.

5 (36) ~~(27)~~ Disregarding or violating any provision of
6 the Land Sales Registration Act of 1989, the Illinois Real
7 Estate Time-Share Act, or the published rules promulgated
8 by the Department ~~OBRE~~ to enforce those Acts.

9 (37) ~~(28)~~ Violating the terms of a disciplinary order
10 issued by the Department ~~OBRE~~.

11 (38) ~~(29)~~ Paying or failing to disclose compensation in
12 violation of Article 10 of this Act.

13 (39) ~~(30)~~ Requiring a party to a transaction who is not
14 a client of the licensee to allow the licensee to retain a
15 portion of the escrow moneys for payment of the licensee's
16 commission or expenses as a condition for release of the
17 escrow moneys to that party.

18 (40) ~~(31)~~ Disregarding or violating any provision of
19 this Act or the published rules promulgated by the
20 Department ~~OBRE~~ to enforce this Act or aiding or abetting
21 any individual, partnership, registered limited liability
22 partnership, limited liability company, or corporation in
23 disregarding any provision of this Act or the published
24 rules promulgated by the Department ~~OBRE~~ to enforce this
25 Act.

26 (41) ~~(32)~~ Failing to provide the minimum services

1 required by Section 15-75 of this Act when acting under an
2 exclusive brokerage agreement.

3 (42) Habitual or excessive use or addiction to alcohol,
4 narcotics, stimulants, or any other chemical agent or drug
5 that results in a managing broker, broker, salesperson, or
6 leasing agent's inability to practice with reasonable
7 skill or safety.

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

16 (c) The Department shall deny a license or renewal
17 authorized by this Act to a person who has defaulted on an
18 educational loan or scholarship provided or guaranteed by the
19 Illinois Student Assistance Commission or any governmental
20 agency of this State in accordance with item (5) of subsection
21 (g) of Section 2105-15 of the Civil Administrative Code of
22 Illinois.

23 (d) In cases where the Department of Healthcare and Family
24 Services (formerly Department of Public Aid) has previously
25 determined that a licensee or a potential licensee is more than
26 30 days delinquent in the payment of child support and has

1 subsequently certified the delinquency to the Department may
2 refuse to issue or renew or may revoke or suspend that person's
3 license or may take other disciplinary action against that
4 person based solely upon the certification of delinquency made
5 by the Department of Healthcare and Family Services in
6 accordance with item (5) of subsection (g) of Section 2105-15
7 of the Civil Administrative Code of Illinois.

8 (e) In enforcing this Section, the Department or Board upon
9 a showing of a possible violation may compel an individual
10 licensed to practice under this Act, or who has applied for
11 licensure under this Act, to submit to a mental or physical
12 examination, or both, as required by and at the expense of the
13 Department. The Department or Board may order the examining
14 physician to present testimony concerning the mental or
15 physical examination of the licensee or applicant. No
16 information shall be excluded by reason of any common law or
17 statutory privilege relating to communications between the
18 licensee or applicant and the examining physician. The
19 examining physicians shall be specifically designated by the
20 Board or Department. The individual to be examined may have, at
21 his or her own expense, another physician of his or her choice
22 present during all aspects of this examination. Failure of an
23 individual to submit to a mental or physical examination, when
24 directed, shall be grounds for suspension of his or her license
25 until the individual submits to the examination if the
26 Department finds, after notice and hearing, that the refusal to

1 submit to the examination was without reasonable cause.

2 If the Department or Board finds an individual unable to
3 practice because of the reasons set forth in this Section, the
4 Department or Board may require that individual to submit to
5 care, counseling, or treatment by physicians approved or
6 designated by the Department or Board, as a condition, term, or
7 restriction for continued, reinstated, or renewed licensure to
8 practice; or, in lieu of care, counseling, or treatment, the
9 Department may file, or the Board may recommend to the
10 Department to file, a complaint to immediately suspend, revoke,
11 or otherwise discipline the license of the individual. An
12 individual whose license was granted, continued, reinstated,
13 renewed, disciplined or supervised subject to such terms,
14 conditions, or restrictions, and who fails to comply with such
15 terms, conditions, or restrictions, shall be referred to the
16 Secretary for a determination as to whether the individual
17 shall have his or her license suspended immediately, pending a
18 hearing by the Department.

19 In instances in which the Secretary immediately suspends a
20 person's license under this Section, a hearing on that person's
21 license must be convened by the Department within 30 days after
22 the suspension and completed without appreciable delay. The
23 Department and Board shall have the authority to review the
24 subject individual's record of treatment and counseling
25 regarding the impairment to the extent permitted by applicable
26 federal statutes and regulations safeguarding the

1 confidentiality of medical records.

2 An individual licensed under this Act and affected under
3 this Section shall be afforded an opportunity to demonstrate to
4 the Department or Board that he or she can resume practice in
5 compliance with acceptable and prevailing standards under the
6 provisions of his or her license.

7 (Source: P.A. 95-851, eff. 1-1-09.)

8 (225 ILCS 454/20-21 new)

9 Sec. 20-21. Injunctions; cease and desist order.

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

24 (b) Whenever in the opinion of the Department a person
25 violates a provision of this Act, the Department may issue a

1 ruling to show cause why an order to cease and desist should
2 not be entered against that person. The rule shall clearly set
3 forth the grounds relied upon by the Department and shall allow
4 at least 7 days from the date of the rule to file an answer to
5 the satisfaction of the Department. Failure to answer to the
6 satisfaction of the Department shall cause an order to cease
7 and desist to be issued immediately.

8 (c) Other than as provided in Section 5-20 of this Act, if
9 any person practices as a real estate broker, real estate
10 salesperson or leasing agent or holds himself or herself out as
11 a licensed sponsoring broker, managing broker, real estate
12 broker, real estate salesperson or leasing agent under this Act
13 without being issued a valid existing license by the
14 Department, then any licensed sponsoring broker, managing
15 broker, real estate broker, real estate salesperson, leasing
16 agent, any interested party, or any person injured thereby may,
17 in addition to the Secretary, petition for relief as provided
18 in subsection (a) of this Section.

19 (225 ILCS 454/20-22 new)

20 Sec. 20-22. Violations. Any person who is found working or
21 acting as a managing broker, real estate broker, real estate
22 salesperson, or leasing agent or holding himself or herself out
23 as a licensed sponsoring broker, managing broker, real estate
24 broker, real estate salesperson, or leasing agent without being
25 issued a valid existing license is guilty of a Class A

1 misdemeanor and on conviction of a second or subsequent offense
2 the violator shall be guilty of a Class 4 felony.

3 (225 ILCS 454/20-25)

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

5 Sec. 20-25. Returned checks; fees. Any person who delivers
6 a check or other payment to the Department ~~OBRE~~ that is
7 returned to the Department ~~OBRE~~ unpaid by the financial
8 institution upon which it is drawn shall pay to the Department
9 ~~OBRE~~, in addition to the amount already owed to the Department
10 ~~OBRE~~, a fee of \$50. The Department ~~OBRE~~ shall notify the person
11 that payment of fees and fines shall be paid to the Department
12 ~~OBRE~~ by certified check or money order within 30 calendar days
13 of the notification. If, after the expiration of 30 days from
14 the date of the notification, the person has failed to submit
15 the necessary remittance, the Department ~~OBRE~~ shall
16 automatically terminate the license or deny the application,
17 without hearing. If, after termination or denial, the person
18 seeks a license, he or she shall apply to the Department ~~OBRE~~
19 for restoration or issuance of the license and pay all fees and
20 fines due to the Department ~~OBRE~~. The Department ~~OBRE~~ may
21 establish a fee for the processing of an application for
22 restoration of a license to pay all expenses of processing this
23 application. The Secretary ~~Commissioner~~ may waive the fees due
24 under this Section in individual cases where the Secretary
25 ~~Commissioner~~ finds that the fees would be unreasonable or

1 unnecessarily burdensome.

2 (Source: P.A. 91-245, eff. 12-31-99; 92-146, eff. 1-1-02.)

3 (225 ILCS 454/20-50)

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

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

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

22 (225 ILCS 454/20-55)

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

24 Sec. 20-55. Illinois Administrative Procedure Act. The

1 Illinois Administrative Procedure Act is hereby expressly
2 adopted and incorporated herein as if all of the provisions of
3 that Act were included in this Act, except that the provision
4 of subsection (d) of Section 10-65 of the Illinois
5 Administrative Procedure Act that provides that at hearings the
6 licensee has the right to show compliance with all lawful
7 requirements for retention, continuation, or renewal of the
8 license is specifically excluded. For the purposes of this Act,
9 the notice required under the Illinois Administrative
10 Procedure Act is deemed sufficient when mailed to the last
11 known address of record ~~a party~~.

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

13 (225 ILCS 454/20-60)

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

15 Sec. 20-60. Investigations ~~Hearing; investigation; notice~~
16 ~~and hearing; disciplinary consent order.~~ The Department may
17 investigate the actions of any applicant or of any person or
18 persons rendering or offering to render services or any person
19 holding or claiming to hold a license under this Act. The
20 Department shall, before revoking, (a) OBRE may conduct
21 ~~hearings through the Board or a duly appointed hearing officer~~
22 ~~on proceedings to suspend, revoke, or to refuse to issue or~~
23 ~~renew licenses of persons applying for licensure or licensed~~
24 ~~under this Act or to censure, reprimand, or impose a civil fine~~
25 ~~not to exceed \$25,000 upon any licensee hereunder and may~~

1 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
2 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
3 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
4 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
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22 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
23 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
24 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
25 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
26 ~~revoke, suspend, or refuse to issue or renew these licenses or~~

1 hearing on ~~of~~ the charges, (ii) direct him or her to file a
2 written answer to the charges with ~~to be heard before~~ the Board
3 under oath within 20 days after the service on him or her of
4 the notice, and (iii), ~~and (2)~~ inform the accused that if he or
5 she fails to answer ~~upon failure to file an answer and request~~
6 ~~a hearing before the date originally set for the hearing,~~
7 default will be taken against him or her or that ~~the accused~~
8 ~~and~~ his or her license may be suspended, revoked, ~~or~~ placed on
9 probationary status, or other disciplinary action taken with
10 regard to the license, including limiting the scope, nature, or
11 extent of his or her practice, as the Department may consider
12 proper. At the time and place fixed in the notice, the Board
13 shall proceed to hear the charges and the parties or their
14 counsel shall be accorded ample opportunity to present any
15 pertinent statements, testimony, evidence, and arguments. The
16 Board may continue the hearing from time to time. In case the
17 person, after receiving the ~~the accused's practice, as OBRE may~~
18 ~~deem proper, may be taken with regard thereto. In case the~~
19 ~~person fails to file an answer after receiving notice, fails to~~
20 file an answer, his or her license may, in the discretion of
21 the Department ~~OBRE,~~ be suspended, revoked, ~~or~~ placed on
22 probationary status, or the Department ~~OBRE~~ may take whatever
23 disciplinary action considered ~~deemed~~ proper, including
24 limiting the scope, nature, or extent of the person's practice
25 or the imposition of a fine, without a hearing, if the act or
26 acts charged constitute sufficient grounds for that ~~such~~ action

1 under this Act. The written notice may be served by personal
2 delivery or by certified mail to the address specified by the
3 accused in his or her last notification with the Department.

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

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

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

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

24 ~~(i) OBRE, at its expense, shall preserve a record of all~~
25 ~~proceedings at the formal hearing of any case involving the~~
26 ~~refusal to issue or the revocation, suspension, or other~~

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

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

1 ~~based on the pleadings and evidence presented to the Board. In~~
2 ~~all instances, under this Act, in which the Board has rendered~~
3 ~~a recommendation to the Commissioner with respect to a~~
4 ~~particular licensee or applicant, the Commissioner shall, in~~
5 ~~the event that he or she disagrees with or takes action~~
6 ~~contrary to the recommendation of the Board, file with the~~
7 ~~Board and the Secretary of State his specific written reasons~~
8 ~~of disagreement with the Board. The reasons shall be filed~~
9 ~~within 60 days of the Board's recommendation to the~~
10 ~~Commissioner and prior to any contrary action. At the~~
11 ~~expiration of the time specified for filing a motion for a~~
12 ~~rehearing, the Commissioner shall have the right to take the~~
13 ~~action recommended by the Board. Upon the suspension or~~
14 ~~revocation of a license, the licensee shall be required to~~
15 ~~surrender his or her license to OBRE, and upon failure or~~
16 ~~refusal to do so, OBRE shall have the right to seize the~~
17 ~~license.~~

18 ~~(k) At any time after the suspension, temporary suspension,~~
19 ~~or revocation of any license, OBRE may restore it to the~~
20 ~~accused without examination, upon the written recommendation~~
21 ~~of the Board.~~

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

25 ~~(1) The signature is the genuine signature of the~~
26 ~~Commissioner.~~

1 ~~(2) The Commissioner is duly appointed and qualified.~~

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

3 ~~Such proof may be rebutted.~~

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

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

16 (225 ILCS 454/20-62 new)

17 Sec. 20-62. Record of proceedings; transcript. The
18 Department, at its expense, shall preserve a record of all
19 proceedings at the formal hearing of any case. The notice of
20 hearing, complaint, all other documents in the nature of
21 pleadings, written motions filed in the proceedings, the
22 transcripts of testimony, the report of the Board, and orders
23 of the Department shall be in the record of the proceeding.

24 (225 ILCS 454/20-63 new)

1 Sec. 20-63. Subpoenas; depositions; oaths. The Department
2 has the power to subpoena documents, books, records, or other
3 materials and to bring before it any person and to take
4 testimony either orally or by deposition, or both, with the
5 same fees and mileage and in the same manner as prescribed in
6 civil cases in the courts of this State. The Secretary, the
7 designated hearing officer, and every member of the Board has
8 the power to administer oaths to witnesses at any hearing that
9 the Department is authorized to conduct, and any other oaths
10 authorized in an Act that is administered by the Department.

11 (225 ILCS 454/20-64 new)

12 Sec. 20-64. Board; rehearing. At the conclusion of a
13 hearing, a copy of the Board's report shall be served upon the
14 applicant or licensee by the Department, either personally or
15 as provided in this Act for the service of a notice of hearing.
16 Within 20 days after service, the applicant or licensee may
17 present to the Department a motion in writing for a rehearing,
18 which shall specify the particular grounds for rehearing. The
19 Department may respond to the motion, or if a motion for
20 rehearing is denied, then upon denial, and except as provided
21 in Section 20-72 of this Act, the Secretary may enter an order
22 in accordance with the recommendations of the Board. If the
23 applicant or licensee orders from the reporting service and
24 pays for a transcript of the record within the time for filing
25 a motion for rehearing, then the 20-day period within which a

1 motion may be filed shall commence upon the delivery of the
2 transcript to the applicant or licensee.

3 (225 ILCS 454/20-65)

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

5 Sec. 20-65. Temporary suspension. The Secretary
6 ~~Commissioner~~ may temporarily suspend the license of a licensee
7 without a hearing, simultaneously with the institution of
8 proceedings for a hearing provided for in Section 20-61 ~~20-60~~
9 of this Act, if the Secretary ~~Commissioner~~ finds that the
10 evidence indicates that the public interest, safety, or welfare
11 imperatively requires emergency action. In the event that the
12 Secretary ~~Commissioner~~ temporarily suspends the license
13 without a hearing before the Board, a hearing shall be
14 commenced ~~held~~ within 30 days after the suspension has
15 occurred. The suspended licensee may seek a continuance of the
16 hearing during which the suspension shall remain in effect. The
17 proceeding shall be concluded without appreciable delay.

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

19 (225 ILCS 454/20-66 new)

20 Sec. 20-66. Appointment of a hearing officer. The Secretary
21 has the authority to appoint any attorney licensed to practice
22 law in the State of Illinois to serve as the hearing officer in
23 any action for refusal to issue, restore, or renew a license or
24 to discipline a licensee. The hearing officer has full

1 authority to conduct the hearing. Any Board member may attend
2 the hearing. The hearing officer shall report his or her
3 findings of fact, conclusions of law, and recommendations to
4 the Board. The Board shall review the report of the hearing
5 officer and present its findings of fact, conclusions of law,
6 and recommendations to the Secretary and all parties to the
7 proceeding. If the Secretary disagrees with a recommendation of
8 the Board or of the hearing officer, then the Secretary may
9 issue an order in contravention of the recommendation.

10 (225 ILCS 454/20-67 new)

11 Sec. 20-67. Order or certified copy; prima facie proof. An
12 order, or certified copy of an order, over the seal of the
13 Department and purporting to be signed by the Secretary is
14 prima facie proof that (i) the signature is the genuine
15 signature of the Secretary, (ii) the Secretary is duly
16 appointed and qualified, and (iii) the Board and its members
17 are qualified to act.

18 (225 ILCS 454/20-68 new)

19 Sec. 20-68. Surrender of license. Upon the revocation or
20 suspension of a license, the licensee shall immediately
21 surrender his or her license to the Department. If the licensee
22 fails to do so, the Department has the right to seize the
23 license.

1 (225 ILCS 454/20-69 new)

2 Sec. 20-69. Restoration of a suspended or revoked license.
3 At any time after the successful completion of a term of
4 suspension or revocation of a license, the Department may
5 restore it to the licensee, upon the written recommendation of
6 the Board, unless after an investigation and a hearing the
7 Board determines that restoration is not in the public
8 interest.

9 (225 ILCS 454/20-72 new)

10 Sec. 20-72. Secretary; rehearing. If the Secretary
11 believes that substantial justice has not been done in the
12 revocation, suspension, or refusal to issue, restore, or renew
13 a license, or any other discipline of an applicant or licensee,
14 then he or she may order a rehearing by the same or other
15 examiners.

16 (225 ILCS 454/20-73 new)

17 Sec. 20-73. Certifications of record; costs. The
18 Department shall not be required to certify any record to the
19 court, to file an answer in court, or to otherwise appear in
20 any court in a judicial review proceeding unless there is filed
21 in the court, with the complaint, a receipt from the Department
22 acknowledging payment of the costs of furnishing and certifying
23 the record, which costs shall be determined by the Department.
24 Failure on the part of the plaintiff to file the receipt in

1 court is grounds for dismissal of the action.

2 (225 ILCS 454/20-75)

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

4 Sec. 20-75. Administrative Review venue Law; ~~certification~~
5 ~~fee; summary report of final disciplinary actions.~~

6 (a) All final administrative decisions of the Department
7 ~~are~~ ~~OBRE shall be~~ subject to judicial review under ~~pursuant to~~
8 ~~the provisions of~~ the Administrative Review Law and its ~~the~~
9 rules ~~adopted pursuant thereto~~. The term "administrative
10 decision" is defined in Section 3-101 of the Code of Civil
11 Procedure ~~Administrative Review Law~~.

12 (b) Proceedings for judicial review shall be commenced in
13 the circuit court of the court in which the party applying for
14 review resides, but if the party is not a resident of Illinois,
15 the venue shall be in Sangamon County. ~~OBRE shall not be~~
16 ~~required to certify any record or file any answer or otherwise~~
17 ~~appear unless the party filing the complaint pays to OBRE the~~
18 ~~certification fee provided for by rule representing costs of~~
19 ~~the certification. Failure on the part of the plaintiff to make~~
20 ~~such a deposit shall be grounds for dismissal of the action.~~
21 ~~OBRE shall prepare from time to time, but in no event less~~
22 ~~often than once every other month, a summary report of final~~
23 ~~disciplinary actions taken since the previous summary report.~~
24 ~~The summary report shall contain a brief description of the~~
25 ~~action that brought about the discipline and the final~~

1 ~~disciplinary action taken. The summary report shall be made~~
2 ~~available upon request.~~

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

4 (225 ILCS 454/20-82 new)

5 Sec. 20-82. Fines and penalties; Real Estate Recovery Fund.
6 All fines and penalties collected under this Act by the
7 Department shall be deposited in the Real Estate Recovery Fund.

8 (225 ILCS 454/20-85)

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

10 Sec. 20-85. Recovery from Real Estate Recovery Fund. The
11 Department ~~OPRE~~ shall maintain a Real Estate Recovery Fund from
12 which any person aggrieved by an act, representation,
13 transaction, or conduct of a licensee or unlicensed employee of
14 a licensee that is in violation of this Act or the rules
15 promulgated pursuant thereto, constitutes embezzlement of
16 money or property, or results in money or property being
17 unlawfully obtained from any person by false pretenses,
18 artifice, trickery, or forgery or by reason of any fraud,
19 misrepresentation, discrimination, or deceit by or on the part
20 of any such licensee or the unlicensed employee of a licensee
21 and that results in a loss of actual cash money, as opposed to
22 losses in market value, may recover. The aggrieved person may
23 recover, by order of the circuit court of the county where the
24 violation occurred, an amount of not more than \$25,000 ~~\$10,000~~

1 from the Fund for damages sustained by the act, representation,
2 transaction, or conduct, together with costs of suit and
3 attorney's fees incurred in connection therewith of not to
4 exceed 15% of the amount of the recovery ordered paid from the
5 Fund. However, no licensee ~~licensed broker or salesperson~~ may
6 recover from the Fund unless the court finds that the person
7 suffered a loss resulting from intentional misconduct. The
8 court order shall not include interest on the judgment. The
9 maximum liability against the Fund arising out of any one act
10 shall be as provided in this Section, and the judgment order
11 shall spread the award equitably among all co-owners or
12 otherwise aggrieved persons, if any. The maximum liability
13 against the Fund arising out of the activities of any one
14 licensee or one unlicensed employee of a licensee, since
15 January 1, 1974, shall be \$100,000 ~~\$50,000~~. Nothing in this
16 Section shall be construed to authorize recovery from the Fund
17 unless the loss of the aggrieved person results from an act or
18 omission of a licensee under this Act ~~licensed broker,~~
19 ~~salesperson, or unlicensed employee~~ who was at the time of the
20 act or omission acting in such capacity or was apparently
21 acting in such capacity and unless the aggrieved person has
22 obtained a valid judgment as provided in Section 20-90 of this
23 Act. No person aggrieved by an act, representation, or
24 transaction that is in violation of the Illinois Real Estate
25 Time-Share Act or the Land Sales Registration Act of 1989 may
26 recover from the Fund.

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

2 (225 ILCS 454/20-90)

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

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

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

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

1 associations that may be responsible for acts giving rise to a
2 right of recovery from the Real Estate Recovery Fund.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (225 ILCS 454/20-95)

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

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

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

12 (225 ILCS 454/20-100)

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

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

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

24 (225 ILCS 454/20-110)

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

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

11 (225 ILCS 454/20-115)

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

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

18 (225 ILCS 454/25-5)

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

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

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

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

5 (225 ILCS 454/25-10)

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

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

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

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

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

20 None of these members shall be (i) a person who is licensed
21 under this Act or a similar Act of another jurisdiction, (ii)
22 the spouse or family member of a licensee, (iii), ~~the spouse of~~
23 ~~a person licensed under this Act, or~~ a person who has an
24 ownership interest in a real estate brokerage business, or (iv)
25 a person the Department determines to have any other connection

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

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

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

18 (225 ILCS 454/25-13)

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

20 Sec. 25-13. Rules. The Department ~~OBRE~~, after notifying and
21 considering the recommendations of the Board, if any, shall
22 adopt, promulgate, and issue any rules that may be necessary
23 for the implementation and enforcement of this Act. Rulemaking
24 authority to implement this Act is conditioned on the rules
25 being adopted in accordance with all provisions of and

1 procedures and rules implementing the Illinois Administrative
2 Procedure Act. Any rule not so adopted, for whatever reason, is
3 unauthorized.

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

5 (225 ILCS 454/25-14)

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

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

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

18 (225 ILCS 454/25-15)

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

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

1 during the appointment. The ~~Director of~~ Real Estate Coordinator
2 shall have ~~report to the Commissioner and shall do~~ the
3 following duties and responsibilities:

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

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

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

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

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

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

1 ~~duties.~~

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

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

7 (225 ILCS 454/25-20)

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

9 Sec. 25-20. Staff. The Department ~~OPRE~~ shall employ a
10 minimum of one investigator per 10,000 licensees and one
11 prosecutor per 20,000 licensees in order to have sufficient
12 staff to perform the Department's obligations under the Act.
13 ~~carry out the provisions of this Act.~~

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

15 (225 ILCS 454/25-21 new)

16 Sec. 25-21. Peer review advisors. The Department may
17 contract with licensees meeting qualifications established by
18 the Department to serve as peer review advisors for complaints
19 and alleged violations of the Act. A peer review advisor is
20 authorized to investigate and determine the facts of a
21 complaint. The peer review advisor shall, at the direction of
22 the Department, interview witnesses, the complainant and any
23 licensees involved in the alleged matter and make a
24 recommendation as to the findings of fact to the Department.

1 The Department shall have 30 days from receipt of the
2 recommendation to accept, reject or modify the recommended
3 findings of fact. Peer review advisors shall be compensated
4 from the Real Estate Audit Fund at a rate of not to exceed
5 \$15,000.00 per advisor annually. A peer review advisor shall
6 not investigate a complaint from a marketplace in which the
7 peer review advisor does business.

8 (225 ILCS 454/25-25)

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

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

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

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

1 (225 ILCS 454/25-30)

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

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

1 person.

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

3 (225 ILCS 454/25-35)

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

5 Sec. 25-35. Real Estate Recovery Fund. A special fund to be
6 known as the Real Estate Recovery Fund is created in the State
7 Treasury. All fines and penalties ~~The sums~~ received by the
8 Department ~~OBRE~~ pursuant to Article 20 ~~the provisions of~~
9 ~~Sections 20-20, 20-30, and 20-80 through 20-100~~ of this Act
10 shall be deposited into the State Treasury and held in the Real
11 Estate Recovery Fund. The money in the Real Estate Recovery
12 Fund shall be used by the Department ~~OBRE~~ exclusively for
13 carrying out the purposes established by this Act. If, at any
14 time, the balance remaining in the Real Estate Recovery Fund is
15 less than \$750,000, the State Treasurer shall cause a transfer
16 of moneys to the Real Estate Recovery Fund from the Real Estate
17 License Administration Fund in an amount necessary to establish
18 a balance of \$800,000 in the Real Estate Recovery Fund. These
19 funds may be invested and reinvested in the same manner as
20 authorized for pension funds in Article 1 ~~14~~ of the Illinois
21 Pension Code. All earnings, interest, and dividends received
22 from investment of funds in the Real Estate Recovery Fund shall
23 be deposited into the Real Estate License Administration Fund
24 and shall be used for the same purposes as other moneys
25 deposited in the Real Estate License Administration Fund.

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

2 (225 ILCS 454/25-37)

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

4 Sec. 25-37. Real Estate Audit Fund; audit of special
5 accounts; audit of fund.

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

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

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

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

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

1 (225 ILCS 454/30-5)

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

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

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

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

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

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

16 (e) For purposes of this Section, the term "pre-license"
17 shall also include the 30-hour post-license course required to
18 be taken to retain a broker's license.

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

20 (225 ILCS 454/30-10)

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

22 Sec. 30-10. Advisory Council; powers and duties. There is
23 created within the Department ~~OBRE~~ an Advisory Council to be
24 comprised of 5 ~~7~~ members appointed by the Governor. The
25 members' terms shall be 4 years or until their successor is

1 appointed and the expiration of their terms shall be staggered
2 ~~for 4 year staggered terms.~~ No member shall be reappointed to
3 the Advisory Council for a term that would cause his or her
4 service on the Advisory Council to be longer than 12 ~~serve more~~
5 ~~than 8~~ years in a lifetime. Two ~~Three~~ of the members shall be
6 licensees who are current members of the Board, one member
7 shall be a representative of an Illinois real estate trade
8 organization who is not a member of the Board, one member shall
9 be a representative of a licensed pre-license school or
10 continuing education school, and one member shall be a
11 representative of an institution of higher education that
12 offers pre-license and continuing education courses. The Real
13 Estate Coordinator ~~Director~~ shall serve as the chairman of the
14 Advisory Council, ex officio, without vote. Three Advisory
15 Council members shall constitute a quorum. A quorum is required
16 for all Advisory Council decisions. The Advisory Council shall
17 recommend criteria for the licensing and renewal of pre-license
18 schools, pre-license instructors, continuing education
19 schools, and continuing education instructors; review
20 applications for these licenses to determine if the applicants
21 meet the qualifications for licensure established in this Act
22 and by rule; approve pre-license school and continuing
23 education curricula; and make recommendations to the Board
24 regarding rules to be adopted for the conduct of schools and
25 instructors and the administration of the education provisions
26 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, brokers and
11 managing brokers shall qualify for a continuing education
12 school license upon completion of an application and the
13 submission of the required fee. Every entity that desires to
14 obtain a continuing education school license shall make
15 application to the Department ~~OBRE~~ in writing in forms
16 prescribed by the Department ~~OBRE~~ and pay the fee prescribed by
17 rule. In addition to any other information required to be
18 contained in the application, every application for an original
19 or renewed license shall include the applicant's Social
20 Security number.

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

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

1 projected.

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

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

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

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

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

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

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

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

24 (A) appropriate credentials;

25 (B) competence as a teacher;

26 (C) knowledge of content area; and

1 (D) qualification by experience.

2 (10) The continuing education school shall provide a
3 proctor or an electronic means of proctoring for each
4 examination. The continuing education school shall be
5 responsible for the conduct of the proctor. The duties and
6 responsibilities of a proctor shall be established by rule.

7 (11) The continuing education school must provide for
8 closed book examinations for each course unless the
9 Advisory Council excuses this requirement based on the
10 complexity of the course material.

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

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

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

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

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

1 (h) The Department ~~OBRE~~, upon the recommendation of the
2 Advisory Council, may temporarily suspend a licensed
3 continuing education school's approved courses without hearing
4 and refuse to accept successful completion of or participation
5 in any of these continuing education courses for continuing
6 education credit from that school upon the failure of that
7 continuing education school to comply with the provisions of
8 this Act or the rules for the administration of this Act, until
9 such time as the Department ~~OBRE~~ receives satisfactory
10 assurance of compliance. The Department ~~OBRE~~ shall notify the
11 continuing education school of the noncompliance and may
12 initiate disciplinary proceedings pursuant to this Act. The
13 Department ~~OBRE~~ may refuse to issue, suspend, revoke, or
14 otherwise discipline the license of a continuing education
15 school or may withdraw approval of a continuing education
16 course for good cause. Failure to comply with the requirements
17 of this Section or any other requirements established by rule
18 shall be deemed to be good cause. Disciplinary proceedings
19 shall be conducted by the Board in the same manner as other
20 disciplinary proceedings under this Act.

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

22 (225 ILCS 454/30-20)

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

24 Sec. 30-20. Fees for continuing education school license;
25 renewal; term. All applications for a continuing education

1 school license shall be accompanied by a nonrefundable
2 application fee in an amount established by rule. All
3 continuing education schools shall be required to submit a
4 renewal application, the required fee as established by rule,
5 and a listing of the courses to be offered during the year to
6 renew their continuing education school licenses. The term for
7 a continuing education school license shall be 2 years and as
8 established by rule. The fees collected under this Article 30
9 shall be deposited in the Real Estate License Administration
10 Fund and shall be used to defray the cost of administration of
11 the program and per diem of the Advisory Council as determined
12 by the Secretary Commissioner.

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

14 (225 ILCS 454/30-25)

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

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

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

24 (b) After the effective date of this Act, every person who
25 desires to obtain a continuing education instructor's license

1 shall attend and successfully complete a one-day instructor
2 development workshop, as approved by the Department. The term
3 of licensure for a continuing education instructor shall be 2
4 years and as established by rule. Every person who desires to
5 obtain a continuing education instructor license shall make
6 application to the Department ~~OBRE~~ in writing on forms
7 prescribed by the Office, accompanied by the fee prescribed by
8 rule. In addition to any other information required to be
9 contained in the application, every application for an original
10 or renewed license shall include the applicant's Social
11 Security number. The Department ~~OBRE~~ shall issue a continuing
12 education instructor license to applicants who meet
13 qualification criteria established by this Act or rule.

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

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

25 Section 25. The Code of Civil Procedure is amended by

1 changing Sections 15-1503 and 15-1508 as follows:

2 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

3 Sec. 15-1503. Notice of Foreclosure.

4 (a) A notice of foreclosure, whether the foreclosure is
5 initiated by complaint or counterclaim, made in accordance with
6 this Section and recorded in the county in which the mortgaged
7 real estate is located shall be constructive notice of the
8 pendency of the foreclosure to every person claiming an
9 interest in or lien on the mortgaged real estate, whose
10 interest or lien has not been recorded prior to the recording
11 of such notice of foreclosure. Such notice of foreclosure must
12 be executed by any party or any party's attorney and shall
13 include (i) the names of all plaintiffs and the case number,
14 (ii) the court in which the action was brought, (iii) the names
15 of title holders of record, (iv) a legal description of the
16 real estate sufficient to identify it with reasonable
17 certainty, (v) a common address or description of the location
18 of the real estate and (vi) identification of the mortgage
19 sought to be foreclosed. An incorrect common address or
20 description of the location, or an immaterial error in the
21 identification of a plaintiff or title holder of record, shall
22 not invalidate the lis pendens effect of the notice under this
23 Section. A notice which complies with this Section shall be
24 deemed to comply with Section 2-1901 of the Code of Civil
25 Procedure and shall have the same effect as a notice filed

1 pursuant to that Section; however, a notice which complies with
2 Section 2-1901 shall not be constructive notice unless it also
3 complies with the requirements of this Section.

4 (b) With respect to residential real estate, a copy of the
5 notice of foreclosure described in subsection (a) of Section
6 15-1503 shall be sent by first class mail, postage prepaid, to
7 the municipality within the boundary of which the mortgaged
8 real estate is located, or to the county within the boundary of
9 which the mortgaged real estate is located if the mortgaged
10 real estate is located in an unincorporated territory. A
11 municipality or county must clearly publish on its website a
12 single address to which such notice shall be sent. If a
13 municipality or county does not maintain a website, then the
14 municipality or county must publicly post in its main office a
15 single address to which such notice shall be sent. In the event
16 that a municipality or county has not complied with the
17 publication requirement in this subsection (b), then such
18 notice to the municipality or county shall be provided pursuant
19 to Section 2-211 of the Code of Civil Procedure.

20 (Source: P.A. 86-974.)

21 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

22 Sec. 15-1508. Report of Sale and Confirmation of Sale.

23 (a) Report. The person conducting the sale shall promptly
24 make a report to the court, which report shall include a copy
25 of all receipts and, if any, certificate of sale.

1 (b) Hearing. Upon motion and notice in accordance with
2 court rules applicable to motions generally, which motion shall
3 not be made prior to sale, the court shall conduct a hearing to
4 confirm the sale. Unless the court finds that (i) a notice
5 required in accordance with subsection (c) of Section 15-1507
6 was not given, (ii) the terms of sale were unconscionable,
7 (iii) the sale was conducted fraudulently or (iv) that justice
8 was otherwise not done, the court shall then enter an order
9 confirming the sale. The confirmation order shall include a
10 name, address, and telephone number of the holder of the
11 certificate of sale or deed issued pursuant to that certificate
12 or, if no certificate or deed was issued, the purchaser, whom a
13 municipality or county may contact with concerns about the real
14 estate. The confirmation order may also:

15 (1) approve the mortgagee's fees and costs arising
16 between the entry of the judgment of foreclosure and the
17 confirmation hearing, those costs and fees to be allowable
18 to the same extent as provided in the note and mortgage and
19 in Section 15-1504;

20 (2) provide for a personal judgment against any party
21 for a deficiency; and

22 (3) determine the priority of the judgments of parties
23 who deferred proving the priority pursuant to subsection
24 (h) of Section 15-1506, but the court shall not defer
25 confirming the sale pending the determination of such
26 priority.

1 (b-5) Notice with respect to residential real estate.

2 With respect to residential real estate, the notice
3 required under subsection (b) of this Section shall be sent to
4 the mortgagor even if the mortgagor has previously been held in
5 default. In the event the mortgagor has filed an appearance,
6 the notice shall be sent to the address indicated on the
7 appearance. In all other cases, the notice shall be sent to the
8 mortgagor at the common address of the foreclosed property. The
9 notice shall be sent by first class mail. Unless the right to
10 possession has been previously terminated by the court, the
11 notice shall include the following language in 12-point
12 boldface capitalized type:

13 IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO
14 REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF
15 POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE
16 ILLINOIS MORTGAGE FORECLOSURE LAW.

17 (b-10) Notice of confirmation order sent to municipality or
18 county. A copy of the confirmation order required under
19 subsection (b) shall be sent to the municipality in which the
20 foreclosed property is located, or to the county within the
21 boundary of which the foreclosed property is located if the
22 foreclosed property is located in an unincorporated territory.
23 A municipality or county must clearly publish on its website a
24 single address to which such notice shall be sent. If a
25 municipality or county does not maintain a website, then the
26 municipality or county must publicly post in its main office a

1 single address to which such notice shall be sent. In the event
2 that a municipality or county has not complied with the
3 publication requirement in this subsection (b-10), then such
4 notice to the municipality or county shall be provided pursuant
5 to Section 2-211 of the Code of Civil Procedure.

6 (c) Failure to Give Notice. If any sale is held without
7 compliance with subsection (c) of Section 15-1507 of this
8 Article, any party entitled to the notice provided for in
9 paragraph (3) of that subsection (c) who was not so notified
10 may, by motion supported by affidavit made prior to
11 confirmation of such sale, ask the court which entered the
12 judgment to set aside the sale, provided that such party shall
13 guarantee or secure by bond a bid equal to the successful bid
14 at the prior sale. Any subsequent sale is subject to the same
15 notice requirement as the original sale.

16 (d) Validity of Sale. Except as provided in subsection (c)
17 of Section 15-1508, no sale under this Article shall be held
18 invalid or be set aside because of any defect in the notice
19 thereof or in the publication of the same, or in the
20 proceedings of the officer conducting the sale, except upon
21 good cause shown in a hearing pursuant to subsection (b) of
22 Section 15-1508. At any time after a sale has occurred, any
23 party entitled to notice under paragraph (3) of subsection (c)
24 of Section 15-1507 may recover from the mortgagee any damages
25 caused by the mortgagee's failure to comply with such paragraph
26 (3). Any party who recovers damages in a judicial proceeding

1 brought under this subsection may also recover from the
2 mortgagee the reasonable expenses of litigation, including
3 reasonable attorney's fees.

4 (e) Deficiency Judgment. In any order confirming a sale
5 pursuant to the judgment of foreclosure, the court shall also
6 enter a personal judgment for deficiency against any party (i)
7 if otherwise authorized and (ii) to the extent requested in the
8 complaint and proven upon presentation of the report of sale in
9 accordance with Section 15-1508. Except as otherwise provided
10 in this Article, a judgment may be entered for any balance of
11 money that may be found due to the plaintiff, over and above
12 the proceeds of the sale or sales, and enforcement may be had
13 for the collection of such balance, the same as when the
14 judgment is solely for the payment of money. Such judgment may
15 be entered, or enforcement had, only in cases where personal
16 service has been had upon the persons personally liable for the
17 mortgage indebtedness, unless they have entered their
18 appearance in the foreclosure action.

19 (f) Satisfaction. Upon confirmation of the sale, the
20 judgment stands satisfied to the extent of the sale price less
21 expenses and costs. If the order confirming the sale includes a
22 deficiency judgment, the judgment shall become a lien in the
23 manner of any other judgment for the payment of money.

24 (g) The order confirming the sale shall include,
25 notwithstanding any previous orders awarding possession during
26 the pendency of the foreclosure, an award to the purchaser of

1 possession of the mortgaged real estate, as of the date 30 days
2 after the entry of the order, against the parties to the
3 foreclosure whose interests have been terminated.

4 An order of possession authorizing the removal of a person
5 from possession of the mortgaged real estate shall be entered
6 and enforced only against those persons personally named as
7 individuals in the complaint or the petition under subsection
8 (h) of Section 15-1701 and in the order of possession and shall
9 not be entered and enforced against any person who is only
10 generically described as an unknown owner or nonrecord claimant
11 or by another generic designation in the complaint.

12 Notwithstanding the preceding paragraph, the failure to
13 personally name, include, or seek an award of possession of the
14 mortgaged real estate against a person in the confirmation
15 order shall not abrogate any right that the purchaser may have
16 to possession of the mortgaged real estate and to maintain a
17 proceeding against that person for possession under Article 9
18 of this Code or subsection (h) of Section 15-1701; and
19 possession against a person who (1) has not been personally
20 named as a party to the foreclosure and (2) has not been
21 provided an opportunity to be heard in the foreclosure
22 proceeding may be sought only by maintaining a proceeding under
23 Article 9 of this Code or subsection (h) of Section 15-1701.

24 (Source: P.A. 95-826, eff. 8-14-08.)

25 Section 30. The Residential Real Property Disclosure Act is

1 amended by changing Section 70 as follows:

2 (765 ILCS 77/70)

3 Sec. 70. Predatory lending database program.

4 (a) As used in this Article:

5 "Adjustable rate mortgage" or "ARM" means a closed-end
6 mortgage transaction that allows adjustments of the loan
7 interest rate during the first 3 years of the loan term.

8 "Borrower" means a person seeking a mortgage loan.

9 "Broker" means a "broker" or "loan broker", as defined in
10 subsection (p) of Section 1-4 of the Residential Mortgage
11 License Act of 1987.

12 "Closing agent" means an individual assigned by a title
13 insurance company or a broker or originator to ensure that the
14 execution of documents related to the closing of a real estate
15 sale or the refinancing of a real estate loan and the
16 disbursement of closing funds are in conformity with the
17 instructions of the entity financing the transaction.

18 "Counseling" means in-person counseling provided by a
19 counselor employed by a HUD-certified counseling agency to all
20 borrowers, or documented telephone counseling where a hardship
21 would be imposed on one or more borrowers. A hardship shall
22 exist in instances in which the borrower is confined to his or
23 her home due to medical conditions, as verified in writing by a
24 physician, or the borrower resides 50 miles or more from the
25 nearest participating HUD-certified housing counseling agency.

1 In instances of telephone counseling, the borrower must supply
2 all necessary documents to the counselor at least 72 hours
3 prior to the scheduled telephone counseling session.

4 "Counselor" means a counselor employed by a HUD-certified
5 housing counseling agency.

6 "Credit score" means a credit risk score as defined by the
7 Fair Isaac Corporation, or its successor, and reported under
8 such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE"
9 by one or more of the following credit reporting agencies or
10 their successors: Equifax, Inc., Experian Information
11 Solutions, Inc., and TransUnion LLC. If the borrower's credit
12 report contains credit scores from 2 reporting agencies, then
13 the broker or loan originator shall report the lower score. If
14 the borrower's credit report contains credit scores from 3
15 reporting agencies, then the broker or loan originator shall
16 report the middle score.

17 "Department" means the Department of Financial and
18 Professional Regulation.

19 "Exempt person" means that term as it is defined in
20 subsections (d)(1) and (d)(1.5) of Section 1-4 of the
21 Residential Mortgage License Act of 1987.

22 "First-time homebuyer" means a borrower who has not held an
23 ownership interest in residential property.

24 "HUD-certified counseling" or "counseling" means
25 counseling given to a borrower by a counselor employed by a
26 HUD-certified housing counseling agency.

1 "Interest only" means a closed-end loan that permits one or
2 more payments of interest without any reduction of the
3 principal balance of the loan, other than the first payment on
4 the loan.

5 "Lender" means that term as it is defined in subsection (g)
6 of Section 1-4 of the Residential Mortgage License Act of 1987.

7 "Licensee" means that term as it is defined in subsection
8 (e) of Section 1-4 of the Residential Mortgage License Act of
9 1987.

10 "Mortgage loan" means that term as it is defined in
11 subsection (f) of Section 1-4 of the Residential Mortgage
12 License Act of 1987.

13 "Negative amortization" means an amortization method under
14 which the outstanding balance may increase at any time over the
15 course of the loan because the regular periodic payment does
16 not cover the full amount of interest due.

17 "Originator" means a "loan originator" as defined in
18 subsection (hh) of Section 1-4 of the Residential Mortgage
19 License Act of 1987, except an exempt person.

20 "Points and fees" has the meaning ascribed to that term in
21 Section 10 of the High Risk Home Loan Act.

22 "Prepayment penalty" means a charge imposed by a lender
23 under a mortgage note or rider when the loan is paid before the
24 expiration of the term of the loan.

25 "Refinancing" means a loan secured by the borrower's or
26 borrowers' primary residence where the proceeds are not used as

1 purchase money for the residence.

2 "Title insurance company" means any domestic company
3 organized under the laws of this State for the purpose of
4 conducting the business of guaranteeing or insuring titles to
5 real estate and any title insurance company organized under the
6 laws of another State, the District of Columbia, or a foreign
7 government and authorized to transact the business of
8 guaranteeing or insuring titles to real estate in this State.

9 (a-5) A predatory lending database program shall be
10 established within Cook County. The program shall be
11 administered in accordance with this Article. The inception
12 date of the program shall be July 1, 2008. A predatory lending
13 database program shall be expanded to include Kane, Peoria, and
14 Will counties. The inception date of the expansion of the
15 program as it applies to Kane, Peoria, and Will counties shall
16 be January 1, 2010. Until the inception date, none of the
17 duties, obligations, contingencies, or consequences of or from
18 the program shall be imposed. The program shall apply to all
19 mortgage applications that are governed by this Article and
20 that are made or taken on or after the inception of the
21 program.

22 (b) The database created under this program shall be
23 maintained and administered by the Department. The database
24 shall be designed to allow brokers, originators, counselors,
25 title insurance companies, and closing agents to submit
26 information to the database online. The database shall not be

1 designed to allow those entities to retrieve information from
2 the database, except as otherwise provided in this Article.
3 Information submitted by the broker or originator to the
4 Department may be used to populate the online form submitted by
5 a counselor, title insurance company, or closing agent.

6 (c) Within 10 days after taking a mortgage application, the
7 broker or originator for any mortgage on residential property
8 within the program area must submit to the predatory lending
9 database all of the information required under Section 72 and
10 any other information required by the Department by rule.
11 Within 7 days after receipt of the information, the Department
12 shall compare that information to the housing counseling
13 standards in Section 73 and issue to the borrower and the
14 broker or originator a determination of whether counseling is
15 recommended for the borrower. The borrower may not waive
16 counseling. If at any time after submitting the information
17 required under Section 72 the broker or originator (i) changes
18 the terms of the loan or (ii) issues a new commitment to the
19 borrower, then, within 5 days thereafter, the broker or
20 originator shall re-submit all of the information required
21 under Section 72 and, within 4 days after receipt of the
22 information re-submitted by the broker or originator, the
23 Department shall compare that information to the housing
24 counseling standards in Section 73 and shall issue to the
25 borrower and the broker or originator a new determination of
26 whether re-counseling is recommended for the borrower based on

1 the information re-submitted by the broker or originator. The
2 Department shall require re-counseling if the loan terms have
3 been modified to meet another counseling standard in Section
4 73, or if the broker has increased the interest rate by more
5 than 200 basis points.

6 (d) If the Department recommends counseling for the
7 borrower under subsection (c), then the Department shall notify
8 the borrower of all participating HUD-certified counseling
9 agencies located within the State and direct the borrower to
10 interview with a counselor associated with one of those
11 agencies. Within 10 days after receipt of the notice of
12 HUD-certified counseling agencies, the borrower shall select
13 one of those agencies and shall engage in an interview with a
14 counselor associated with that agency. Within 7 days after
15 interviewing the borrower, the counselor must submit to the
16 predatory lending database all of the information required
17 under Section 74 and any other information required by the
18 Department by rule. Reasonable and customary costs not to
19 exceed \$300 associated with counseling provided under the
20 program shall be paid by the broker or originator. The
21 Department shall annually calculate to the nearest dollar an
22 adjusted rate for inflation. A counselor shall not recommend or
23 suggest that a borrower contact any specific mortgage
24 origination company, financial institution, or entity that
25 deals in mortgage finance to obtain a loan, another quote, or
26 for any other reason related to the specific mortgage

1 transaction; however, a counselor may suggest that the borrower
2 seek an opinion or a quote from another mortgage origination
3 company, financial institution, or entity that deals in
4 mortgage finance. A counselor or housing counseling agency that
5 in good faith provides counseling shall not be liable to a
6 broker or originator or borrower for civil damages, except for
7 willful or wanton misconduct on the part of the counselor in
8 providing the counseling.

9 (e) The broker or originator and the borrower may not take
10 any legally binding action concerning the loan transaction
11 until the later of the following:

12 (1) the Department issues a determination not to
13 recommend HUD-certified counseling for the borrower in
14 accordance with subsection (c); or

15 (2) the Department issues a determination that
16 HUD-certified counseling is recommended for the borrower
17 and the counselor submits all required information to the
18 database in accordance with subsection (d).

19 (f) Within 10 days after closing, the title insurance
20 company or closing agent must submit to the predatory lending
21 database all of the information required under Section 76 and
22 any other information required by the Department by rule.

23 (g) The title insurance company or closing agent shall
24 attach to the mortgage a certificate of compliance with the
25 requirements of this Article, as generated by the database. If
26 the title insurance company or closing agent fails to attach

1 the certificate of compliance, then the mortgage is not
2 recordable. In addition, if any lis pendens for a residential
3 mortgage foreclosure is recorded on the property within the
4 program area, a certificate of service must be simultaneously
5 recorded that affirms that a copy of the lis pendens was filed
6 with the Department. If the certificate of service is not
7 recorded, then the lis pendens pertaining to the residential
8 mortgage foreclosure in question is not recordable and is of no
9 force and effect.

10 (h) All information provided to the predatory lending
11 database under the program is confidential and is not subject
12 to disclosure under the Freedom of Information Act, except as
13 otherwise provided in this Article. Information or documents
14 obtained by employees of the Department in the course of
15 maintaining and administering the predatory lending database
16 are deemed confidential. Employees are prohibited from making
17 disclosure of such confidential information or documents. Any
18 request for production of information from the predatory
19 lending database, whether by subpoena, notice, or any other
20 source, shall be referred to the Department of Financial and
21 Professional Regulation. Any borrower may authorize in writing
22 the release of database information. The Department may use the
23 information in the database without the consent of the
24 borrower: (i) for the purposes of administering and enforcing
25 the program; (ii) to provide relevant information to a
26 counselor providing counseling to a borrower under the program;

1 or (iii) to the appropriate law enforcement agency or the
2 applicable administrative agency if the database information
3 demonstrates criminal, fraudulent, or otherwise illegal
4 activity.

5 (i) Nothing in this Article is intended to prevent a
6 borrower from making his or her own decision as to whether to
7 proceed with a transaction.

8 (j) Any person who violates any provision of this Article
9 commits an unlawful practice within the meaning of the Consumer
10 Fraud and Deceptive Business Practices Act.

11 (k) During the existence of the program, the Department
12 shall submit semi-annual reports to the Governor and to the
13 General Assembly by May 1 and November 1 of each year detailing
14 its findings regarding the program. The report shall include,
15 by county, at least the following information for each
16 reporting period:

17 (1) the number of loans registered with the program;

18 (2) the number of borrowers receiving counseling;

19 (3) the number of loans closed;

20 (4) the number of loans requiring counseling for each
21 of the standards set forth in Section 73;

22 (5) the number of loans requiring counseling where the
23 mortgage originator changed the loan terms subsequent to
24 counseling;~~;~~

25 (6) the number of licensed mortgage brokers and loan
26 originators entering information into the database;

1 (7) the number of investigations based on information
2 obtained from the database, including the number of
3 licensees fined, the number of licenses suspended, and the
4 number of licenses revoked;

5 (8) a summary of the types of non-traditional mortgage
6 products being offered; and

7 (9) a summary of how the Department is actively
8 utilizing the program to combat mortgage fraud.

9 (Source: P.A. 94-280, eff. 1-1-06; 94-1029, eff. 7-14-06;
10 95-691, eff. 6-1-08; revised 11-6-08.)

11 (225 ILCS 454/5-30 rep.)

12 (225 ILCS 454/5-55 rep.)

13 (225 ILCS 454/20-30 rep.)

14 (225 ILCS 454/20-35 rep.)

15 (225 ILCS 454/20-40 rep.)

16 (225 ILCS 454/20-45 rep.)

17 (225 ILCS 454/20-80 rep.)

18 (225 ILCS 454/20-120 rep.)

19 (225 ILCS 454/30-30 rep.)

20 Section 95. The Real Estate License Act of 2000 is amended
21 by repealing Sections 5-30, 5-55, 20-30, 20-35, 20-40, 20-45,
22 20-80, 20-120, and 30-30.

23 Section 97. Severability. The provisions of this Act are
24 severable under Section 1.31 of the Statute on Statutes.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law, except that Sections 5, 20, and 95 take effect on
3 December 31, 2009."