



Executive Committee

Filed: 10/14/2009

09600SB1894ham001

LRB096 09530 WGH 29932 a

1 AMENDMENT TO SENATE BILL 1894

2 AMENDMENT NO. _____. Amend Senate Bill 1894 by replacing
3 everything after the enacting clause with the following:

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

6 (5 ILCS 80/4.20)

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 Acts repealed on January 1, 2010 and December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

9 (a) The following Acts are repealed on January 1, 2010:

10 The Auction License Act.

11 The Illinois Architecture Practice Act of 1989.

12 The Illinois Landscape Architecture Act of 1989.

13 The Illinois Professional Land Surveyor Act of 1989.

14 The Land Sales Registration Act of 1999.

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

1 The Perfusionist Practice Act.

2 The Professional Engineering Practice Act of 1989.

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

4 The Structural Engineering Practice Act of 1989.

5 (b) The following Act is repealed on December 31, 2010:

6 The Medical Practice Act of 1987.

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

8 (5 ILCS 80/4.30 new)

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 Act repealed on January 1, 2020.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10 Act is repealed on January 1, 2020:

11 The Real Estate License Act of 2000.

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

16 (65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

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

19 (a) The corporate authorities of each municipality may
20 provide for the removal of nuisance greenery from any parcel of
21 private property within the municipality if the owners of that
22 parcel, after reasonable notice, refuse or neglect to remove
23 the nuisance greenery. The municipality may collect, from the

1 owners of that parcel, the reasonable removal cost.

2 (b) The municipality's removal cost under this Section is a
3 lien upon the underlying parcel in accordance with Section
4 11-20-15.

5 (c) For the purpose of this Section:

6 "Removal of nuisance greenery" or "removal activities"
7 means the cutting of weeds or grass, the trimming of trees or
8 bushes, and the removal of nuisance bushes or trees.

9 "Removal cost" means the total cost of the removal
10 activity.

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 (Source: P.A. 95-183, eff. 8-14-07; 96-462, eff. 8-14-09.)

2 (65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

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

4 (a) The corporate authorities of each municipality may
5 provide pest-control activities on any parcel of private
6 property in the municipality if, after reasonable notice, the
7 owners of that parcel refuse or neglect to prevent the ingress
8 of pests to their property or to exterminate pests on their
9 property. The municipality may collect, from the owners of the
10 underlying parcel, the reasonable removal cost.

11 (b) The municipality's removal cost under this Section is a
12 lien upon the underlying parcel in accordance with Section
13 11-20-15.

14 (c) For the purpose of this Section:

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

1 activity.

2 (Source: P.A. 96-462, eff. 8-14-09.)

3 (65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

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

5 (a) The corporate authorities of each municipality may
6 provide for the removal of elm trees infected with Dutch elm
7 disease or ash trees infected with the emerald ash borer
8 (*Agrilus planipennis* Fairmaire) from any parcel of private
9 property within the municipality if the owners of that parcel,
10 after reasonable notice, refuse or neglect to remove the
11 infected trees. The municipality may collect, from the owners
12 of the parcel, the reasonable removal cost.

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

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

18 (d) In the case of an abandoned residential property as
19 defined in Section 11-20-15.1, the municipality may elect to
20 obtain a lien for the removal cost pursuant to Section
21 11-20-15.1, in which case the provisions of Section 11-20-15.1
22 shall be the exclusive remedy for the removal cost.

23 The provisions of this subsection (d), other than this
24 sentence, are inoperative upon certification by the Secretary
25 of the Illinois Department of Financial and Professional

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

9 (Source: P.A. 95-183, eff. 8-14-07; 96-462, eff. 8-14-09.)

10 (65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

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

12 (a) The corporate authorities of each municipality may
13 provide for the removal of garbage, debris, and graffiti from
14 any parcel of private property within the municipality if the
15 owner of that parcel, after reasonable notice, refuses or
16 neglects to remove the garbage, debris, and graffiti. The
17 municipality may collect, from the owner of the parcel, the
18 reasonable removal cost.

19 (b) The municipality's removal cost under this Section is a
20 lien upon the underlying parcel in accordance with Section
21 11-20-15.

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

24 (d) For the purpose of this Section, "removal cost" means
25 the total cost of the removal of garbage and debris. The term

1 "removal cost" does not include any cost associated with the
2 removal of graffiti.

3 (e) In the case of an abandoned residential property as
4 defined in Section 11-20-15.1, the municipality may elect to
5 obtain a lien for the removal cost pursuant to Section
6 11-20-15.1, in which case the provisions of Section 11-20-15.1
7 shall be the exclusive remedy for the removal cost.

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

19 (Source: P.A. 96-462, eff. 8-14-09.)

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

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

22 (a) If the municipality incurs a removal cost under Section
23 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
24 underlying parcel, then that cost is a lien upon that
25 underlying parcel. This lien is superior to all other liens and

1 encumbrances, except tax liens and as otherwise provided in
2 subsection (c) of this Section.

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

10 (1) a description of the underlying parcel that
11 sufficiently identifies the parcel;

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

13 (3) the date or dates when the removal cost was
14 incurred by the municipality.

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

19 (c) A lien under this Section is not valid as to: (i) any
20 purchaser whose rights in and to the underlying parcel arose
21 after the removal activity but before the filing of the notice
22 of lien; or (ii) any mortgagee, judgment creditor, or other
23 lienor whose rights in and to the underlying parcel arose
24 before the filing of the notice of lien.

25 (d) The removal cost is not a lien on the underlying parcel
26 unless a notice is personally served on, or sent by certified

1 mail to, the person to whom was sent the tax bill for the
2 general taxes on the property for the taxable year immediately
3 preceding the removal activities. The notice must be delivered
4 or sent after the removal activities have been performed, and
5 it must: (i) state the substance of this Section and the
6 substance of any ordinance of the municipality implementing
7 this Section; (ii) identify the underlying parcel, by common
8 description; and (iii) describe the removal activity.

9 (e) A lien under this Section may be enforced by
10 proceedings to foreclose as in case of mortgages or mechanics'
11 liens. An action to foreclose a lien under this Section must be
12 commenced within 2 years after the date of filing notice of
13 lien.

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

18 (g) A failure to file a foreclosure action does not, in any
19 way, affect the validity of the lien against the underlying
20 parcel.

21 (h) Upon payment of the lien cost by the owner of the
22 underlying parcel after notice of lien has been filed, the
23 municipality (or its agent under subsection (f)) shall release
24 the lien, and the release may be filed of record by the owner
25 at his or her sole expense as in the case of filing notice of
26 lien.

1 (i) For the purposes of this Section:

2 "Lien cost" means the removal cost and the filing costs for
3 any notice of lien under subsection (b).

4 "Removal activity" means any activity for which a removal
5 cost was incurred.

6 "Removal cost" means a removal cost as defined under
7 Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

8 "Underlying parcel" means a parcel of private property upon
9 which a removal activity was performed.

10 "Year" means a 365-day period.

11 (j) This Section applies only to liens filed after August
12 14, 1009 (the effective date of Public Act 96-462) ~~this~~
13 ~~amendatory Act of the 96th General Assembly.~~

14 (k) This Section shall not apply to a lien filed pursuant
15 to Section 11-20-15.1.

16 (Source: P.A. 96-462, eff. 8-14-09; revised 10-7-09.)

17 (65 ILCS 5/11-20-15.1 new)

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

20 (a) If the municipality elects to incur a removal cost
21 pursuant to subsection (d) of Section 11-20-7, subsection (d)
22 of Section 11-20-8, subsection (d) of Section 11-20-12, or
23 subsection (e) of Section 11-20-13, or a securing or enclosing
24 cost pursuant to Section 11-31-1.01 with respect to an
25 abandoned residential property, then that cost is a lien upon

1 the underlying parcel of that abandoned residential property.
2 This lien is superior to all other liens and encumbrances,
3 except tax liens and as otherwise provided in this Section.

4 (b) To perfect a lien under this Section, the municipality
5 must, within one year after the cost is incurred for the
6 activity, file notice of the lien in the office of the recorder
7 in the county in which the abandoned residential property is
8 located or, if the abandoned residential property is registered
9 under the Torrens system, in the office of the Registrar of
10 Titles of that county, a sworn statement setting out:

11 (1) a description of the abandoned residential
12 property that sufficiently identifies the parcel;

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

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

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

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

26 (c) To enforce a lien pursuant to this Section, the

1 municipality must maintain contemporaneous records that
2 include, at a minimum: (i) a dated statement of finding by the
3 municipality that the property for which the work is to be
4 performed has become abandoned residential property, which
5 shall include (1) the date when the property was first known or
6 observed to be unoccupied by any lawful occupant or occupants,
7 (2) a description of the actions taken by the municipality to
8 contact the legal owner or owners of the property identified on
9 the recorded mortgage, or, if known, any agent of the owner or
10 owners, including the dates such actions were taken, and (3) a
11 statement that no contacts were made with the legal owner or
12 owners or their agents as a result of such actions, (ii) a
13 dated certification by an authorized official of the
14 municipality of the necessity and specific nature of the work
15 to be performed, (iii) a copy of the agreement with the person
16 or entity performing the work that includes the legal name of
17 the person or entity, the rate or rates to be charged for
18 performing the work, and an estimate of the total cost of the
19 work to be performed, (iv) detailed invoices and payment
20 vouchers for all payments made by the municipality for such
21 work, and (v) a statement as to whether the work was engaged
22 through a competitive bidding process, and if so, a copy of all
23 proposals submitted by the bidders for such work.

24 (d) A lien under this Section shall be enforceable
25 exclusively at the hearing for confirmation of sale of the
26 abandoned residential property that is held pursuant to

1 subsection (b) of Section 15-1508 of the Code of Civil
2 Procedure and shall be limited to a claim of interest in the
3 proceeds of the sale and subject to the requirements of this
4 Section. Any mortgagee who holds a mortgage on the property, or
5 any beneficiary or trustee who holds a deed of trust on the
6 property, may contest the lien or the amount of the lien at any
7 time during the foreclosure proceeding upon motion and notice
8 in accordance with court rules applicable to motions generally.
9 Grounds for forfeiture of the lien or the superior status of
10 the lien granted by subsection (a) of this Section shall
11 include, but not be limited to, a finding by the court that:
12 (i) the municipality has not complied with subsection (b) or
13 (c) of this Section, (ii) the scope of the work was not
14 reasonable under the circumstances, (iii) the work exceeded the
15 authorization for the work to be performed under subsection (a)
16 of Section 11-20-7, subsection (a) of Section 11-20-8,
17 subsection (a) of Section 11-20-12, subsection (a) of Section
18 11-20-13, or subsection (a) of Section 11-31-1.01, as
19 applicable, or (iv) the cost of the services rendered or
20 materials provided was not commercially reasonable. Forfeiture
21 of the superior status of the lien otherwise granted by this
22 Section shall not constitute a forfeiture of the lien as a
23 subordinate lien.

24 (e) Upon payment of the amount of a lien filed under this
25 Section by the mortgagee, servicer, owner, or any other person,
26 the municipality shall release the lien, and the release may be

1 filed of record by the person making such payment at the
2 person's sole expense as in the case of filing notice of lien.

3 (f) Notwithstanding any other provision of this Section, a
4 municipality may not file a lien pursuant to this Section for
5 activities performed pursuant to Section 11-20-7, Section
6 11-20-8, Section 11-20-12, Section 11-20-13, or Section
7 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
8 residential property has provided notice to the municipality
9 that the mortgagee or servicer has performed or will perform
10 the remedial actions specified in the notice that the
11 municipality otherwise might perform pursuant to subsection
12 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
13 subsection (d) of Section 11-20-12, subsection (e) of Section
14 11-20-13, or Section 11-31-1.01, provided that the remedial
15 actions specified in the notice have been performed or are
16 performed or initiated in good faith within 30 days of such
17 notice; or (ii) the municipality has provided notice to the
18 mortgagee or servicer of a problem with the property requiring
19 the remedial actions specified in the notice that the
20 municipality otherwise would perform pursuant to subsection
21 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
22 subsection (d) of Section 11-20-12, subsection (e) of Section
23 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
24 has performed or performs or initiates in good faith the
25 remedial actions specified in the notice within 30 days of such
26 notice.

1 (g) This Section and subsection (d) of Section 11-20-7,
2 subsection (d) of Section 11-20-8, subsection (d) of Section
3 11-20-12, subsection (e) of Section 11-20-13, or Section
4 11-31-1.01 shall apply only to activities performed, costs
5 incurred, and liens filed after the effective date of this
6 amendatory Act of the 96th General Assembly.

7 (h) For the purposes of this Section and subsection (d) of
8 Section 11-20-7, subsection (d) of Section 11-20-8, subsection
9 (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or
10 Section 11-31-1.01:

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

1 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
2 Section 11-20-13, and Section 11-31-1.01 of this Code.

3 "MERS program" means the nationwide Mortgage Electronic
4 Registration System approved by Fannie Mae, Freddie Mac, and
5 Ginnie Mae that has been created by the mortgage banking
6 industry with the mission of registering every mortgage loan in
7 the United States to lawfully make information concerning each
8 residential mortgage loan and the property securing it
9 available by internet access to mortgage originators,
10 servicers, warehouse lenders, wholesale lenders, retail
11 lenders, document custodians, settlement agents, title
12 companies, insurers, investors, county recorders, units of
13 local government, and consumers.

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

1 (j) If prior to subsection (d) of Section 11-20-7,
2 subsection (d) of Section 11-20-8, subsection (d) of Section
3 11-20-12, and subsection (e) of Section 11-20-13 becoming
4 inoperative a lien is filed pursuant to any of those
5 subsections, then the lien shall remain in full force and
6 effect after the subsections have become inoperative, subject
7 to all of the provisions of this Section. If prior to the
8 repeal of Section 11-31-1.01 a lien is filed pursuant to
9 Section 11-31-1.01, then the lien shall remain in full force
10 and effect after the repeal of Section 11-31-1.01, subject to
11 all of the provisions of this Section.

12 (65 ILCS 5/11-31-1.01 new)

13 Sec. 11-31-1.01. Securing or enclosing abandoned
14 residential property.

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

23 (b) For the purposes of this Section:

24 (1) "Secure" or "securing" means boarding up, closing
25 off, or locking windows or entrances or otherwise making

1 the interior of a building inaccessible to the general
2 public; and

3 (2) "Enclose" or "enclosing" means surrounding part or
4 all of the abandoned residential property's underlying
5 parcel with a fence or wall or otherwise making part or all
6 of the abandoned residential property's underlying parcel
7 inaccessible to the general public.

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

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

20 (205 ILCS 5/5c) (from Ch. 17, par. 312.2)

21 Sec. 5c. Ownership of a bankers' bank. A bank may acquire
22 shares of stock of a bank or holding company which owns or
23 controls such bank if the stock of such bank or company is
24 owned exclusively (except to the extent directors' qualifying

1 shares are required by law) by depository institutions or
2 depository institution holding companies and such bank or
3 company and all subsidiaries thereof are engaged exclusively in
4 providing services to or for other financial institutions,
5 their holding companies, and the officers, directors, and
6 employees of such institutions and companies, and in providing
7 services at the request of other financial institutions or
8 their holding companies (also referred to as a "bankers'
9 bank"). The bank may also provide products and services to its
10 officers, directors, and employees. In no event shall the total
11 amount of such stock held by a bank in such bank or holding
12 company exceed 10 percent of its capital and surplus (including
13 undivided profits) and in no event shall a bank acquire more
14 than 15 ~~5~~ percent of any class of voting securities of such
15 bank or company.

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

17 Section 20. The Real Estate License Act of 2000 is amended
18 by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-25, 5-35,
19 5-40, 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-15, 10-30,
20 15-15, 15-35, 15-45, 15-65, 20-5, 20-10, 20-20, 20-25, 20-50,
21 20-55, 20-60, 20-65, 20-75, 20-85, 20-90, 20-95, 20-100,
22 20-110, 20-115, 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25,
23 25-30, 25-35, 25-37, 30-5, 30-10, 30-15, 30-20, and 30-25 and
24 by adding Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 5-46,
25 5-47, 10-35, 10-40, 20-21, 20-22, 20-62, 20-63, 20-64, 20-66,

1 20-67, 20-68, 20-69, 20-72, 20-73, 20-82, and 25-21 as follows:

2 (225 ILCS 454/1-10)

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

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

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

7 "Address of Record" means the designated address recorded
8 by the Department in the applicant's or licensee's application
9 file or license file as maintained by the Department's
10 licensure maintenance unit. It is the duty of the applicant or
11 licensee to inform the Department of any change of address, and
12 those changes must be made either through the Department's
13 website or by contacting the Department.

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

16 "Agency" means a relationship in which a real estate broker
17 or licensee, whether directly or through an affiliated
18 licensee, represents a consumer by the consumer's consent,
19 whether express or implied, in a real property transaction.

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

23 "Blind advertisement" means any real estate advertisement
24 that does not include the sponsoring broker's business name and
25 that is used by any licensee regarding the sale or lease of

1 real estate, including his or her own, licensed activities, or
2 the hiring of any licensee under this Act. The broker's
3 business name in the case of a franchise shall include the
4 franchise affiliation as well as the name of the individual
5 firm.

6 "Board" means the Real Estate Administration and
7 Disciplinary Board of the Department as created by Section
8 25-10 of this Act ~~OBRE~~.

9 "Branch office" means a sponsoring broker's office other
10 than the sponsoring broker's principal office.

11 "Broker" means an individual, partnership, limited
12 liability company, corporation, or registered limited
13 liability partnership other than a real estate salesperson or
14 leasing agent who, whether in person or through any media or
15 technology, for another and for compensation, or with the
16 intention or expectation of receiving compensation, either
17 directly or indirectly:

18 (1) Sells, exchanges, purchases, rents, or leases real
19 estate.

20 (2) Offers to sell, exchange, purchase, rent, or lease
21 real estate.

22 (3) Negotiates, offers, attempts, or agrees to
23 negotiate the sale, exchange, purchase, rental, or leasing
24 of real estate.

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

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

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

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

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

11 (9) Assists or directs in the negotiation of any
12 transaction intended to result in the sale, exchange,
13 lease, or rental of real estate.

14 (10) Opens real estate to the public for marketing
15 purposes.

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

18 "Brokerage agreement" means a written or oral agreement
19 between a sponsoring broker and a consumer for licensed
20 activities to be provided to a consumer in return for
21 compensation or the right to receive compensation from another.
22 Brokerage agreements may constitute either a bilateral or a
23 unilateral agreement between the broker and the broker's client
24 depending upon the content of the brokerage agreement. All
25 exclusive brokerage agreements shall be in writing.

26 "Client" means a person who is being represented by a

1 licensee.

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

6 "Compensation" means the valuable consideration given by
7 one person or entity to another person or entity in exchange
8 for the performance of some activity or service. Compensation
9 shall include the transfer of valuable consideration,
10 including without limitation the following:

- 11 (1) commissions;
- 12 (2) referral fees;
- 13 (3) bonuses;
- 14 (4) prizes;
- 15 (5) merchandise;
- 16 (6) finder fees;
- 17 (7) performance of services;
- 18 (8) coupons or gift certificates;
- 19 (9) discounts;
- 20 (10) rebates;
- 21 (11) a chance to win a raffle, drawing, lottery, or
- 22 similar game of chance not prohibited by any other law or
- 23 statute;
- 24 (12) retainer fee; or
- 25 (13) salary.

26 "Confidential information" means information obtained by a

1 licensee from a client during the term of a brokerage agreement
2 that (i) was made confidential by the written request or
3 written instruction of the client, (ii) deals with the
4 negotiating position of the client, or (iii) is information the
5 disclosure of which could materially harm the negotiating
6 position of the client, unless at any time:

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

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

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

12 "Confidential information" shall not be considered to
13 include material information about the physical condition of
14 the property.

15 "Consumer" means a person or entity seeking or receiving
16 licensed activities.

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

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

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

25 "Customer" means a consumer who is not being represented by
26 the licensee but for whom the licensee is performing

1 ministerial acts.

2 "Department" means the Department of Financial and
3 Professional Regulation.

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

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

11 ~~"Director" means the Director of the Real Estate Division,~~
12 ~~OBRE.~~

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

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

1 of a broker shall remain.

2 "Escrow moneys" means all moneys, promissory notes or any
3 other type or manner of legal tender or financial consideration
4 deposited with any person for the benefit of the parties to the
5 transaction. A transaction exists once an agreement has been
6 reached and an accepted real estate contract signed or lease
7 agreed to by the parties. Escrow moneys includes without
8 limitation earnest moneys and security deposits, except those
9 security deposits in which the person holding the security
10 deposit is also the sole owner of the property being leased and
11 for which the security deposit is being held.

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

17 "Inoperative" means a status of licensure where the
18 licensee holds a current license under this Act, but the
19 licensee is prohibited from engaging in licensed activities
20 because the licensee is unsponsored or the license of the
21 sponsoring broker with whom the licensee is associated or by
22 whom he or she is employed is currently expired, revoked,
23 suspended, or otherwise rendered invalid under this Act.

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

26 "Leasing Agent" means a person who is employed by a real

1 estate broker to engage in licensed activities limited to
2 leasing residential real estate who has obtained a license as
3 provided for in Section 5-5 of this Act.

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

7 "Licensed activities" means those activities listed in the
8 definition of "broker" under this Section.

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

12 "Listing presentation" means a communication between a
13 real estate broker or salesperson and a consumer in which the
14 licensee is attempting to secure a brokerage agreement with the
15 consumer to market the consumer's real estate for sale or
16 lease.

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

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

24 "Ministerial acts" means those acts that a licensee may
25 perform for a consumer that are informative or clerical in
26 nature and do not rise to the level of active representation on

1 behalf of a consumer. Examples of these acts include without
2 limitation (i) responding to phone inquiries by consumers as to
3 the availability and pricing of brokerage services, (ii)
4 responding to phone inquiries from a consumer concerning the
5 price or location of property, (iii) attending an open house
6 and responding to questions about the property from a consumer,
7 (iv) setting an appointment to view property, (v) responding to
8 questions of consumers walking into a licensee's office
9 concerning brokerage services offered or particular
10 properties, (vi) accompanying an appraiser, inspector,
11 contractor, or similar third party on a visit to a property,
12 (vii) describing a property or the property's condition in
13 response to a consumer's inquiry, (viii) completing business or
14 factual information for a consumer on an offer or contract to
15 purchase on behalf of a client, (ix) showing a client through a
16 property being sold by an owner on his or her own behalf, or
17 (x) referral to another broker or service provider.

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

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

23 "Person" means and includes individuals, entities,
24 corporations, limited liability companies, registered limited
25 liability partnerships, and partnerships, foreign or domestic,
26 except that when the context otherwise requires, the term may

1 refer to a single individual or other described entity.

2 "Personal assistant" means a licensed or unlicensed person
3 who has been hired for the purpose of aiding or assisting a
4 sponsored licensee in the performance of the sponsored
5 licensee's job.

6 "Pocket card" means the card issued by the Department ~~OBRE~~
7 to signify that the person named on the card is currently
8 licensed under this Act.

9 "Pre-license school" means a school licensed by the
10 Department ~~OBRE~~ offering courses in subjects related to real
11 estate transactions, including the subjects upon which an
12 applicant is examined in determining fitness to receive a
13 license.

14 "Pre-renewal period" means the period between the date of
15 issue of a currently valid license and the license's expiration
16 date.

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

21 "Real estate" means and includes leaseholds as well as any
22 other interest or estate in land, whether corporeal,
23 incorporeal, freehold, or non-freehold, including timeshare
24 interests, and whether the real estate is situated in this
25 State or elsewhere.

26 "Regular employee" means a person working an average of 20

1 hours per week for a person or entity who would be considered
2 as an employee under the Internal Revenue Service eleven main
3 tests in three categories being behavioral control, financial
4 control and the type of relationship of the parties, formerly
5 the twenty factor test.

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

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

15 "Secretary" means the Secretary of the Department of
16 Financial and Professional Regulation, or a person authorized
17 by the Secretary to act in the Secretary's stead.

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

21 "Sponsor card" means the temporary permit issued by the
22 sponsoring real estate broker certifying that the real estate
23 broker, real estate salesperson, or leasing agent named thereon
24 is employed by or associated by written agreement with the
25 sponsoring real estate broker, as provided for in Section 5-40
26 of this Act.

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

2 (225 ILCS 454/5-5)

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

4 Sec. 5-5. Leasing agent license.

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

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

25 (c) The Department ~~OBRE~~, by rule, ~~with the advice of the~~

1 ~~Board,~~ shall provide for the licensing of leasing agents,
2 including the issuance, renewal, and administration of
3 licenses.

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

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

20 (225 ILCS 454/5-6 new)

21 Sec. 5-6. Social Security Number or Tax Identification
22 Number on license application. In addition to any other
23 information required to be contained in the application, every
24 application for an original or renewal license under this Act
25 shall include the applicant's Social Security Number or Tax

1 Identification Number.

2 (225 ILCS 454/5-7 new)

3 Sec. 5-7. Application for leasing agent license. Every
4 person who desires to obtain a leasing agent license shall
5 apply to the Department in writing on forms provided by the
6 Department which application shall be accompanied by the
7 required non-refundable fee. Any such application shall
8 require such information as in the judgment of the Department
9 will enable the Department to pass on the qualifications of the
10 applicant for licensure.

11 (225 ILCS 454/5-10)

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

13 Sec. 5-10. Requirements for license as leasing agent.
14 ~~Application for leasing agent license.~~

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

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

1 (2) ~~must~~ be of good moral character; ~~shall have~~

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

6 (4) personally take and pass a written examination
7 authorized by the Department ~~OBRE~~ sufficient to
8 demonstrate the applicant's knowledge of the provisions of
9 this Act relating to leasing agents and the applicant's
10 competence to engage in the activities of a licensed
11 leasing agent; ~~Applicants must successfully complete~~

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

23 (6) complete any other requirements as set forth by
24 rule; and

25 (7) present a valid application for issuance of an
26 initial license accompanied by a sponsor card and the fees

1 specified by rule.

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

7 (c) Successfully completed course work, completed pursuant
8 to the requirements of this Section, may be applied to the
9 course work requirements to obtain a real estate broker's or
10 salesperson's license as provided by rule. The Advisory Council
11 may ~~shall~~ recommend through the Board to the Department ~~OBRE~~
12 and the Department may ~~OBRE shall~~ adopt requirements for
13 approved courses, course content, and the approval of courses,
14 instructors, and schools, as well as school and instructor
15 fees. The Department ~~OBRE~~ may establish continuing education
16 requirements for licensed leasing agents, by rule, with the
17 advice of the Advisory Council and Board.

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

19 (225 ILCS 454/5-15)

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

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

24 (a) It is unlawful for any person, corporation, limited
25 liability company, registered limited liability partnership,

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

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

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

1 (d) No limited liability company shall be granted a license
2 or engage in the business or serve in the capacity, either
3 directly or indirectly, of a ~~real-estate~~ broker unless every
4 manager in the limited liability company or every member in a
5 member managed limited liability company holds a license as a
6 managing broker or ~~real-estate~~ broker and unless every other
7 member and employee who acts as a salesperson or leasing agent
8 for the limited liability company holds a license as a ~~real~~
9 ~~estate~~ broker, salesperson, or leasing agent.

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

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

18 (225 ILCS 454/5-20)

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

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

23 (1) Any person, partnership, or corporation that as
24 owner or lessor performs any of the acts described in the
25 definition of "broker" under Section 1-10 of this Act with

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

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

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

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

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

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

6 (7) Any multiple listing service or other similar
7 information exchange that is engaged in the collection and
8 dissemination of information concerning real estate available
9 for sale, purchase, lease, or exchange for the purpose of
10 providing licensees with a system by which licensees may
11 cooperatively share information along with which no other
12 licensed activities, as defined in Section 1-10 of this Act,
13 are provided.

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

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

25 (10) Any resident lessee of a residential dwelling unit
26 who refers for compensation to the owner of the dwelling

1 unit, or to the owner's agent, prospective lessees of
2 dwelling units in the same building or complex as the
3 resident lessee's unit, but only if the resident lessee (i)
4 refers no more than 3 prospective lessees in any 12-month
5 period, (ii) receives compensation of no more than \$1,500
6 ~~\$1,000~~ or the equivalent of one month's rent, whichever is
7 less, in any 12-month period, and (iii) limits his or her
8 activities to referring prospective lessees to the owner,
9 or the owner's agent, and does not show a residential
10 dwelling unit to a prospective lessee, discuss terms or
11 conditions of leasing a dwelling unit with a prospective
12 lessee, or otherwise participate in the negotiation of the
13 leasing of a dwelling unit.

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

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

1 otherwise participate in negotiations with regard to
2 timeshare interests.

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

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

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

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

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

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

1 (Source: P.A. 96-328, eff. 8-11-09.)

2 (225 ILCS 454/5-25)

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

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

6 ~~(a) Every person who desires to obtain a license shall make~~
7 ~~application to OBRE in writing upon forms prepared and~~
8 ~~furnished by OBRE. In addition to any other information~~
9 ~~required to be contained in the application, every application~~
10 ~~for an original or renewed license shall include the~~
11 ~~applicant's Social Security number. Each applicant shall be at~~
12 ~~least 21 years of age, be of good moral character, and have~~
13 ~~successfully completed a 4 year course of study in a high~~
14 ~~school or secondary school approved by the Illinois State Board~~
15 ~~of Education or an equivalent course of study as determined by~~
16 ~~an examination conducted by the Illinois State Board of~~
17 ~~Education and shall be verified under oath by the applicant.~~
18 ~~The minimum age of 21 years shall be waived for any person~~
19 ~~seeking a license as a real estate salesperson who has attained~~
20 ~~the age of 18 and can provide evidence of the successful~~
21 ~~completion of at least 4 semesters of post secondary school~~
22 ~~study as a full-time student or the equivalent, with major~~
23 ~~emphasis on real estate courses, in a school approved by OBRE.~~

24 ~~(b) When an applicant has had his or her license revoked on~~
25 ~~a prior occasion or when an applicant is found to have~~

1 committed any of the practices enumerated in Section 20-20 of
2 this Act or when an applicant has been convicted of or enters a
3 plea of guilty or nolo contendere to forgery, embezzlement,
4 obtaining money under false pretenses, larceny, extortion,
5 conspiracy to defraud, or any other similar offense or offenses
6 or has been convicted of a felony involving moral turpitude in
7 any court of competent jurisdiction in this or any other state,
8 district, or territory of the United States or of a foreign
9 country, the Board may consider the prior revocation, conduct,
10 or conviction in its determination of the applicant's moral
11 character and whether to grant the applicant a license. In its
12 consideration of the prior revocation, conduct, or conviction,
13 the Board shall take into account the nature of the conduct,
14 any aggravating or extenuating circumstances, the time elapsed
15 since the revocation, conduct, or conviction, the
16 rehabilitation or restitution performed by the applicant, and
17 any other factors that the Board deems relevant. When an
18 applicant has made a false statement of material fact on his or
19 her application, the false statement may in itself be
20 sufficient grounds to revoke or refuse to issue a license.

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

24 ~~(d) No applicant shall engage in any of the activities~~
25 ~~covered by this Act until a valid sponsor card has been issued~~
26 ~~to such applicant. The sponsor card shall be valid for a~~

1 ~~maximum period of 45 days from the date of issuance unless~~
2 ~~extended for good cause as provided by rule.~~

3 ~~(e) OBRE shall issue to each applicant entitled thereto a~~
4 ~~license in such form and size as shall be prescribed by OBRE.~~
5 ~~The procedure for terminating a license shall be printed on the~~
6 ~~reverse side of the license. Each license shall bear the name~~
7 ~~of the person so qualified, shall specify whether the person is~~
8 ~~qualified to act in a broker or salesperson capacity, and shall~~
9 ~~contain such other information as shall be recommended by the~~
10 ~~Board and approved by OBRE. Each person licensed under this Act~~
11 ~~shall display his or her license conspicuously in his or her~~
12 ~~place of business.~~

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

14 (225 ILCS 454/5-26 new)

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

16 (a) Every applicant for licensure as a salesperson must
17 meet the following qualifications:

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

1 (2) Be of good moral character;

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

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

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

15 (6) Present a valid application for issuance of a
16 license accompanied by a sponsor card and the fees
17 specified by rule.

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

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

25 (d) No new salesperson licenses shall be issued after April
26 30, 2011 and all existing salesperson licenses shall terminate

1 on May 1, 2012.

2 (225 ILCS 454/5-27 new)

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

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

6 (1) Be at least 21 years of age. After April 30, 2011,
7 the minimum age of 21 years shall be waived for any person
8 seeking a license as a broker who has attained the age of
9 18 and can provide evidence of the successful completion of
10 at 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 oath
20 by the applicant;

21 (4) Prior to May 1, 2011, provide (i) satisfactory
22 evidence of having completed at least 120 classroom hours,
23 45 of which shall be those hours required to obtain a
24 salesperson's license plus 15 hours in brokerage
25 administration courses, in real estate courses approved by

1 the Advisory Council or (ii) for applicants who currently
2 hold a valid real estate salesperson's license, give
3 satisfactory evidence of having completed at least 75 hours
4 in real estate courses, not including the courses that are
5 required to obtain a salesperson's license, approved by the
6 Advisory Council;

7 (5) After April 30, 2011, provide satisfactory
8 evidence of having completed 90 hours of instruction in
9 real estate courses approved by the Advisory Council, 15
10 hours of which must consist of situational and case studies
11 presented in the classroom or by other interactive delivery
12 method presenting instruction and real time discussion
13 between the instructor and the students;

14 (6) Personally take and pass a written examination
15 authorized by the Department;

16 (7) Present a valid application for issuance of a
17 license accompanied by a sponsor card and the fees
18 specified by rule.

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

23 (c) No applicant shall engage in any of the activities
24 covered by this Act until a valid sponsor card has been issued
25 to such applicant. The sponsor card shall be valid for a
26 maximum period of 45 days after the date of issuance unless

1 extended for good cause as provided by rule.

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

4 (225 ILCS 454/5-28 new)

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

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

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

9 (2) be of good moral character;

10 (3) have been licensed at least 2 out of the preceding
11 3 years as a real estate broker or salesperson;

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

18 (5) provide satisfactory evidence of having completed
19 at least 165 hours, 120 of which shall be those hours
20 required pre and post-licensure to obtain a broker's
21 license, and 45 additional hours completed within the year
22 immediately preceding the filing of an application for a
23 managing broker's license, which hours shall focus on
24 brokerage administration and management and include at
25 least 15 hours in the classroom or by other interactive

1 delivery method presenting instructional and real time
2 discussion between the instructor and the students;

3 (6) personally take and pass a written examination
4 authorized by the Department; and

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

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

12 (c) No applicant shall act as a managing broker for more
13 than 90 days after an appointment as a managing broker has been
14 filed with the Department without obtaining a managing broker's
15 license.

16 (225 ILCS 454/5-35)

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

18 Sec. 5-35. Examination; managing broker, broker, or
19 salesperson, or leasing agent.

20 (a) The Department shall authorize ~~Every person who makes~~
21 ~~application for an original license as a broker or salesperson~~
22 ~~shall personally take and pass a written examination authorized~~
23 ~~by OBRE and answer any questions that may be required to~~
24 ~~determine the good moral character of the applicant and the~~
25 ~~applicant's competency to transact the business of broker or~~

1 ~~salesperson, as the case may be, in such a manner as to~~
2 ~~safeguard the interests of the public. In determining this~~
3 ~~competency, OBRE shall require proof that the applicant has a~~
4 ~~good understanding and the knowledge to conduct real estate~~
5 ~~brokerage and of the provisions of this Act. The examination~~
6 ~~shall be prepared by an independent testing service designated~~
7 ~~by OBRE, subject to the approval of the examinations by the~~
8 ~~Board. The designated independent testing service shall~~
9 ~~conduct the examinations at such times and places as it may~~
10 ~~designate. The examination shall be of a character to give a~~
11 ~~fair test of the qualifications of the applicant to practice as~~
12 ~~a managing broker, broker, salesperson, or leasing agent.~~
13 ~~Applicants for examination as a managing broker, broker,~~
14 ~~salesperson, or leasing agent shall be required to pay, either~~
15 ~~to the Department or the designated testing service, a fee~~
16 ~~covering the cost of providing the examination. Failure to~~
17 ~~appear for the examination on the scheduled date, at the time~~
18 ~~and place specified, after the applicant's application for~~
19 ~~examination has been received and acknowledged by the~~
20 ~~Department or the designated testing service, shall result in~~
21 ~~the forfeiture of the examination fee. OBRE shall approve. In~~
22 ~~addition, every person who desires to take the written~~
23 ~~examination shall make application to do so to OBRE or to the~~
24 ~~designated independent testing service in writing upon forms~~
25 ~~approved by OBRE. An applicant shall be eligible to take the~~
26 examination only after successfully completing the education

1 requirements, ~~set forth in Section 5-30 of this Act,~~ and
2 attaining the minimum age provided for ~~specified~~ in Article 5
3 of this Act. Each applicant shall be required to establish
4 compliance with the eligibility requirements in the manner
5 provided by the rules promulgated for the administration of
6 this Act.

7 (b) If a person who has received a passing score on the
8 written examination described in this Section fails to file an
9 application and meet all requirements for a license under this
10 Act within one year after receiving a passing score on the
11 examination, credit for the examination shall terminate. The
12 person thereafter may make a new application for examination.

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

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

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

23 (225 ILCS 454/5-40)

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

25 Sec. 5-40. Sponsor card; termination indicated by license

1 endorsement; association with new broker.

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

16 (b) When a licensee terminates his or her employment or
17 association with a sponsoring broker or the employment is
18 terminated by the sponsoring broker, the licensee shall obtain
19 from the sponsoring broker his or her license endorsed by the
20 sponsoring broker indicating the termination. The sponsoring
21 broker shall surrender to the Department ~~OBRE~~ a copy of the
22 license of the licensee within 2 days of the termination or
23 shall notify the Department ~~OBRE~~ in writing of the termination
24 and explain why a copy of the license is not surrendered.
25 Failure of the sponsoring broker to surrender the license shall
26 subject the sponsoring broker to discipline under Section 20-20

1 of this Act. The license of any licensee whose association with
2 a sponsoring broker is terminated shall automatically become
3 inoperative immediately upon the termination unless the
4 licensee accepts employment or becomes associated with a new
5 sponsoring broker pursuant to subsection (c) of this Section.

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

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

17 (225 ILCS 454/5-41 new)

18 Sec. 5-41. Change of address. A licensee shall notify the
19 Department of the address or addresses, and of every change of
20 address, where the licensee practices as a leasing agent,
21 salesperson, broker or managing broker.

22 (225 ILCS 454/5-45)

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

24 Sec. 5-45. Offices.

1 (a) If a sponsoring broker maintains more than one office
2 within the State, the sponsoring broker shall apply for a
3 branch office license for each office other than the sponsoring
4 broker's principal place of business. The branch office license
5 shall be displayed conspicuously in each branch office. The
6 name of each branch office shall be the same as that of the
7 sponsoring broker's principal office or shall clearly
8 delineate the branch office's relationship with the principal
9 office.

10 (b) The sponsoring broker shall name a managing broker for
11 each branch office and the sponsoring broker shall be
12 responsible for supervising all managing brokers. The
13 sponsoring broker shall notify the Department ~~OBRE~~ in writing
14 of the name of all managing brokers of the sponsoring broker
15 and the office or offices they manage. Any person initially
16 named as a managing broker after April 30, 2011 must either (i)
17 be licensed as a managing broker or (ii) meet all the
18 requirements to be licensed as a managing broker except the
19 required education and examination and secure the managing
20 broker's license within 90 days of being named as a managing
21 broker. Any changes in managing brokers shall be reported to
22 the Department ~~OBRE~~ in writing within 15 days of the change.
23 Failure to do so shall subject the sponsoring broker to
24 discipline under Section 20-20 of this Act.

25 (c) The sponsoring broker shall immediately notify the
26 Department ~~OBRE~~ in writing of any opening, closing, or change

1 in location of any principal or branch office.

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

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

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

23 (3) the broker has filed with the Department ~~OBRE~~
24 written statements appointing the Secretary ~~Commissioner~~
25 to act as the broker's agent upon whom all judicial and
26 other process or legal notices directed to the licensee may

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

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

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

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

25 (225 ILCS 454/5-46 new)

1 Sec. 5-46. Transition from salesperson's license to
2 broker's license.

3 (a) No new salesperson licenses shall be issued by the
4 Department after April 30, 2011 and existing salesperson
5 licenses shall end as of 11:59 p.m. on April 30, 2012. The
6 following transition rules shall apply to individuals holding a
7 salesperson's license as of April 30, 2011 and seeking to
8 obtain a broker's license:

9 (1) provide evidence of having completed 30 hours of
10 post-license education in courses approved by the Advisory
11 Council and having passed a written examination approved by
12 the Department and administered by a licensed pre-license
13 school; or

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

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

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

25 (c) No applicant may engage in any of the activities
26 covered by this Act until a valid sponsor card has been issued

1 to such applicant. The sponsor card shall be valid for a
2 maximum period of 45 days after the date of issuance unless
3 extended for good cause as provided by rule.

4 (225 ILCS 454/5-47 new)

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

6 (a) A new license for managing brokers is created effective
7 May 1, 2011. The following transition rules shall apply for
8 those brokers listed as managing brokers with the Department as
9 of April 30, 2011. Those individuals licensed as brokers and
10 listed as managing brokers with the Department as of April 30,
11 2011 must meet the following qualifications to obtain a
12 managing broker's license:

13 (1) provide evidence of having completed the 45 hours
14 of broker management education approved by the Advisory
15 Council and having passed a written examination approved by
16 the Department and administered by a licensed pre-license
17 school; or

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

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

25 (b) The education requirements specified in item (1) of

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

4 (225 ILCS 454/5-50)

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

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

9 (a) The expiration date and renewal period for each license
10 issued under this Act shall be set by rule, except that the
11 first renewal period ending after the effective date of this
12 Act for those licensed as a salesperson shall be extended
13 through April 30, 2012. Except as otherwise provided in this
14 Section ~~5-55 of this Act,~~ the holder of a license may renew the
15 license within 90 days preceding the expiration date thereof by
16 completing the continuing education required by this Act and
17 paying the fees specified by rule. ~~Upon written request from~~
18 ~~the sponsoring broker, OBRE shall prepare and mail to the~~
19 ~~sponsoring broker a listing of licensees under this Act who,~~
20 ~~according to the records of OBRE, are sponsored by that broker.~~
21 ~~Every licensee associated with or employed by a broker whose~~
22 ~~license is revoked, suspended, terminated, or expired shall be~~
23 ~~considered as inoperative until such time as the sponsoring~~
24 ~~broker's license is reinstated or renewed, or the licensee~~
25 ~~changes employment as set forth in subsection (c) of Section~~

1 ~~5-40 of this Act.~~

2 (b) An individual whose first license is that of a broker
3 received after April 30, 2011, must provide evidence of having
4 completed 30 hours of post-license education in courses
5 approved by the Advisory Council, 15 hours of which must
6 consist of situational and case studies presented in the
7 classroom or by other interactive delivery method presenting
8 instruction and real time discussion between the instructor and
9 the students, and personally take and pass an examination
10 approved by the Department prior to the first renewal of their
11 broker's license. ~~OBRE shall establish and maintain a register~~
12 ~~of all persons currently licensed by the State and shall issue~~
13 ~~and prescribe a form of pocket card. Upon payment by a licensee~~
14 ~~of the appropriate fee as prescribed by rule for engagement in~~
15 ~~the activity for which the licensee is qualified and holds a~~
16 ~~license for the current period, OBRE shall issue a pocket card~~
17 ~~to the licensee. The pocket card shall be verification that the~~
18 ~~required fee for the current period has been paid and shall~~
19 ~~indicate that the person named thereon is licensed for the~~
20 ~~current renewal period as a broker, salesperson, or leasing~~
21 ~~agent as the case may be. The pocket card shall further~~
22 ~~indicate that the person named thereon is authorized by OBRE to~~
23 ~~engage in the licensed activity appropriate for his or her~~
24 ~~status (broker, salesperson, or leasing agent). Each licensee~~
25 ~~shall carry on his or her person his or her pocket card or, if~~
26 ~~such pocket card has not yet been issued, a properly issued~~

1 ~~sponsor card when engaging in any licensed activity and shall~~
2 ~~display the same on demand.~~

3 (c) Any managing broker, broker, salesperson or leasing
4 agent whose license under this Act has expired shall be
5 eligible to renew the license during the 2-year period
6 following the expiration date, provided the managing broker,
7 broker, salesperson or leasing agent pays the fees as
8 prescribed by rule and completes continuing education and other
9 requirements provided for by the Act or by rule. A managing
10 broker, broker, salesperson or leasing agent whose license has
11 been expired for more than 2 years shall be required to meet
12 the requirements for a new license. Any person licensed as a
13 broker shall be entitled at any renewal date to change his or
14 her license status from broker to salesperson.

15 (d) Notwithstanding any other provisions of this Act to the
16 contrary, any managing broker, broker, salesperson or leasing
17 agent whose license expired while he or she was (i) on active
18 duty with the Armed Forces of the United States or called into
19 service or training by the state militia, (ii) engaged in
20 training or education under the supervision of the United
21 States preliminary to induction into military service, or (iii)
22 serving as the Coordinator of Real Estate in the State of
23 Illinois or as an employee of the Department may have his or
24 her license renewed, reinstated or restored without paying any
25 lapsed renewal fees if within 2 years after the termination of
26 the service, training or education by furnishing the Department

1 with satisfactory evidence of service, training, or education
2 and it has been terminated under honorable conditions.

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

22 (f) The Department shall provide to the sponsoring broker a
23 notice of renewal for all sponsored licensees by mailing the
24 notice to the sponsoring broker's address of record, or, at the
25 Department's discretion, by an electronic means as provided for
26 by rule.

1 (g) Upon request from the sponsoring broker, the Department
2 shall make available to the sponsoring broker, either by mail
3 or by an electronic means at the discretion of the Department,
4 a listing of licensees under this Act who, according to the
5 records of the Department, are sponsored by that broker. Every
6 licensee associated with or employed by a broker whose license
7 is revoked, suspended, terminated, or expired shall be
8 considered as inoperative until such time as the sponsoring
9 broker's license is reinstated or renewed, or the licensee
10 changes employment as set forth in subsection (c) of Section
11 5-40 of this Act.

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

13 (225 ILCS 454/5-60)

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

15 Sec. 5-60. Managing broker ~~Broker~~ licensed in another
16 state; broker licensed in another state; ~~nonresident~~
17 salesperson licensed in another state; reciprocal agreements;
18 agent for service of process.

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

23 (1) the managing broker holds a managing broker's
24 license in a state that has entered into a reciprocal
25 agreement with the Department;

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

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

8 (4) the managing broker furnishes the Department with a
9 statement under seal of the proper licensing authority of
10 the state in which the managing broker is licensed showing
11 that the managing broker has an active managing broker's
12 license, that the managing broker is in good standing, and
13 that no complaints are pending against the managing broker
14 in that state;

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

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

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

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

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

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

9 (4) the broker furnishes the Department ~~OBRE~~ with a
10 statement under seal of the proper licensing authority of
11 the state in which the broker is licensed showing that the
12 broker has an active broker's license, that the broker is
13 in good standing, and that no complaints are pending
14 against the broker in that state;

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

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

22 (c) ~~(b)~~ Prior to May 1, 2011, a salesperson ~~A nonresident~~
23 ~~salesperson employed by or associated with a nonresident broker~~
24 ~~holding a broker's license in this State pursuant to this~~
25 ~~Section~~ may, in the discretion of the Department ~~OBRE~~, be
26 issued a ~~nonresident~~ salesperson's license ~~under the~~

1 ~~nonresident broker~~ provided all of the following conditions are
2 met:

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

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

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

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

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

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

1 remain in force for so long as the managing broker, nonresident
2 broker or salesperson is licensed by this State and thereafter
3 with respect to acts or omissions committed while licensed as a
4 broker or salesperson in this State.

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

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

22 (g) ~~(f)~~ Prior to the issuance of a license to a nonresident
23 managing broker, broker or salesperson, the managing broker,
24 broker or salesperson shall file with the Department ~~OBRE~~ a
25 designation in writing that appoints the Secretary
26 ~~Commissioner~~ to act as his or her agent upon whom all judicial

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

17 (h) ~~(g)~~ Any person holding a valid license under this
18 Section shall be eligible to obtain a resident managing
19 broker's license, a broker's license, or, prior to May 1, 2011,
20 a salesperson's license without examination should that person
21 change their state of domicile to Illinois and that person
22 otherwise meets the qualifications for ~~or~~ licensure under this
23 Act.

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

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

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

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

10 (225 ILCS 454/5-70)

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

12 Sec. 5-70. Continuing education requirement; managing
13 broker, broker, or salesperson.

14 (a) The requirements of this Section apply to all managing
15 brokers, brokers, and salespersons ~~licensees~~.

16 (b) Except as otherwise provided in this Section, each
17 person who applies for renewal of his or her license as a
18 managing broker, real estate broker, or real estate salesperson
19 must successfully complete 6 hours of real estate continuing
20 education courses approved by the Advisory Council for each
21 year of the pre-renewal period. Broker licensees must
22 successfully complete a 6-hour broker management continuing
23 education course approved by the Department for the pre-renewal
24 period ending April 30, 2010 ~~at the rate of 6 hours per year or~~
25 ~~its equivalent.~~ In addition, beginning with the pre-renewal

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

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

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

3 (3) serve as a full-time employee of the Department
4 ~~OBRE~~; or

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

7 (c) A person licensed as a salesperson as of April 30, 2011
8 ~~who is issued an initial license as a real estate salesperson~~
9 ~~less than one year prior to the expiration date of that license~~
10 shall not be required to complete the 18 hours of continuing
11 education for the pre-renewal period ending April 30, 2012 if
12 that person takes the 30-hour post-licensing course to obtain a
13 broker's license. A person licensed as a broker as of April 30,
14 2011 shall not be required to complete the 12 hours of broker
15 management continuing education for the pre-renewal period
16 ending April 30, 2012, unless that person passes the
17 proficiency exam provided for in Section 5-47 of this Act to
18 qualify for a managing broker's license ~~continuing education as~~
19 ~~a condition of license renewal. A person who is issued an~~
20 ~~initial license as a real estate broker less than one year~~
21 ~~prior to the expiration date of that license and who has not~~
22 ~~been licensed as a real estate salesperson during the~~
23 ~~pre-renewal period shall not be required to complete continuing~~
24 ~~education as a condition of license renewal.~~

25 (d) A person receiving an initial license ~~as a real estate~~
26 ~~broker~~ during the 90 days before the ~~broker~~ renewal date shall

1 not be required to complete the ~~broker management~~ continuing
2 education courses ~~course~~ provided for in subsection (b) of this
3 Section as a condition of initial license renewal.

4 (e) ~~(d)~~ The continuing education requirement for
5 salespersons, brokers and managing brokers shall consist of a
6 core curriculum and an elective curriculum, to be established
7 by the Advisory Council. In meeting the continuing education
8 requirements of this Act, at least 3 hours per year or their
9 equivalent, 6 hours for each two-year pre-renewal period, shall
10 be required to be completed in the core curriculum. In
11 establishing the core curriculum, the Advisory Council shall
12 consider subjects that will educate licensees on recent changes
13 in applicable laws and new laws and refresh the licensee on
14 areas of the license law and the Department ~~OBRE~~ policy that
15 the Advisory Council deems appropriate, and any other areas
16 that the Advisory Council deems timely and applicable in order
17 to prevent violations of this Act and to protect the public. In
18 establishing the elective curriculum, the Advisory Council
19 shall consider subjects that cover the various aspects of the
20 practice of real estate that are covered under the scope of
21 this Act. However, the elective curriculum shall not include
22 any offerings referred to in Section 5-85 of this Act.

23 (f) ~~(e)~~ The subject areas of continuing education courses
24 approved by the Advisory Council may include without limitation
25 the following:

- 26 (1) license law and escrow;

- 1 (2) antitrust;
- 2 (3) fair housing;
- 3 (4) agency;
- 4 (5) appraisal;
- 5 (6) property management;
- 6 (7) residential brokerage;
- 7 (8) farm property management;
- 8 (9) rights and duties of sellers, buyers, and brokers;
- 9 (10) commercial brokerage and leasing; and
- 10 (11) real estate financing.

11 (g) ~~(f)~~ In lieu of credit for those courses listed in
12 subsection (f) ~~(e)~~ of this Section, credit may be earned for
13 serving as a licensed instructor in an approved course of
14 continuing education. The amount of credit earned for teaching
15 a course shall be the amount of continuing education credit for
16 which the course is approved for licensees taking the course.

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

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

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

24 (k) ~~(j)~~ To promote the offering of a uniform and consistent
25 course content, the Department ~~OBRE~~ may provide for the
26 development of a single broker management course to be offered

1 by all continuing education providers who choose to offer the
2 broker management continuing education course. The Department
3 ~~OBRE~~ may contract for the development of the 6-hour broker
4 management continuing education course with an outside vendor
5 or consultant and, if the course is developed in this manner,
6 the Department or the outside consultant ~~OBRE~~ shall license the
7 use of that course to all approved continuing education
8 providers who wish to provide the course.

9 (1) Except as specifically provided in this Act, continuing
10 education credit hours may not be earned for completion of pre
11 or post-license courses. The approved 30-hour post-license
12 course for broker licensees shall satisfy the continuing
13 education requirement for the pre-renewal period in which the
14 course is taken. The approved 45-hour brokerage administration
15 and management course shall satisfy the 12-hour broker
16 management continuing education requirement for the
17 pre-renewal period in which the course is taken.

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

19 (225 ILCS 454/5-80)

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

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

23 (a) Each renewal applicant shall certify, on his or her
24 renewal application, full compliance with continuing education
25 requirements set forth in Section 5-70. The continuing

1 education school shall retain and submit to the Department ~~OBRE~~
2 after the completion of each course evidence of those
3 successfully completing the course as provided by rule.

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

9 (225 ILCS 454/5-85)

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

11 Sec. 5-85. Offerings not meeting continuing education
12 requirements. The following offerings do not meet the
13 continuing education requirements:

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

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

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

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

24 The offerings listed in this Section do not limit the
25 Advisory Council's authority to disapprove any course that

1 fails to meet the standards of this Article 5 or rules adopted
2 by the Department ~~OBRE~~.

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

4 (225 ILCS 454/10-15)

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

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

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

11 (b) No action or suit shall be instituted, nor recovery
12 therein be had, in any court of this State by any person,
13 partnership, registered limited liability partnership, limited
14 liability company, or corporation for compensation for any act
15 done or service performed, the doing or performing of which is
16 prohibited by this Act to other than licensed managing brokers,
17 brokers, salespersons, or leasing agents unless the person,
18 partnership, registered limited liability partnership, limited
19 liability company, or corporation was duly licensed hereunder
20 as a managing broker, broker, salesperson, or leasing agent
21 under this Act at the time that any such act was done or
22 service performed that would give rise to a cause of action for
23 compensation.

24 (c) A licensee may offer compensation, including prizes,
25 merchandise, services, rebates, discounts, or other

1 consideration to an unlicensed person who is a party to a
2 contract to buy or sell real estate or is a party to a contract
3 for the lease of real estate, so long as the offer complies
4 with the provisions of subdivision (35) ~~(26)~~ of subsection (a)
5 ~~(h)~~ of Section 20-20 of this Act.

6 (d) A licensee may offer cash, gifts, prizes, awards,
7 coupons, merchandise, rebates or chances to win a game of
8 chance, if not prohibited by any other law or statute, to a
9 consumer as an inducement to that consumer to use the services
10 of the licensee even if the licensee and consumer do not
11 ultimately enter into a broker-client relationship so long as
12 the offer complies with the provisions of subdivision (35) ~~(26)~~
13 of subsection (a) ~~(h)~~ of Section 20-20 of this Act.

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

15 (225 ILCS 454/10-30)

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

17 Sec. 10-30. Advertising.

18 (a) No advertising, whether in print, via the Internet, or
19 through any other media, shall be fraudulent, deceptive,
20 inherently misleading, or proven to be misleading in practice.
21 Advertising ~~It~~ shall be considered misleading or untruthful if,
22 when taken as a whole, there is a distinct and reasonable
23 possibility that it will be misunderstood or will deceive the
24 ordinary purchaser, seller, lessee, lessor, or owner.
25 Advertising shall contain all information necessary to

1 communicate the information contained therein to the public in
2 an accurate, a direct, and readily comprehensible manner.

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

5 (c) A licensee shall disclose, in writing, to all parties
6 in a transaction his or her status as a licensee and any and
7 all interest the licensee has or may have in the real estate
8 constituting the subject matter thereof, directly or
9 indirectly, according to the following guidelines:

10 (1) On broker yard signs or in broker advertisements,
11 no disclosure of ownership is necessary. However, the
12 ownership shall be indicated on any property data form and
13 disclosed to persons responding to any advertisement or any
14 sign. The term "broker owned" or "agent owned" is
15 sufficient disclosure.

16 (2) A sponsored or inoperative licensee selling or
17 leasing property, owned solely by the sponsored or
18 inoperative licensee, without utilizing brokerage services
19 of their sponsoring broker or any other licensee, may
20 advertise "By Owner". For purposes of this Section,
21 property is "solely owned" by a sponsored or inoperative
22 licensee if he or she (i) has a 100% ownership interest
23 alone, (ii) has ownership as a joint tenant or tenant by
24 the entirety, or (iii) holds a 100% beneficial interest in
25 a land trust. Sponsored or inoperative licensees selling or
26 leasing "By Owner" shall comply with the following if

1 advertising by owner:

2 (A) On "By Owner" yard signs, the sponsored or
3 inoperative licensee shall indicate "broker owned" or
4 "agent owned." "By Owner" advertisements used in any
5 medium of advertising shall include the term "broker
6 owned" or "agent owned."

7 (B) If a sponsored or inoperative licensee runs
8 advertisements, for the purpose of purchasing or
9 leasing real estate, he or she shall disclose in the
10 advertisements his or her status as a licensee.

11 (C) A sponsored or inoperative licensee shall not
12 use the sponsoring broker's name or the sponsoring
13 broker's company name in connection with the sale,
14 lease, or advertisement of the property nor utilize the
15 sponsoring broker's or company's name in connection
16 with the sale, lease, or advertising of the property in
17 a manner likely to create confusion among the public as
18 to whether or not the services of a real estate company
19 are being utilized or whether or not a real estate
20 company has an ownership interest in the property.

21 (d) A sponsored licensee may not advertise under his or her
22 own name. Advertising in any media shall be under the direct
23 supervision of the sponsoring or managing broker and in the
24 sponsoring broker's business name, which in the case of a
25 franchise shall include the franchise affiliation as well as
26 the name of the individual firm. This provision does not apply

1 under the following circumstances:

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

6 (2) When a licensee is selling or leasing his or her
7 own real estate or buying or leasing real estate for
8 himself or herself, after providing the appropriate
9 written disclosure of his or her ownership interest as
10 required in paragraph (2) of subsection (c) of this
11 Section.

12 (e) No licensee shall list his or her name under the
13 heading or title "Real Estate" in the telephone directory or
14 otherwise advertise in his or her own name to the general
15 public through any medium of advertising as being in the real
16 estate business without listing his or her sponsoring broker's
17 business name.

18 (f) The sponsoring broker's business name and the name of
19 the licensee must appear in all advertisements, including
20 business cards. Nothing in this Act shall be construed to
21 require specific print size as between the broker's business
22 name and the name of the licensee.

23 (g) Those individuals licensed as a managing broker and
24 designated with the Department as a managing broker by their
25 sponsoring broker shall identify themselves to the public in
26 advertising as a managing broker. No other individuals holding

1 a managing broker's license may hold themselves out to the
2 public or other licensees as a managing broker.

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

4 (225 ILCS 454/10-35 new)

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

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

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

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

14 (2) deceptively or without authorization frame another
15 real estate brokerage or multiple listing service website;
16 or

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

20 (225 ILCS 454/10-40 new)

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

- 1 (1) the agency policy of the entity;
- 2 (2) fair housing, nondiscrimination and harassment;
- 3 (3) confidentiality of client information;
- 4 (4) advertising;
- 5 (5) training and supervision of sponsored licensees;
- 6 (6) required disclosures and use of forms;
- 7 (7) handling of risk management matters; and
- 8 (8) handling of earnest money and escrows.

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

11 (225 ILCS 454/15-15)

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

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

14 (a) A licensee representing a client shall:

15 (1) Perform the terms of the brokerage agreement
16 between a broker and the client.

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

18 (A) Seeking a transaction at the price and terms
19 stated in the brokerage agreement or at a price and
20 terms otherwise acceptable to the client.

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

23 (C) Disclosing to the client material facts
24 concerning the transaction of which the licensee has
25 actual knowledge, unless that information is

1 confidential information. Material facts do not
2 include the following when located on or related to
3 real estate that is not the subject of the transaction:
4 (i) physical conditions that do not have a substantial
5 adverse effect on the value of the real estate, (ii)
6 fact situations, or (iii) occurrences.

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

10 (E) Obeying specific directions of the client that
11 are not otherwise contrary to applicable statutes,
12 ordinances, or rules.

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

16 (3) Exercise reasonable skill and care in the
17 performance of brokerage services.

18 (4) Keep confidential all confidential information
19 received from the client.

20 (5) Comply with all requirements of this Act and all
21 applicable statutes and regulations, including without
22 limitation fair housing and civil rights statutes.

23 (b) A licensee representing a client does not breach a duty
24 or obligation to the client by showing alternative properties
25 to prospective buyers or tenants, ~~or~~ by showing properties in
26 which the client is interested to other prospective buyers or

1 tenants, or by making or preparing contemporaneous offers or
2 contracts to purchase or lease the same property. However, a
3 licensee shall provide written disclosure to all clients for
4 whom the licensee is preparing or making contemporaneous offers
5 or contracts to purchase or lease the same property and shall
6 refer to another designated agent any client that requests such
7 referral.

8 (c) A licensee representing a buyer or tenant client will
9 not be presumed to have breached a duty or obligation to that
10 client by working on the basis that the licensee will receive a
11 higher fee or compensation based on higher selling price or
12 lease cost.

13 (d) A licensee shall not be liable to a client for
14 providing false information to the client if the false
15 information was provided to the licensee by a customer unless
16 the licensee knew or should have known the information was
17 false.

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

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

22 (225 ILCS 454/15-35)

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

24 Sec. 15-35. Agency relationship disclosure.

25 (a) A licensee shall advise a consumer in writing ~~shall be~~

1 ~~advised~~ of the following no later than beginning to work as a
2 designated agent on behalf of the consumer ~~entering into a~~
3 ~~brokerage agreement with the sponsoring broker:~~

4 (1) That a designated agency relationship exists,
5 unless there is written agreement between the sponsoring
6 broker and the consumer providing for a different brokerage
7 relationship.

8 (2) The name or names of his or her designated agent or
9 agents. The written disclosure can be included in a
10 brokerage agreement or be a separate document, a copy of
11 which is retained by the sponsoring broker for the licensee
12 ~~in writing.~~

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

17 (c) ~~(b)~~ A licensee shall disclose in writing to a customer
18 that the licensee is not acting as the agent of the customer at
19 a time intended to prevent disclosure of confidential
20 information from a customer to a licensee, but in no event
21 later than the preparation of an offer to purchase or lease
22 real property. ~~This subsection (b) does not apply to~~
23 ~~residential lease or rental transactions unless the lease or~~
24 ~~rental agreement includes an option to purchase real estate.~~

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

1 (225 ILCS 454/15-45)

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

3 Sec. 15-45. Dual agency.

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

8 "The undersigned (insert name(s)), ("Licensee"), may
9 undertake a dual representation (represent both the seller
10 or landlord and the buyer or tenant) for the sale or lease
11 of property. The undersigned acknowledge they were
12 informed of the possibility of this type of representation.
13 Before signing this document please read the following:
14 Representing more than one party to a transaction presents
15 a conflict of interest since both clients may rely upon
16 Licensee's advice and the client's respective interests
17 may be adverse to each other. Licensee will undertake this
18 representation only with the written consent of ALL clients
19 in the transaction. Any agreement between the clients as to
20 a final contract price and other terms is a result of
21 negotiations between the clients acting in their own best
22 interests and on their own behalf. You acknowledge that
23 Licensee has explained the implications of dual
24 representation, including the risks involved, and
25 understand that you have been advised to seek independent
26 advice from your advisors or attorneys before signing any

1 documents in this transaction.

2 WHAT A LICENSEE CAN DO FOR CLIENTS

3 WHEN ACTING AS A DUAL AGENT

4 1. Treat all clients honestly.

5 2. Provide information about the property to the buyer or
6 tenant.

7 3. Disclose all latent material defects in the property
8 that are known to the Licensee.

9 4. Disclose financial qualification of the buyer or tenant
10 to the seller or landlord.

11 5. Explain real estate terms.

12 6. Help the buyer or tenant to arrange for property
13 inspections.

14 7. Explain closing costs and procedures.

15 8. Help the buyer compare financing alternatives.

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

19 WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN

20 ACTING AS A DUAL AGENT

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

23 2. The price or terms the seller or landlord will take
24 other than the listing price without permission of the
25 seller or landlord.

26 3. The price or terms the buyer or tenant is willing to pay

1 without permission of the buyer or tenant.

2 4. A recommended or suggested price or terms the buyer or
3 tenant should offer.

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

6 If either client is uncomfortable with this disclosure
7 and dual representation, please let Licensee know. You are
8 not required to sign this document unless you want to allow
9 Licensee to proceed as a Dual Agent in this transaction. By
10 signing below, you acknowledge that you have read and
11 understand this form and voluntarily consent to Licensee
12 acting as a Dual Agent (that is, to represent BOTH the
13 seller or landlord and the buyer or tenant) should that
14 become necessary."

15 (b) The dual agency disclosure form provided for in
16 subsection (a) of this Section must be presented by a licensee,
17 who offers dual representation, to the client at the time the
18 brokerage agreement is entered into and may be signed by the
19 client at that time or at any time before the licensee acts as
20 a dual agent as to the client.

21 (c) A licensee acting in a dual agency capacity in a
22 transaction must obtain a written confirmation from the
23 licensee's clients of their prior consent for the licensee to
24 act as a dual agent in the transaction. This confirmation
25 should be obtained at the time the clients are executing any
26 offer or contract to purchase or lease in a transaction in

1 which the licensee is acting as a dual agent. This confirmation
2 may be included in another document, such as a contract to
3 purchase, in which case the client must not only sign the
4 document but also initial the confirmation of dual agency
5 provision. That confirmation must state, at a minimum, the
6 following:

7 "The undersigned confirm that they have previously
8 consented to (insert name(s)), ("Licensee"), acting as a
9 Dual Agent in providing brokerage services on their behalf
10 and specifically consent to Licensee acting as a Dual Agent
11 in regard to the transaction referred to in this document."

12 (d) No cause of action shall arise on behalf of any person
13 against a dual agent for making disclosures allowed or required
14 by this Article, and the dual agent does not terminate any
15 agency relationship by making the allowed or required
16 disclosures.

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

21 (f) In any transaction, a licensee may without liability
22 withdraw from representing a client who has not consented to a
23 disclosed dual agency. The withdrawal shall not prejudice the
24 ability of the licensee to continue to represent the other
25 client in the transaction or limit the licensee from
26 representing the client in other transactions. When a

1 withdrawal as contemplated in this subsection (f) occurs, the
2 licensee shall not receive a referral fee for referring a
3 client to another licensee unless written disclosure is made to
4 both the withdrawing client and the client that continues to be
5 represented by the licensee.

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

7 (225 ILCS 454/15-65)

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

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

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

17 (225 ILCS 454/20-5)

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

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

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

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

5 (225 ILCS 454/20-10)

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

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

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

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

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

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

1 (225 ILCS 454/20-20)

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

3 Sec. 20-20. Grounds for discipline ~~Disciplinary actions,~~
4 ~~causes.~~

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

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

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

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

4 (3) Inability to practice the profession with
5 reasonable judgment, skill, or safety as a result of a
6 physical illness, including, but not limited to,
7 deterioration through the aging process or loss of motor
8 skill, or a mental illness or disability ~~(c) When the~~
9 ~~applicant or licensee has been adjudged to be a person~~
10 ~~under legal disability or subject to involuntary admission~~
11 ~~or to meet the standard for judicial admission as provided~~
12 ~~in the Mental Health and Developmental Disabilities Code.~~

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

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

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

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

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

15 (8) Aiding or abetting ~~aids and abets~~ an applicant to
16 subvert or cheat on the Real Estate License Exam or
17 continuing education exam administered pursuant to this
18 Act.

19 (9) Advertising that is inaccurate, misleading, or
20 contrary to the provisions of the Act. ~~(h) When the~~
21 ~~licensee in performing, attempting to perform, or~~
22 ~~pretending to perform any act as a broker, salesperson, or~~
23 ~~leasing agent or when the licensee in handling his or her~~
24 ~~own property, whether held by deed, option, or otherwise,~~
25 ~~is found guilty of:~~

26 (10) ~~(i)~~ Making any substantial misrepresentation or

1 untruthful advertising.

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

4 (12) ~~(3)~~ Pursuing a continued and flagrant course of
5 misrepresentation or the making of false promises through
6 licensees, employees, agents, advertising, or otherwise.

7 (13) ~~(4)~~ Any misleading or untruthful advertising, or
8 using any trade name or insignia of membership in any real
9 estate organization of which the licensee is not a member.

10 (14) ~~(5)~~ Acting for more than one party in a
11 transaction without providing written notice to all
12 parties for whom the licensee acts.

13 (15) ~~(6)~~ Representing or attempting to represent a
14 broker other than the sponsoring broker.

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

18 (17) ~~(8)~~ Failure to maintain and deposit in a special
19 account, separate and apart from personal and other
20 business accounts, all escrow moneys belonging to others
21 entrusted to a licensee while acting as a real estate
22 broker, escrow agent, or temporary custodian of the funds
23 of others or failure to maintain all escrow moneys on
24 deposit in the account until the transactions are
25 consummated or terminated, except to the extent that the
26 moneys, or any part thereof, shall be:

1 (A) disbursed prior to the consummation or
2 termination (i) in accordance with the written
3 direction of the principals to the transaction or their
4 duly authorized agents, (ii) in accordance with
5 directions providing for the release, payment, or
6 distribution of escrow moneys contained in any written
7 contract signed by the principals to the transaction or
8 their duly authorized agents, or (iii) pursuant to an
9 order of a court of competent jurisdiction; or

10 (B) deemed abandoned and transferred to the Office
11 of the State Treasurer to be handled as unclaimed
12 property pursuant to the Uniform Disposition of
13 Unclaimed Property Act. Escrow moneys may be deemed
14 abandoned under this subparagraph (B) only: (i) in the
15 absence of disbursement under subparagraph (A); (ii)
16 in the absence of notice of the filing of any claim in
17 a court of competent jurisdiction; and (iii) if 6
18 months have elapsed after the receipt of a written
19 demand for the escrow moneys from one of the principals
20 to the transaction or the principal's duly authorized
21 agent.

22 The account shall be noninterest bearing, unless the
23 character of the deposit is such that payment of interest
24 thereon is otherwise required by law or unless the
25 principals to the transaction specifically require, in
26 writing, that the deposit be placed in an interest bearing

1 account.

2 (18) ~~(9)~~ Failure to make available to the Department
3 ~~real estate enforcement personnel of OBRE during normal~~
4 ~~business hours~~ all escrow records and related documents
5 maintained in connection with the practice of real estate
6 within 24 hours of a request for those documents by
7 Department ~~OBRE~~ personnel.

8 (19) ~~(10)~~ Failing to furnish copies upon request of ~~all~~
9 documents relating to a real estate transaction to a party
10 who has executed that document ~~all parties executing them.~~

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

14 (21) ~~(12)~~ Engaging in dishonorable, unethical, or
15 unprofessional conduct of a character likely to deceive,
16 defraud, or harm the public.

17 (22) ~~(13)~~ Commingling the money or property of others
18 with his or her own money or property.

19 (23) ~~(14)~~ Employing any person on a purely temporary or
20 single deal basis as a means of evading the law regarding
21 payment of commission to nonlicensees on some contemplated
22 transactions.

23 (24) ~~(15)~~ Permitting the use of his or her license as a
24 broker to enable a salesperson or unlicensed person to
25 operate a real estate business without actual
26 participation therein and control thereof by the broker.

1 (25) ~~(16)~~ Any other conduct, whether of the same or a
2 different character from that specified in this Section,
3 that constitutes dishonest dealing.

4 (26) ~~(17)~~ Displaying a "for rent" or "for sale" sign on
5 any property without the written consent of an owner or his
6 or her duly authorized agent or advertising by any means
7 that any property is for sale or for rent without the
8 written consent of the owner or his or her authorized
9 agent.

10 (27) ~~(18)~~ Failing to provide information requested by
11 the Department, or otherwise respond to that request ~~OBRE,~~
12 within 30 days of the request, ~~either as the result of a~~
13 ~~formal or informal complaint to OBRE or as a result of a~~
14 ~~random audit conducted by OBRE, which would indicate a~~
15 ~~violation of this Act.~~

16 (28) ~~(19)~~ Advertising by means of a blind
17 advertisement, except as otherwise permitted in Section
18 10-30 of this Act.

19 (29) ~~(20)~~ Offering guaranteed sales plans, as defined
20 in clause (A) of this subdivision (29) ~~(20)~~, except to the
21 extent hereinafter set forth:

22 (A) A "guaranteed sales plan" is any real estate
23 purchase or sales plan whereby a licensee enters into a
24 conditional or unconditional written contract with a
25 seller, prior to entering into a brokerage agreement
26 with the seller, by the terms of which a licensee

1 agrees to purchase a property of the seller within a
2 specified period of time at a specific price in the
3 event the property is not sold in accordance with the
4 terms of a brokerage agreement to be entered into
5 ~~listing contract~~ between the sponsoring broker and the
6 seller ~~or on other terms acceptable to the seller.~~

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

10 (C) A licensee offering a guaranteed sales plan
11 shall provide to the party to whom the plan is offered
12 evidence of sufficient financial resources to satisfy
13 the commitment to purchase undertaken by the broker in
14 the plan.

15 (D) Any licensee offering a guaranteed sales plan
16 shall undertake to market the property of the seller
17 subject to the plan in the same manner in which the
18 broker would market any other property, unless the
19 agreement with the seller provides otherwise.

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

23 (F) Any licensee who fails to perform on a
24 guaranteed sales plan in strict accordance with its
25 terms shall be subject to all the penalties provided in
26 this Act for violations thereof and, in addition, shall

1 be subject to a civil fine payable to the party injured
2 by the default in an amount of up to \$25,000.

3 (30) ~~(21)~~ Influencing or attempting to influence, by
4 any words or acts, a prospective seller, purchaser,
5 occupant, landlord, or tenant of real estate, in connection
6 with viewing, buying, or leasing real estate, so as to
7 promote or tend to promote the continuance or maintenance
8 of racially and religiously segregated housing or so as to
9 retard, obstruct, or discourage racially integrated
10 housing on or in any street, block, neighborhood, or
11 community.

12 (31) ~~(22)~~ Engaging in any act that constitutes a
13 violation of any provision of Article 3 of the Illinois
14 Human Rights Act, whether or not a complaint has been filed
15 with or adjudicated by the Human Rights Commission.

16 (32) ~~(23)~~ Inducing any party to a contract of sale or
17 lease or brokerage agreement to break the contract of sale
18 or lease or brokerage agreement for the purpose of
19 substituting, in lieu thereof, a new contract for sale or
20 lease or brokerage agreement with a third party.

21 (33) ~~(24)~~ Negotiating a sale, exchange, or lease of
22 real estate directly with any person if the licensee knows
23 that the person has an ~~a written~~ exclusive brokerage
24 agreement with another broker, unless specifically
25 authorized by that broker.

26 (34) ~~(25)~~ When a licensee is also an attorney, acting

1 as the attorney for either the buyer or the seller in the
2 same transaction in which the licensee is acting or has
3 acted as a broker or salesperson.

4 (35) ~~(26)~~ Advertising or offering merchandise or
5 services as free if any conditions or obligations necessary
6 for receiving the merchandise or services are not disclosed
7 in the same advertisement or offer. These conditions or
8 obligations include without limitation the requirement
9 that the recipient attend a promotional activity or visit a
10 real estate site. As used in this subdivision (35) ~~(26)~~,
11 "free" includes terms such as "award", "prize", "no
12 charge", "free of charge", "without charge", and similar
13 words or phrases that reasonably lead a person to believe
14 that he or she may receive or has been selected to receive
15 something of value, without any conditions or obligations
16 on the part of the recipient.

17 (36) ~~(27)~~ Disregarding or violating any provision of
18 the Land Sales Registration Act of 1989, the Illinois Real
19 Estate Time-Share Act, or the published rules promulgated
20 by the Department ~~OBRE~~ to enforce those Acts.

21 (37) ~~(28)~~ Violating the terms of a disciplinary order
22 issued by the Department ~~OBRE~~.

23 (38) ~~(29)~~ Paying or failing to disclose compensation in
24 violation of Article 10 of this Act.

25 (39) ~~(30)~~ Requiring a party to a transaction who is not
26 a client of the licensee to allow the licensee to retain a

1 portion of the escrow moneys for payment of the licensee's
2 commission or expenses as a condition for release of the
3 escrow moneys to that party.

4 (40) ~~(31)~~ Disregarding or violating any provision of
5 this Act or the published rules promulgated by the
6 Department ~~OBRE~~ to enforce this Act or aiding or abetting
7 any individual, partnership, registered limited liability
8 partnership, limited liability company, or corporation in
9 disregarding any provision of this Act or the published
10 rules promulgated by the Department ~~OBRE~~ to enforce this
11 Act.

12 (41) ~~(32)~~ Failing to provide the minimum services
13 required by Section 15-75 of this Act when acting under an
14 exclusive brokerage agreement.

15 (42) Habitual or excessive use or addiction to alcohol,
16 narcotics, stimulants, or any other chemical agent or drug
17 that results in a managing broker, broker, salesperson, or
18 leasing agent's inability to practice with reasonable
19 skill or safety.

20 (b) The Department may refuse to issue or renew or may
21 suspend the license of any person who fails to file a return,
22 pay the tax, penalty or interest shown in a filed return, or
23 pay any final assessment of tax, penalty, or interest, as
24 required by any tax Act administered by the Department of
25 Revenue, until such time as the requirements of that tax Act
26 are satisfied in accordance with subsection (g) of Section

1 2105-15 of the Civil Administrative Code of Illinois.

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

9 (d) In cases where the Department of Healthcare and Family
10 Services (formerly Department of Public Aid) has previously
11 determined that a licensee or a potential licensee is more than
12 30 days delinquent in the payment of child support and has
13 subsequently certified the delinquency to the Department may
14 refuse to issue or renew or may revoke or suspend that person's
15 license or may take other disciplinary action against that
16 person based solely upon the certification of delinquency made
17 by the Department of Healthcare and Family Services in
18 accordance with item (5) of subsection (g) of Section 2105-15
19 of the Civil Administrative Code of Illinois.

20 (e) In enforcing this Section, the Department or Board upon
21 a showing of a possible violation may compel an individual
22 licensed to practice under this Act, or who has applied for
23 licensure under this Act, to submit to a mental or physical
24 examination, or both, as required by and at the expense of the
25 Department. The Department or Board may order the examining
26 physician to present testimony concerning the mental or

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

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

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

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

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

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

20 (225 ILCS 454/20-21 new)

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

22 (a) If any person violates the provisions of this Act, the
23 Secretary may, in the name of the People of the State of
24 Illinois, through the Attorney General of the State of Illinois
25 or the State's Attorney for any county in which the action is

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

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

20 (c) Other than as provided in Section 5-20 of this Act, if
21 any person practices as a real estate broker, real estate
22 salesperson or leasing agent or holds himself or herself out as
23 a licensed sponsoring broker, managing broker, real estate
24 broker, real estate salesperson or leasing agent under this Act
25 without being issued a valid existing license by the
26 Department, then any licensed sponsoring broker, managing

1 broker, real estate broker, real estate salesperson, leasing
2 agent, any interested party, or any person injured thereby may,
3 in addition to the Secretary, petition for relief as provided
4 in subsection (a) of this Section.

5 (225 ILCS 454/20-22 new)

6 Sec. 20-22. Violations. Any person who is found working or
7 acting as a managing broker, real estate broker, real estate
8 salesperson, or leasing agent or holding himself or herself out
9 as a licensed sponsoring broker, managing broker, real estate
10 broker, real estate salesperson, or leasing agent without being
11 issued a valid existing license is guilty of a Class A
12 misdemeanor and on conviction of a second or subsequent offense
13 the violator shall be guilty of a Class 4 felony.

14 (225 ILCS 454/20-25)

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

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

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

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

15 (225 ILCS 454/20-50)

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

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

1 has illegally discriminated while engaged in any activity for
2 which a license is required under this Act, the Department
3 ~~OPRE~~, upon recommendation of the Board as to the nature and
4 extent of the discipline, shall take one or more of the
5 disciplinary actions provided for in Section 20-20 of this Act
6 in a timely manner, unless the administrative order is in the
7 appeal process.

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

9 (225 ILCS 454/20-55)

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

11 Sec. 20-55. Illinois Administrative Procedure Act. The
12 Illinois Administrative Procedure Act is hereby expressly
13 adopted and incorporated herein as if all of the provisions of
14 that Act were included in this Act, except that the provision
15 of subsection (d) of Section 10-65 of the Illinois
16 Administrative Procedure Act that provides that at hearings the
17 licensee has the right to show compliance with all lawful
18 requirements for retention, continuation, or renewal of the
19 license is specifically excluded. For the purposes of this Act,
20 the notice required under the Illinois Administrative
21 Procedure Act is deemed sufficient when mailed to the last
22 known address of record ~~a party~~.

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

24 (225 ILCS 454/20-60)

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

2 Sec. 20-60. Investigations ~~Hearing; investigation;~~ notice
3 ~~and hearing; disciplinary consent order.~~ The Department may
4 investigate the actions of any applicant or of any person or
5 persons rendering or offering to render services or any person
6 holding or claiming to hold a license under this Act. The
7 Department shall, before revoking, ~~(a) OBRE may conduct~~
8 ~~hearings through the Board or a duly appointed hearing officer~~
9 ~~on proceedings to suspend, revoke, or to refuse to issue or~~
10 ~~renew licenses of persons applying for licensure or licensed~~
11 ~~under this Act or to censure, reprimand, or impose a civil fine~~
12 ~~not to exceed \$25,000 upon any licensee hereunder and may~~
13 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
14 ~~censure, reprimand, or impose a civil fine not to exceed~~
15 ~~\$25,000 upon any licensee hereunder. (b) Upon the motion of~~
16 ~~either OBRE or the Board or upon the verified complaint in~~
17 ~~writing of any persons setting forth facts that if proven would~~
18 ~~constitute grounds for suspension or revocation under this Act,~~
19 ~~OBRE, the Board, or its subcommittee shall cause to be~~
20 ~~investigated the actions of any person so accused who holds a~~
21 ~~license or is holding himself or herself out to be a licensee.~~
22 ~~This person is hereinafter called the accused. (c) Prior to~~
23 ~~initiating any formal disciplinary proceedings resulting from~~
24 ~~an investigation conducted pursuant to subsection (b) of this~~
25 ~~Section, that matter shall be reviewed by a subcommittee of the~~
26 ~~Board according to procedures established by rule. The~~

1 ~~subcommittee shall make a recommendation to the full Board as~~
2 ~~to the validity of the complaint and may recommend that the~~
3 ~~Board not proceed with formal disciplinary proceedings if the~~
4 ~~complaint is determined to be frivolous or without merit. (d)~~
5 ~~Except as provided for in Section 20 65 of this Act, OBRE~~
6 ~~shall, before suspending, revoking, placing on probation,~~
7 ~~reprimanding ~~probationary status,~~ or taking any other~~
8 ~~disciplinary action under Article 20 of this Act, at least 30~~
9 ~~days before the date set for the hearing, (i) as OBRE may deem~~
10 ~~proper with regard to any license: (1) notify the accused in~~
11 ~~writing of the at least 30 days prior to the date set for the~~
12 ~~hearing of any charges made and the time and place for the~~
13 ~~hearing on of the charges, (ii) direct him or her to file a~~
14 ~~written answer to the charges with to be heard before the Board~~
15 ~~under oath within 20 days after the service on him or her of~~
16 ~~the notice, and (iii), and (2) inform the accused that if he or~~
17 ~~she fails to answer upon failure to file an answer and request~~
18 ~~a hearing before the date originally set for the hearing,~~
19 ~~default will be taken against him or her or that the accused~~
20 ~~and his or her license may be suspended, revoked, or placed on~~
21 ~~probationary status, or other disciplinary action taken with~~
22 ~~regard to the license, including limiting the scope, nature, or~~
23 ~~extent of his or her practice, as the Department may consider~~
24 ~~proper. At the time and place fixed in the notice, the Board~~
25 ~~shall proceed to hear the charges and the parties or their~~
26 ~~counsel shall be accorded ample opportunity to present any~~

1 pertinent statements, testimony, evidence, and arguments. The
2 Board may continue the hearing from time to time. In case the
3 person, after receiving the ~~the accused's practice, as OBRE may~~
4 ~~deem proper, may be taken with regard thereto. In case the~~
5 ~~person fails to file an answer after receiving notice, fails to~~
6 ~~file an answer, his or her license may, in the discretion of~~
7 ~~the Department ~~OBRE,~~ be suspended, revoked, ~~or~~ placed on~~
8 ~~probationary status, or the Department ~~OBRE~~ may take whatever~~
9 ~~disciplinary action considered ~~deemed~~ proper, including~~
10 ~~limiting the scope, nature, or extent of the person's practice~~
11 ~~or the imposition of a fine, without a hearing, if the act or~~
12 ~~acts charged constitute sufficient grounds for that ~~such~~ action~~
13 ~~under this Act. The written notice may be served by personal~~
14 ~~delivery or by certified mail to the address specified by the~~
15 ~~accused in his or her last notification with the Department.~~

16 ~~(c) At the time and place fixed in the notice, the Board~~
17 ~~shall proceed to hearing of the charges and both the accused~~
18 ~~person and the complainant shall be accorded ample opportunity~~
19 ~~to present in person or by counsel such statements, testimony,~~
20 ~~evidence and argument as may be pertinent to the charges or to~~
21 ~~any defense thereto. The Board or its hearing officer may~~
22 ~~continue a hearing date upon its own motion or upon an~~
23 ~~accused's motion for one period not to exceed 30 days. The~~
24 ~~Board or its hearing officer may grant further continuances for~~
25 ~~periods not to exceed 30 days only upon good cause being shown~~
26 ~~by the moving party. The non moving party shall have the~~

1 ~~opportunity to object to a continuance on the record at a~~
2 ~~hearing upon the motion to continue. All motions for~~
3 ~~continuances and any denial or grant thereof shall be in~~
4 ~~writing. All motions shall be submitted not later than 48 hours~~
5 ~~before the scheduled hearing unless made upon an emergency~~
6 ~~basis. In determining whether good cause for a continuance is~~
7 ~~shown, the Board or its hearing officer shall consider such~~
8 ~~factors as the volume of cases pending, the nature and~~
9 ~~complexity of legal issues raised, the diligence of the party~~
10 ~~making the request, the availability of party's legal~~
11 ~~representative or witnesses, and the number of previous~~
12 ~~requests for continuance.~~

13 ~~(f) Any unlawful act or violation of any of the provisions~~
14 ~~of this Act upon the part of any licensees employed by a real~~
15 ~~estate broker or associated by written agreement with the real~~
16 ~~estate broker, or unlicensed employee of a licensed broker,~~
17 ~~shall not be cause for the revocation of the license of any~~
18 ~~such broker, partial or otherwise, unless it appears to the~~
19 ~~satisfaction of OBRE that the broker had knowledge thereof.~~

20 ~~(g) OBRE or the Board has power to subpoena any persons or~~
21 ~~documents for the purpose of investigation or hearing with the~~
22 ~~same fees and mileage and in the same manner as prescribed by~~
23 ~~law for judicial procedure in civil cases in courts of this~~
24 ~~State. The Commissioner, the Director, any member of the Board,~~
25 ~~a certified court reporter, or a hearing officer shall each~~
26 ~~have power to administer oaths to witnesses at any hearing~~

1 ~~which OBRE is authorized under this Act to conduct.~~

2 ~~(h) Any circuit court or any judge thereof, upon the~~
3 ~~application of the accused person, complainant, OBRE, or the~~
4 ~~Board, may, by order entered, require the attendance of~~
5 ~~witnesses and the production of relevant books and papers~~
6 ~~before the Board in any hearing relative to the application for~~
7 ~~or refusal, recall, suspension, or revocation of a license, and~~
8 ~~the court or judge may compel obedience to the court's or the~~
9 ~~judge's order by proceedings for contempt.~~

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

24 ~~(j) The Board shall present to the Commissioner its written~~
25 ~~report of its findings and recommendations. A copy of the~~
26 ~~report shall be served upon the accused, either personally or~~

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

1 ~~surrender his or her license to OBRE, and upon failure or~~
2 ~~refusal to do so, OBRE shall have the right to seize the~~
3 ~~license.~~

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

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

11 ~~(1) The signature is the genuine signature of the~~
12 ~~Commissioner.~~

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

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

15 ~~Such proof may be rebutted.~~

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

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

2 (225 ILCS 454/20-62 new)

3 Sec. 20-62. Record of proceedings; transcript. The
4 Department, at its expense, shall preserve a record of all
5 proceedings at the formal hearing of any case. The notice of
6 hearing, complaint, all other documents in the nature of
7 pleadings, written motions filed in the proceedings, the
8 transcripts of testimony, the report of the Board, and orders
9 of the Department shall be in the record of the proceeding.

10 (225 ILCS 454/20-63 new)

11 Sec. 20-63. Subpoenas; depositions; oaths. The Department
12 has the power to subpoena documents, books, records, or other
13 materials and to bring before it any person and to take
14 testimony either orally or by deposition, or both, with the
15 same fees and mileage and in the same manner as prescribed in
16 civil cases in the courts of this State. The Secretary, the
17 designated hearing officer, and every member of the Board has
18 the power to administer oaths to witnesses at any hearing that
19 the Department is authorized to conduct, and any other oaths
20 authorized in an Act that is administered by the Department.

21 (225 ILCS 454/20-64 new)

22 Sec. 20-64. Board; rehearing. At the conclusion of a
23 hearing, a copy of the Board's report shall be served upon the

1 applicant or licensee by the Department, either personally or
2 as provided in this Act for the service of a notice of hearing.
3 Within 20 days after service, the applicant or licensee may
4 present to the Department a motion in writing for a rehearing,
5 which shall specify the particular grounds for rehearing. The
6 Department may respond to the motion, or if a motion for
7 rehearing is denied, then upon denial, and except as provided
8 in Section 20-72 of this Act, the Secretary may enter an order
9 in accordance with the recommendations of the Board. If the
10 applicant or licensee orders from the reporting service and
11 pays for a transcript of the record within the time for filing
12 a motion for rehearing, then the 20-day period within which a
13 motion may be filed shall commence upon the delivery of the
14 transcript to the applicant or licensee.

15 (225 ILCS 454/20-65)

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

17 Sec. 20-65. Temporary suspension. The Secretary
18 ~~Commissioner~~ may temporarily suspend the license of a licensee
19 without a hearing, simultaneously with the institution of
20 proceedings for a hearing provided for in Section 20-61 ~~20-60~~
21 of this Act, if the Secretary ~~Commissioner~~ finds that the
22 evidence indicates that the public interest, safety, or welfare
23 imperatively requires emergency action. In the event that the
24 Secretary ~~Commissioner~~ temporarily suspends the license
25 without a hearing before the Board, a hearing shall be

1 commenced ~~held~~ within 30 days after the suspension has
2 occurred. The suspended licensee may seek a continuance of the
3 hearing during which the suspension shall remain in effect. The
4 proceeding shall be concluded without appreciable delay.

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

6 (225 ILCS 454/20-66 new)

7 Sec. 20-66. Appointment of a hearing officer. The Secretary
8 has the authority to appoint any attorney licensed to practice
9 law in the State of Illinois to serve as the hearing officer in
10 any action for refusal to issue, restore, or renew a license or
11 to discipline a licensee. The hearing officer has full
12 authority to conduct the hearing. Any Board member may attend
13 the hearing. The hearing officer shall report his or her
14 findings of fact, conclusions of law, and recommendations to
15 the Board. The Board shall review the report of the hearing
16 officer and present its findings of fact, conclusions of law,
17 and recommendations to the Secretary and all parties to the
18 proceeding. If the Secretary disagrees with a recommendation of
19 the Board or of the hearing officer, then the Secretary may
20 issue an order in contravention of the recommendation.

21 (225 ILCS 454/20-67 new)

22 Sec. 20-67. Order or certified copy; prima facie proof. An
23 order, or certified copy of an order, over the seal of the
24 Department and purporting to be signed by the Secretary is

1 prima facie proof that (i) the signature is the genuine
2 signature of the Secretary, (ii) the Secretary is duly
3 appointed and qualified, and (iii) the Board and its members
4 are qualified to act.

5 (225 ILCS 454/20-68 new)

6 Sec. 20-68. Surrender of license. Upon the revocation or
7 suspension of a license, the licensee shall immediately
8 surrender his or her license to the Department. If the licensee
9 fails to do so, the Department has the right to seize the
10 license.

11 (225 ILCS 454/20-69 new)

12 Sec. 20-69. Restoration of a suspended or revoked license.
13 At any time after the successful completion of a term of
14 suspension or revocation of a license, the Department may
15 restore it to the licensee, upon the written recommendation of
16 the Board, unless after an investigation and a hearing the
17 Board determines that restoration is not in the public
18 interest.

19 (225 ILCS 454/20-72 new)

20 Sec. 20-72. Secretary; rehearing. If the Secretary
21 believes that substantial justice has not been done in the
22 revocation, suspension, or refusal to issue, restore, or renew
23 a license, or any other discipline of an applicant or licensee,

1 then he or she may order a rehearing by the same or other
2 examiners.

3 (225 ILCS 454/20-73 new)

4 Sec. 20-73. Certifications of record; costs. The
5 Department shall not be required to certify any record to the
6 court, to file an answer in court, or to otherwise appear in
7 any court in a judicial review proceeding unless there is filed
8 in the court, with the complaint, a receipt from the Department
9 acknowledging payment of the costs of furnishing and certifying
10 the record, which costs shall be determined by the Department.
11 Failure on the part of the plaintiff to file the receipt in
12 court is grounds for dismissal of the action.

13 (225 ILCS 454/20-75)

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

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

17 (a) All final administrative decisions of the Department
18 are ~~OBRE~~ shall be subject to judicial review under pursuant to
19 the provisions of the Administrative Review Law and ~~its~~ the
20 rules adopted pursuant thereto. The term "administrative
21 decision" is defined in Section 3-101 of the Code of Civil
22 Procedure ~~Administrative Review Law.~~

23 (b) Proceedings for judicial review shall be commenced in
24 the circuit court of the court in which the party applying for

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

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

16 (225 ILCS 454/20-82 new)

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

20 (225 ILCS 454/20-85)

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

22 Sec. 20-85. Recovery from Real Estate Recovery Fund. The
23 Department ~~OBRE~~ shall maintain a Real Estate Recovery Fund from
24 which any person aggrieved by an act, representation,

1 transaction, or conduct of a licensee or unlicensed employee of
2 a licensee that is in violation of this Act or the rules
3 promulgated pursuant thereto, constitutes embezzlement of
4 money or property, or results in money or property being
5 unlawfully obtained from any person by false pretenses,
6 artifice, trickery, or forgery or by reason of any fraud,
7 misrepresentation, discrimination, or deceit by or on the part
8 of any such licensee or the unlicensed employee of a licensee
9 and that results in a loss of actual cash money, as opposed to
10 losses in market value, may recover. The aggrieved person may
11 recover, by order of the circuit court of the county where the
12 violation occurred, an amount of not more than \$25,000 ~~\$10,000~~
13 from the Fund for damages sustained by the act, representation,
14 transaction, or conduct, together with costs of suit and
15 attorney's fees incurred in connection therewith of not to
16 exceed 15% of the amount of the recovery ordered paid from the
17 Fund. However, no licensee ~~licensed broker or salesperson~~ may
18 recover from the Fund unless the court finds that the person
19 suffered a loss resulting from intentional misconduct. The
20 court order shall not include interest on the judgment. The
21 maximum liability against the Fund arising out of any one act
22 shall be as provided in this Section, and the judgment order
23 shall spread the award equitably among all co-owners or
24 otherwise aggrieved persons, if any. The maximum liability
25 against the Fund arising out of the activities of any one
26 licensee or one unlicensed employee of a licensee, since

1 January 1, 1974, shall be \$100,000 ~~\$50,000~~. Nothing in this
2 Section shall be construed to authorize recovery from the Fund
3 unless the loss of the aggrieved person results from an act or
4 omission of a licensee under this Act ~~licensed broker,~~
5 ~~salesperson, or unlicensed employee~~ who was at the time of the
6 act or omission acting in such capacity or was apparently
7 acting in such capacity and unless the aggrieved person has
8 obtained a valid judgment as provided in Section 20-90 of this
9 Act. No person aggrieved by an act, representation, or
10 transaction that is in violation of the Illinois Real Estate
11 Time-Share Act or the Land Sales Registration Act of 1989 may
12 recover from the Fund.

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

14 (225 ILCS 454/20-90)

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

16 Sec. 20-90. Collection from Real Estate Recovery Fund;
17 procedure.

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

24 (b) When any aggrieved person commences action for a
25 judgment that may result in collection from the Real Estate

1 Recovery Fund, the aggrieved person must name as parties
2 defendant to that action any and all individual licensees ~~real~~
3 ~~estate brokers, real estate salespersons,~~ or their employees
4 who allegedly committed or are responsible for acts or
5 omissions giving rise to a right of recovery from the Real
6 Estate Recovery Fund. Failure to name as parties defendant such
7 licensees ~~individual brokers, salespersons,~~ or their employees
8 shall preclude recovery from the Real Estate Recovery Fund of
9 any portion of any judgment received in such an action. The
10 aggrieved party may also name as additional parties defendant
11 any corporations, limited liability companies, partnerships,
12 registered limited liability partnership, or other business
13 associations that may be responsible for acts giving rise to a
14 right of recovery from the Real Estate Recovery Fund.

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

25 (d) When any aggrieved person commences action for a
26 judgment that may result in collection from the Real Estate

1 Recovery Fund, and the aggrieved person is unable to obtain
2 legal and proper service upon the defendant under the
3 provisions of Illinois law concerning service of process in
4 civil actions, the aggrieved person may petition the court
5 where the action to obtain judgment was begun for an order to
6 allow service of legal process on the Secretary Commissioner.
7 Service of process on the Secretary Commissioner shall be taken
8 and held in that court to be as valid and binding as if due
9 service had been made upon the defendant. In case any process
10 mentioned in this Section is served upon the Secretary
11 ~~Commissioner~~, the Secretary Commissioner shall forward a copy
12 of the process by certified mail to the licensee's last address
13 on record with the Department ~~OBRE~~. Any judgment obtained after
14 service of process on the Secretary Commissioner under this Act
15 shall apply to and be enforceable against the Real Estate
16 Recovery Fund only. OBRE may intervene in and defend any such
17 action.

18 (e) When an aggrieved party commences action for a judgment
19 that may result in collection from the Real Estate Recovery
20 Fund, and the court before which that action is commenced
21 enters judgment by default against the defendant and in favor
22 of the aggrieved party, the court shall upon motion of the
23 Department ~~OBRE~~ set aside that judgment by default. After such
24 a judgment by default has been set aside, the Department ~~OBRE~~
25 shall appear as party defendant to that action, and thereafter
26 the court shall require proof of the allegations in the

1 pleadings upon which relief is sought.

2 (f) The aggrieved person shall give written notice to the
3 Department ~~OBRE~~ within 30 days of the entry of any judgment
4 that may result in collection from the Real Estate Recovery
5 Fund. The aggrieved person shall provide OBRE within 20 days
6 prior written notice of all supplementary proceedings so as to
7 allow the Department ~~OBRE~~ to participate in all efforts to
8 collect on the judgment.

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

26 (1) Is not a spouse of the debtor or the personal

1 representative of such spouse.

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

4 (3) Has obtained a judgment stating the amount thereof
5 and the amount owing thereon, not including interest
6 thereon, at the date of the application.

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

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

20 (6) Has diligently pursued all remedies against all the
21 judgment debtors and all other persons liable to the
22 aggrieved person in the transaction for which recovery is
23 sought from the Real Estate Recovery Fund, including the
24 filing of an adversary action to have the debts declared
25 non-dischargeable in any bankruptcy petition matter filed
26 by any judgment debtor or person liable to the aggrieved

1 person.

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

6 (h) The court shall make an order directed to the
7 Department ~~ODRE~~ requiring payment from the Real Estate Recovery
8 Fund of whatever sum it finds to be payable upon the claim,
9 pursuant to and in accordance with the limitations contained in
10 Section 20-85 of this Act, if the court is satisfied, upon the
11 hearing, of the truth of all matters required to be shown by
12 the aggrieved person under subsection (g) of this Section and
13 that the aggrieved person has fully pursued and exhausted all
14 remedies available for recovering the amount awarded by the
15 judgment of the court.

16 (i) Should the Department ~~ODRE~~ pay from the Real Estate
17 Recovery Fund any amount in settlement of a claim or toward
18 satisfaction of a judgment against a licensed broker or
19 salesperson or an unlicensed employee of a broker, the
20 licensee's license shall be automatically terminated upon the
21 issuance of a court order authorizing payment from the Real
22 Estate Recovery Fund. No petition for restoration of a license
23 shall be heard until repayment has been made in full, plus
24 interest at the rate prescribed in Section 12-109 of the Code
25 of Civil Procedure of the amount paid from the Real Estate
26 Recovery Fund on their account. A discharge in bankruptcy shall

1 not relieve a person from the penalties and disabilities
2 provided in this subsection (i).

3 (j) If, at any time, the money deposited in the Real Estate
4 Recovery Fund is insufficient to satisfy any duly authorized
5 claim or portion thereof, the Department ~~OBRE~~ shall, when
6 sufficient money has been deposited in the Real Estate Recovery
7 Fund, satisfy such unpaid claims or portions thereof, in the
8 order that such claims or portions thereof were originally
9 filed, plus accumulated interest at the rate prescribed in
10 Section 12-109 of the Code of Civil Procedure.

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

12 (225 ILCS 454/20-95)

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

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

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

23 (225 ILCS 454/20-100)

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

1 Sec. 20-100. Subrogation of the Department ~~OBRE~~ to rights
2 of judgment creditor. When, upon the order of the court, the
3 Department ~~OBRE~~ has paid from the Real Estate Recovery Fund any
4 sum to the judgment creditor, the Department ~~OBRE~~ shall be
5 subrogated to all of the rights of the judgment creditor and
6 the judgment creditor shall assign all rights, title, and
7 interest in the judgment to the Department ~~OBRE~~ and any amount
8 and interest so recovered by the Department ~~OBRE~~ on the
9 judgment shall be deposited in the Real Estate Recovery Fund.

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

11 (225 ILCS 454/20-110)

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

13 Sec. 20-110. Disciplinary actions of the Department ~~OBRE~~
14 not limited. Nothing contained in Sections 20-80 through 20-100
15 of this Act limits the authority of the Department ~~OBRE~~ to take
16 disciplinary action against any licensee for a violation of
17 this Act or the rules of the Department ~~OBRE~~, nor shall the
18 repayment in full of all obligations to the Real Estate
19 Recovery Fund by any licensee nullify or modify the effect of
20 any other disciplinary proceeding brought pursuant to this Act.

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

22 (225 ILCS 454/20-115)

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

24 Sec. 20-115. Time limit on action. No action may be taken

1 by the Department ~~OBRE~~ against any person for violation of the
2 terms of this Act or its rules unless the action is commenced
3 within 5 years after the occurrence of the alleged violation.

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

5 (225 ILCS 454/25-5)

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

7 Sec. 25-5. The Department ~~OBRE~~; powers and duties. The
8 Department ~~OBRE~~ shall exercise the powers and duties prescribed
9 by the Civil Administrative Code of Illinois for the
10 administration of licensing acts and shall exercise such other
11 powers and duties as are prescribed by this Act. The Department
12 ~~OBRE~~ may contract with third parties for services or the
13 development of courses necessary for the proper administration
14 of this Act.

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

16 (225 ILCS 454/25-10)

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

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

23 (1) All members shall have been residents and citizens
24 of this State for at least 6 years prior to the date of

1 appointment.

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

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

7 None of these members shall be (i) a person who is licensed
8 under this Act or a similar Act of another jurisdiction, (ii)
9 the spouse or family member of a licensee, (iii), ~~the spouse of~~
10 ~~a person licensed under this Act, or a person who has an~~
11 ~~ownership interest in a real estate brokerage business, or (iv)~~
12 a person the Department determines to have any other connection
13 with a real estate brokerage business or a licensee. The
14 members' terms shall be 4 years or until their successor is
15 appointed, and the expiration of their terms shall be
16 staggered. Appointments to fill vacancies shall be for the
17 unexpired portion of the term. No A member shall be reappointed
18 to the Board for a term that would cause his or her service on
19 the Board to be longer than 12 years in a lifetime ~~may be~~
20 ~~reappointed for successive terms but no person shall be~~
21 ~~appointed to more than 2 terms or any part thereof in his or~~
22 ~~her lifetime. Persons holding office as members of the Board~~
23 ~~immediately prior to December 31, 1999 under the Real Estate~~
24 ~~License Act of 1983 shall continue as members of the Board~~
25 ~~until the expiration of the term for which they were appointed~~
26 ~~and until their successors are appointed and qualified.~~ The

1 membership of the Board should reasonably reflect the
2 geographic distribution of the licensee population in this
3 State. In making the appointments, the Governor shall give due
4 consideration to the recommendations by members and
5 organizations of the profession. The Governor may terminate the
6 appointment of any member for cause that in the opinion of the
7 Governor reasonably justifies the termination. Cause for
8 termination shall include without limitation misconduct,
9 incapacity, neglect of duty, or missing 4 board meetings during
10 any one calendar year. Each member of the Board may ~~shall~~
11 receive a per diem stipend in an amount to be determined by the
12 Secretary ~~Commissioner~~. Each member shall be paid his or her
13 necessary expenses while engaged in the performance of his or
14 her duties. Such compensation and expenses shall be paid out of
15 the Real Estate License Administration Fund. The Secretary
16 ~~Commissioner~~ shall consider the recommendations of the Board on
17 questions involving standards of professional conduct,
18 discipline, and examination of candidates under this Act. The
19 Department ~~OBRE~~, after notifying and considering the
20 recommendations of the Board, if any, may issue rules,
21 consistent with the provisions of this Act, for the
22 administration and enforcement thereof and may prescribe forms
23 that shall be used in connection therewith. Five Board members
24 shall constitute a quorum. A quorum is required for all Board
25 decisions ~~None of the functions, powers, or duties enumerated~~
26 ~~in Sections 20-20 and 30-5 and subsections (a) and (j) of~~

1 ~~Section 20-60 of this Act shall be exercised by OBRE except~~
2 ~~upon the action and report in writing of the Board.~~

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

4 (225 ILCS 454/25-13)

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

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

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

11 (225 ILCS 454/25-14)

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

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

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

1 (225 ILCS 454/25-15)

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

3 Sec. 25-15. ~~Director of~~ Real Estate Coordinator; duties.
4 There shall be in the Department ~~OBRE a Director and a Deputy~~
5 ~~Director of~~ Real Estate Coordinator, appointed by the Secretary
6 Commissioner, who shall hold a currently valid broker's
7 license, which shall be surrendered to the Department ~~OBRE~~
8 during the appointment. The ~~Director of~~ Real Estate Coordinator
9 shall have ~~report to the Commissioner and shall do~~ the
10 following duties and responsibilities:

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

13 (2) be the direct liaison between the Department ~~OBRE~~,
14 the profession, and real estate organizations and
15 associations;

16 (3) prepare and circulate to licensees any educational
17 and informational material that the Department ~~OBRE~~ deems
18 necessary for providing guidance or assistance to
19 licensees;

20 (4) appoint any necessary committees to assist in the
21 performance of the functions and duties of the Department
22 ~~OBRE~~ under this Act; and

23 (5) subject to the administrative approval of the
24 Secretary ~~Commissioner~~, supervise all real estate
25 activities ~~of OBRE~~.

26 ~~The Commissioner shall appoint, for a term of 4 years, a~~

1 ~~Deputy Director of Real Estate who shall hold a currently valid~~
2 ~~broker's license, which shall be surrendered to OBRE during the~~
3 ~~appointment. Under direction of the Director of Real Estate,~~
4 ~~the Deputy Director of Real Estate shall be responsible for the~~
5 ~~administration of the licensing, disciplinary, and education~~
6 ~~provisions of this Act. The Deputy Director shall also assist~~
7 ~~the Director of Real Estate in the performance of his or her~~
8 ~~duties.~~

9 In designating the ~~Director and Deputy Director of Real~~
10 Estate Coordinator, the Secretary Commissioner shall give due
11 consideration to recommendations by members and organizations
12 of the profession.

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

14 (225 ILCS 454/25-20)

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

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

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

22 (225 ILCS 454/25-21 new)

23 Sec. 25-21. Peer review advisors. The Department may
24 contract with licensees meeting qualifications established by

1 the Department to serve as peer review advisors for complaints
2 and alleged violations of the Act. A peer review advisor is
3 authorized to investigate and determine the facts of a
4 complaint. The peer review advisor shall, at the direction of
5 the Department, interview witnesses, the complainant and any
6 licensees involved in the alleged matter and make a
7 recommendation as to the findings of fact to the Department.
8 The Department shall have 30 days from receipt of the
9 recommendation to accept, reject or modify the recommended
10 findings of fact. Peer review advisors shall be compensated
11 from the Real Estate Audit Fund at a rate of not to exceed
12 \$15,000.00 per advisor annually. A peer review advisor shall
13 not investigate a complaint from a marketplace in which the
14 peer review advisor does business.

15 (225 ILCS 454/25-25)

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

17 Sec. 25-25. Real Estate Research and Education Fund. A
18 special fund to be known as the Real Estate Research and
19 Education Fund is created and shall be held in trust in the
20 State Treasury. Annually, on September 15th, the State
21 Treasurer shall cause a transfer of \$125,000 to the Real Estate
22 Research and Education Fund from the Real Estate License
23 Administration Fund. The Real Estate Research and Education
24 Fund shall be administered by the Department ~~OBRE~~. Money
25 deposited in the Real Estate Research and Education Fund may be

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

1 Education Fund. Moneys in the Real Estate Research and
2 Education Fund may be transferred to the Professions Indirect
3 Cost Fund as authorized under Section 2105-300 of the
4 Department of Professional Regulation Law of the Civil
5 Administrative Code of Illinois.

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

7 (225 ILCS 454/25-30)

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

9 Sec. 25-30. Real Estate License Administration Fund;
10 audit. A special fund to be known as the Real Estate License
11 Administration Fund is created in the State Treasury. All fees
12 received by the Department ~~OBRE~~ under this Act shall be
13 deposited in the Real Estate License Administration Fund. The
14 moneys deposited in the Real Estate License Administration Fund
15 shall be appropriated to the Department ~~OBRE~~ for expenses of
16 the Department ~~OBRE~~ and the Board in the administration of this
17 Act and for the administration of any Act administered by the
18 Department ~~OBRE~~ providing revenue to this Fund. Moneys in the
19 Real Estate License Administration Fund may be invested and
20 reinvested in the same manner as funds in the Real Estate
21 Recovery Fund. All earnings received from such investment shall
22 be deposited in the Real Estate License Administration Fund and
23 may be used for the same purposes as fees deposited in the Real
24 Estate License Administration Fund. Moneys in the Real Estate
25 License Administration Fund may be transferred to the

1 Professions Indirect Cost Fund as authorized under Section
2 2105-300 of the Department of Professional Regulation Law of
3 the Civil Administrative Code of Illinois. Upon the completion
4 of any audit of the Department ~~OBRE~~, as prescribed by the
5 Illinois State Auditing Act, which includes an audit of the
6 Real Estate License Administration Fund, the Department ~~OBRE~~
7 shall make the audit open to inspection by any interested
8 person.

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

10 (225 ILCS 454/25-35)

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

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

1 funds may be invested and reinvested in the same manner as
2 authorized for pension funds in Article 1 ~~14~~ of the Illinois
3 Pension Code. All earnings, interest, and dividends received
4 from investment of funds in the Real Estate Recovery Fund shall
5 be deposited into the Real Estate License Administration Fund
6 and shall be used for the same purposes as other moneys
7 deposited in the Real Estate License Administration Fund.

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

9 (225 ILCS 454/25-37)

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

11 Sec. 25-37. Real Estate Audit Fund; audit of special
12 accounts; audit of fund.

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

24 (b) Upon receipt of a complaint or evidence by the
25 Department ~~OBRE~~ sufficient to cause the Department ~~OBRE~~ to

1 reasonably believe that funds required to be maintained in a
2 special account by a broker have been misappropriated, the
3 broker shall, within 30 days of written notice, submit to an
4 audit of all special accounts. Such audit shall be performed by
5 a licensed certified public accountant, shall result in a
6 written report by the accountant, and shall specifically refer
7 to the escrow and record-keeping requirements of this Act and
8 the rules adopted under this Act. If it is found, pursuant to
9 an order issued by the Secretary ~~Commissioner~~, that moneys
10 required to be maintained in a special account by a broker were
11 misappropriated, as further defined by rule, the broker shall
12 reimburse the Department ~~OBRE~~, in addition to any other
13 discipline or civil penalty imposed, for the cost of the audit
14 performed pursuant to this Section. The Department ~~OBRE~~ may
15 file in circuit court for a judgment to enforce the collection
16 of the reimbursement of the cost of such audit. Any
17 reimbursement collected by the Department ~~OBRE~~ shall be
18 deposited into the Real Estate Audit Fund.

19 (c) Moneys in the Real Estate Audit Fund may be invested
20 and reinvested in the same manner as funds in the Real Estate
21 Recovery Fund. All earnings received from such investment shall
22 be deposited in the Real Estate Audit Fund and may be used for
23 the same purpose as other moneys deposited in the Real Estate
24 Audit Fund. Moneys in the Real Estate Audit Fund may be
25 transferred to the Professions Indirect Cost Fund as authorized
26 under Section 2105-300 of the Department of Professional

1 Regulation Law of the Civil Administrative Code of Illinois.
2 Upon completion of any audit of the Department ~~OBRE~~, prescribed
3 by the Illinois State Auditing Act, which includes an audit of
4 the Real Estate Audit Fund, the Department ~~OBRE~~ shall make the
5 audit open to inspection by any interested person.

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

7 (225 ILCS 454/30-5)

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

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

11 (a) No person shall operate a pre-license school or school
12 branch without possessing a valid pre-license school or school
13 branch license issued by the Department ~~OBRE~~. No person shall
14 act as a pre-license instructor at a pre-license school or
15 school branch without possessing a valid pre-license
16 instructor license issued by the Department ~~OBRE~~. Every person
17 who desires to obtain a pre-license school, school branch, or
18 pre-license instructor license shall make application to the
19 Department ~~OBRE~~ in writing in form and substance satisfactory
20 to the Department ~~OBRE~~ and pay the required fees prescribed by
21 rule. In addition to any other information required to be
22 contained in the application, every application for an original
23 or renewed license shall include the applicant's Social
24 Security number. The Department ~~OBRE~~ shall issue a pre-license
25 school, school branch, or pre-license instructor license to

1 applicants who meet qualification criteria established by
2 rule. The Department ~~OBRE~~ may refuse to issue, suspend, revoke,
3 or otherwise discipline a pre-license school, school branch, or
4 pre-license instructor license or may withdraw approval of a
5 course offered by a pre-license school for good cause.
6 Disciplinary proceedings shall be conducted by the Board in the
7 same manner as other disciplinary proceedings under this Act.

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

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

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

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

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

1 (225 ILCS 454/30-10)

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

3 Sec. 30-10. Advisory Council; powers and duties. There is
4 created within the Department ~~OBRE~~ an Advisory Council to be
5 comprised of 5 ~~7~~ members appointed by the Governor. The
6 members' terms shall be 4 years or until their successor is
7 appointed and the expiration of their terms shall be staggered
8 ~~for 4 year staggered terms~~. No member shall be reappointed to
9 the Advisory Council for a term that would cause his or her
10 service on the Advisory Council to be longer than 12 ~~serve more~~
11 ~~than 8~~ years in a lifetime. Two ~~Three~~ of the members shall be
12 licensees who are current members of the Board, one member
13 shall be a representative of an Illinois real estate trade
14 organization who is not a member of the Board, one member shall
15 be a representative of a licensed pre-license school or
16 continuing education school, and one member shall be a
17 representative of an institution of higher education that
18 offers pre-license and continuing education courses. The Real
19 Estate Coordinator ~~Director~~ shall serve as the chairman of the
20 Advisory Council, ex officio, without vote. Three Advisory
21 Council members shall constitute a quorum. A quorum is required
22 for all Advisory Council decisions. The Advisory Council shall
23 recommend criteria for the licensing and renewal of pre-license
24 schools, pre-license instructors, continuing education
25 schools, and continuing education instructors; review

1 applications for these licenses to determine if the applicants
2 meet the qualifications for licensure established in this Act
3 and by rule; approve pre-license school and continuing
4 education curricula; and make recommendations to the Board
5 regarding rules to be adopted for the conduct of schools and
6 instructors and the administration of the education provisions
7 of this Act.

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

9 (225 ILCS 454/30-15)

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

11 Sec. 30-15. Licensing of continuing education schools;
12 approval of courses.

13 (a) Only continuing education schools in possession of a
14 valid continuing education school license may provide real
15 estate continuing education courses that will satisfy the
16 requirements of this Act. Pre-license schools licensed to offer
17 pre-license education courses for salespersons, brokers and
18 managing brokers shall qualify for a continuing education
19 school license upon completion of an application and the
20 submission of the required fee. Every entity that desires to
21 obtain a continuing education school license shall make
22 application to the Department ~~OBRE~~ in writing in forms
23 prescribed by the Department ~~OBRE~~ and pay the fee prescribed by
24 rule. In addition to any other information required to be
25 contained in the application, every application for an original

1 or renewed license shall include the applicant's Social
2 Security number.

3 (b) The criteria for a continuing education license shall
4 include the following:

5 (1) A sound financial base for establishing,
6 promoting, and delivering the necessary courses. Budget
7 planning for the School's courses should be clearly
8 projected.

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

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

13 (4) Maintenance and availability of records of
14 participation for licensees.

15 (5) The ability to provide each participant who
16 successfully completes an approved program with a
17 certificate of completion signed by the administrator of a
18 licensed continuing education school on forms provided by
19 the Department ~~OBRE~~.

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

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

25 (8) The continuing education school shall require a 70%
26 passing grade for successful completion of any continuing

1 education course.

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

5 (A) appropriate credentials;

6 (B) competence as a teacher;

7 (C) knowledge of content area; and

8 (D) qualification by experience.

9 (10) The continuing education school shall provide a
10 proctor or an electronic means of proctoring for each
11 examination. The continuing education school shall be
12 responsible for the conduct of the proctor. The duties and
13 responsibilities of a proctor shall be established by rule.

14 (11) The continuing education school must provide for
15 closed book examinations for each course unless the
16 Advisory Council excuses this requirement based on the
17 complexity of the course material.

18 (c) Advertising and promotion of continuing education
19 activities must be carried out in a responsible fashion,
20 clearly showing the educational objectives of the activity, the
21 nature of the audience that may benefit from the activity, the
22 cost of the activity to the participant and the items covered
23 by the cost, the amount of credit that can be earned, and the
24 credentials of the faculty.

25 (d) The Department ~~OBRE~~ may or upon request of the Advisory
26 Council shall, after notice, cause a continuing education

1 school to attend an informal conference before the Advisory
2 Council for failure to comply with any requirement for
3 licensure or for failure to comply with any provision of this
4 Act or the rules for the administration of this Act. The
5 Advisory Council shall make a recommendation to the Board as a
6 result of its findings at the conclusion of any such informal
7 conference.

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

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

1 place at the location of the class.

2 (g) Each continuing education school shall provide to the
3 Department ~~OBRE~~ a monthly report in a format determined by the
4 Department ~~OBRE~~, with information concerning students who
5 successfully completed all approved continuing education
6 courses offered by the continuing education school for the
7 prior month.

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

1 disciplinary proceedings under this Act.

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

3 (225 ILCS 454/30-20)

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

5 Sec. 30-20. Fees for continuing education school license;
6 renewal; term. All applications for a continuing education
7 school license shall be accompanied by a nonrefundable
8 application fee in an amount established by rule. All
9 continuing education schools shall be required to submit a
10 renewal application, the required fee as established by rule,
11 and a listing of the courses to be offered during the year to
12 renew their continuing education school licenses. The term for
13 a continuing education school license shall be 2 years and as
14 established by rule. The fees collected under this Article 30
15 shall be deposited in the Real Estate License Administration
16 Fund and shall be used to defray the cost of administration of
17 the program and per diem of the Advisory Council as determined
18 by the Secretary ~~Commissioner~~.

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

20 (225 ILCS 454/30-25)

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

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

23 (a) No such person shall act as a continuing education
24 instructor at a continuing education school or branch without

1 ~~possessing Only persons approved by the Advisory Council and in~~
2 ~~possession of~~ a valid continuing education instructor license
3 ~~and satisfying any other qualification criteria established by~~
4 ~~the Department by rule issued by OBRE may instruct continuing~~
5 ~~education courses.~~

6 (b) After the effective date of this Act, every person who
7 desires to obtain a continuing education instructor's license
8 shall attend and successfully complete a one-day instructor
9 development workshop, as approved by the Department. The term
10 of licensure for a continuing education instructor shall be 2
11 years and as established by rule. Every person who desires to
12 obtain a continuing education instructor license shall make
13 application to the Department ~~OBRE~~ in writing on forms
14 prescribed by the Office, accompanied by the fee 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 continuing
19 education instructor license to applicants who meet
20 qualification criteria established by this Act or rule.

21 (c) The Department ~~OBRE~~ may refuse to issue, suspend,
22 revoke, or otherwise discipline a continuing education
23 instructor for good cause. Disciplinary proceedings shall be
24 conducted by the Board in the same manner as other disciplinary
25 proceedings under this Act. All ~~The term of a license for a~~
26 ~~continuing education instructors instructor shall be 2 years~~

1 ~~and as established by rule. All Continuing Education~~
2 ~~Instructors~~ must teach at least one course within the period of
3 licensure or take an instructor training program approved by
4 the Department ~~OBRE~~ in lieu thereof.

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

6 Section 25. The Code of Civil Procedure is amended by
7 changing Sections 15-1503 and 15-1508 as follows:

8 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

9 Sec. 15-1503. Notice of Foreclosure.

10 (a) A notice of foreclosure, whether the foreclosure is
11 initiated by complaint or counterclaim, made in accordance with
12 this Section and recorded in the county in which the mortgaged
13 real estate is located shall be constructive notice of the
14 pendency of the foreclosure to every person claiming an
15 interest in or lien on the mortgaged real estate, whose
16 interest or lien has not been recorded prior to the recording
17 of such notice of foreclosure. Such notice of foreclosure must
18 be executed by any party or any party's attorney and shall
19 include (i) the names of all plaintiffs and the case number,
20 (ii) the court in which the action was brought, (iii) the names
21 of title holders of record, (iv) a legal description of the
22 real estate sufficient to identify it with reasonable
23 certainty, (v) a common address or description of the location
24 of the real estate and (vi) identification of the mortgage

1 sought to be foreclosed. An incorrect common address or
2 description of the location, or an immaterial error in the
3 identification of a plaintiff or title holder of record, shall
4 not invalidate the lis pendens effect of the notice under this
5 Section. A notice which complies with this Section shall be
6 deemed to comply with Section 2-1901 of the Code of Civil
7 Procedure and shall have the same effect as a notice filed
8 pursuant to that Section; however, a notice which complies with
9 Section 2-1901 shall not be constructive notice unless it also
10 complies with the requirements of this Section.

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

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

2 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

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

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

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

3 (3) determine the priority of the judgments of parties
4 who deferred proving the priority pursuant to subsection
5 (h) of Section 15-1506, but the court shall not defer
6 confirming the sale pending the determination of such
7 priority.

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

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

24 (b-10) Notice of confirmation order sent to municipality or
25 county. A copy of the confirmation order required under
26 subsection (b) shall be sent to the municipality in which the

1 foreclosed property is located, or to the county within the
2 boundary of which the foreclosed property is located if the
3 foreclosed property is located in an unincorporated territory.
4 A municipality or county must clearly publish on its website a
5 single address to which such notice shall be sent. If a
6 municipality or county does not maintain a website, then the
7 municipality or county must publicly post in its main office a
8 single address to which such notice shall be sent. In the event
9 that a municipality or county has not complied with the
10 publication requirement in this subsection (b-10), then such
11 notice to the municipality or county shall be provided pursuant
12 to Section 2-211 of the Code of Civil Procedure.

13 (c) Failure to Give Notice. If any sale is held without
14 compliance with subsection (c) of Section 15-1507 of this
15 Article, any party entitled to the notice provided for in
16 paragraph (3) of that subsection (c) who was not so notified
17 may, by motion supported by affidavit made prior to
18 confirmation of such sale, ask the court which entered the
19 judgment to set aside the sale. Any such party shall guarantee
20 or secure by bond a bid equal to the successful bid at the
21 prior sale, unless the party seeking to set aside the sale is
22 the mortgagor, the real estate sold at the sale is residential
23 real estate, and the mortgagor occupies the residential real
24 estate at the time the motion is filed. In that event, no
25 guarantee or bond shall be required of the mortgagor. Any
26 subsequent sale is subject to the same notice requirement as

1 the original sale.

2 (d) Validity of Sale. Except as provided in subsection (c)
3 of Section 15-1508, no sale under this Article shall be held
4 invalid or be set aside because of any defect in the notice
5 thereof or in the publication of the same, or in the
6 proceedings of the officer conducting the sale, except upon
7 good cause shown in a hearing pursuant to subsection (b) of
8 Section 15-1508. At any time after a sale has occurred, any
9 party entitled to notice under paragraph (3) of subsection (c)
10 of Section 15-1507 may recover from the mortgagee any damages
11 caused by the mortgagee's failure to comply with such paragraph
12 (3). Any party who recovers damages in a judicial proceeding
13 brought under this subsection may also recover from the
14 mortgagee the reasonable expenses of litigation, including
15 reasonable attorney's fees.

16 (e) Deficiency Judgment. In any order confirming a sale
17 pursuant to the judgment of foreclosure, the court shall also
18 enter a personal judgment for deficiency against any party (i)
19 if otherwise authorized and (ii) to the extent requested in the
20 complaint and proven upon presentation of the report of sale in
21 accordance with Section 15-1508. Except as otherwise provided
22 in this Article, a judgment may be entered for any balance of
23 money that may be found due to the plaintiff, over and above
24 the proceeds of the sale or sales, and enforcement may be had
25 for the collection of such balance, the same as when the
26 judgment is solely for the payment of money. Such judgment may

1 be entered, or enforcement had, only in cases where personal
2 service has been had upon the persons personally liable for the
3 mortgage indebtedness, unless they have entered their
4 appearance in the foreclosure action.

5 (f) Satisfaction. Upon confirmation of the sale, the
6 judgment stands satisfied to the extent of the sale price less
7 expenses and costs. If the order confirming the sale includes a
8 deficiency judgment, the judgment shall become a lien in the
9 manner of any other judgment for the payment of money.

10 (g) The order confirming the sale shall include,
11 notwithstanding any previous orders awarding possession during
12 the pendency of the foreclosure, an award to the purchaser of
13 possession of the mortgaged real estate, as of the date 30 days
14 after the entry of the order, against the parties to the
15 foreclosure whose interests have been terminated.

16 An order of possession authorizing the removal of a person
17 from possession of the mortgaged real estate shall be entered
18 and enforced only against those persons personally named as
19 individuals in the complaint or the petition under subsection
20 (h) of Section 15-1701 and in the order of possession and shall
21 not be entered and enforced against any person who is only
22 generically described as an unknown owner or nonrecord claimant
23 or by another generic designation in the complaint.

24 Notwithstanding the preceding paragraph, the failure to
25 personally name, include, or seek an award of possession of the
26 mortgaged real estate against a person in the confirmation

1 order shall not abrogate any right that the purchaser may have
2 to possession of the mortgaged real estate and to maintain a
3 proceeding against that person for possession under Article 9
4 of this Code or subsection (h) of Section 15-1701; and
5 possession against a person who (1) has not been personally
6 named as a party to the foreclosure and (2) has not been
7 provided an opportunity to be heard in the foreclosure
8 proceeding may be sought only by maintaining a proceeding under
9 Article 9 of this Code or subsection (h) of Section 15-1701.

10 (Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09.)

11 Section 30. The Residential Real Property Disclosure Act is
12 amended by changing Section 70 as follows:

13 (765 ILCS 77/70)

14 Sec. 70. Predatory lending database program.

15 (a) As used in this Article:

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

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

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

23 "Closing agent" means an individual assigned by a title
24 insurance company or a broker or originator to ensure that the

1 execution of documents related to the closing of a real estate
2 sale or the refinancing of a real estate loan and the
3 disbursement of closing funds are in conformity with the
4 instructions of the entity financing the transaction.

5 "Counseling" means in-person counseling provided by a
6 counselor employed by a HUD-certified counseling agency to all
7 borrowers, or documented telephone counseling where a hardship
8 would be imposed on one or more borrowers. A hardship shall
9 exist in instances in which the borrower is confined to his or
10 her home due to medical conditions, as verified in writing by a
11 physician, or the borrower resides 50 miles or more from the
12 nearest participating HUD-certified housing counseling agency.
13 In instances of telephone counseling, the borrower must supply
14 all necessary documents to the counselor at least 72 hours
15 prior to the scheduled telephone counseling session.

16 "Counselor" means a counselor employed by a HUD-certified
17 housing counseling agency.

18 "Credit score" means a credit risk score as defined by the
19 Fair Isaac Corporation, or its successor, and reported under
20 such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE"
21 by one or more of the following credit reporting agencies or
22 their successors: Equifax, Inc., Experian Information
23 Solutions, Inc., and TransUnion LLC. If the borrower's credit
24 report contains credit scores from 2 reporting agencies, then
25 the broker or loan originator shall report the lower score. If
26 the borrower's credit report contains credit scores from 3

1 reporting agencies, then the broker or loan originator shall
2 report the middle score.

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

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

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

10 "HUD-certified counseling" or "counseling" means
11 counseling given to a borrower by a counselor employed by a
12 HUD-certified housing counseling agency.

13 "Interest only" means a closed-end loan that permits one or
14 more payments of interest without any reduction of the
15 principal balance of the loan, other than the first payment on
16 the loan.

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

19 "Licensee" means that term as it is defined in subsection
20 (e) of Section 1-4 of the Residential Mortgage License Act of
21 1987.

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

25 "Negative amortization" means an amortization method under
26 which the outstanding balance may increase at any time over the

1 course of the loan because the regular periodic payment does
2 not cover the full amount of interest due.

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

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

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

11 "Refinancing" means a loan secured by the borrower's or
12 borrowers' primary residence where the proceeds are not used as
13 purchase money for the residence.

14 "Title insurance company" means any domestic company
15 organized under the laws of this State for the purpose of
16 conducting the business of guaranteeing or insuring titles to
17 real estate and any title insurance company organized under the
18 laws of another State, the District of Columbia, or a foreign
19 government and authorized to transact the business of
20 guaranteeing or insuring titles to real estate in this State.

21 (a-5) A predatory lending database program shall be
22 established within Cook County. The program shall be
23 administered in accordance with this Article. The inception
24 date of the program shall be July 1, 2008. A predatory lending
25 database program shall be expanded to include Kane, Peoria, and
26 Will counties. The inception date of the expansion of the

1 program as it applies to Kane, Peoria, and Will counties shall
2 be July 1, 2010. Until the inception date, none of the duties,
3 obligations, contingencies, or consequences of or from the
4 program shall be imposed. The program shall apply to all
5 mortgage applications that are governed by this Article and
6 that are made or taken on or after the inception of the
7 program.

8 (b) The database created under this program shall be
9 maintained and administered by the Department. The database
10 shall be designed to allow brokers, originators, counselors,
11 title insurance companies, and closing agents to submit
12 information to the database online. The database shall not be
13 designed to allow those entities to retrieve information from
14 the database, except as otherwise provided in this Article.
15 Information submitted by the broker or originator to the
16 Department may be used to populate the online form submitted by
17 a counselor, title insurance company, or closing agent.

18 (c) Within 10 days after taking a mortgage application, the
19 broker or originator for any mortgage on residential property
20 within the program area must submit to the predatory lending
21 database all of the information required under Section 72 and
22 any other information required by the Department by rule.
23 Within 7 days after receipt of the information, the Department
24 shall compare that information to the housing counseling
25 standards in Section 73 and issue to the borrower and the
26 broker or originator a determination of whether counseling is

1 recommended for the borrower. The borrower may not waive
2 counseling. If at any time after submitting the information
3 required under Section 72 the broker or originator (i) changes
4 the terms of the loan or (ii) issues a new commitment to the
5 borrower, then, within 5 days thereafter, the broker or
6 originator shall re-submit all of the information required
7 under Section 72 and, within 4 days after receipt of the
8 information re-submitted by the broker or originator, the
9 Department shall compare that information to the housing
10 counseling standards in Section 73 and shall issue to the
11 borrower and the broker or originator a new determination of
12 whether re-counseling is recommended for the borrower based on
13 the information re-submitted by the broker or originator. The
14 Department shall require re-counseling if the loan terms have
15 been modified to meet another counseling standard in Section
16 73, or if the broker has increased the interest rate by more
17 than 200 basis points.

18 (d) If the Department recommends counseling for the
19 borrower under subsection (c), then the Department shall notify
20 the borrower of all participating HUD-certified counseling
21 agencies located within the State and direct the borrower to
22 interview with a counselor associated with one of those
23 agencies. Within 10 days after receipt of the notice of
24 HUD-certified counseling agencies, the borrower shall select
25 one of those agencies and shall engage in an interview with a
26 counselor associated with that agency. Within 7 days after

1 interviewing the borrower, the counselor must submit to the
2 predatory lending database all of the information required
3 under Section 74 and any other information required by the
4 Department by rule. Reasonable and customary costs not to
5 exceed \$300 associated with counseling provided under the
6 program shall be paid by the broker or originator. The
7 Department shall annually calculate to the nearest dollar an
8 adjusted rate for inflation. A counselor shall not recommend or
9 suggest that a borrower contact any specific mortgage
10 origination company, financial institution, or entity that
11 deals in mortgage finance to obtain a loan, another quote, or
12 for any other reason related to the specific mortgage
13 transaction; however, a counselor may suggest that the borrower
14 seek an opinion or a quote from another mortgage origination
15 company, financial institution, or entity that deals in
16 mortgage finance. A counselor or housing counseling agency that
17 in good faith provides counseling shall not be liable to a
18 broker or originator or borrower for civil damages, except for
19 willful or wanton misconduct on the part of the counselor in
20 providing the counseling.

21 (e) The broker or originator and the borrower may not take
22 any legally binding action concerning the loan transaction
23 until the later of the following:

- 24 (1) the Department issues a determination not to
25 recommend HUD-certified counseling for the borrower in
26 accordance with subsection (c); or

1 (2) the Department issues a determination that
2 HUD-certified counseling is recommended for the borrower
3 and the counselor submits all required information to the
4 database in accordance with subsection (d).

5 (f) Within 10 days after closing, the title insurance
6 company or closing agent must submit to the predatory lending
7 database all of the information required under Section 76 and
8 any other information required by the Department by rule.

9 (g) The title insurance company or closing agent shall
10 attach to the mortgage a certificate of compliance with the
11 requirements of this Article, as generated by the database. If
12 the title insurance company or closing agent fails to attach
13 the certificate of compliance, then the mortgage is not
14 recordable. In addition, if any lis pendens for a residential
15 mortgage foreclosure is recorded on the property within the
16 program area, a certificate of service must be simultaneously
17 recorded that affirms that a copy of the lis pendens was filed
18 with the Department. If the certificate of service is not
19 recorded, then the lis pendens pertaining to the residential
20 mortgage foreclosure in question is not recordable and is of no
21 force and effect.

22 (h) All information provided to the predatory lending
23 database under the program is confidential and is not subject
24 to disclosure under the Freedom of Information Act, except as
25 otherwise provided in this Article. Information or documents
26 obtained by employees of the Department in the course of

1 maintaining and administering the predatory lending database
2 are deemed confidential. Employees are prohibited from making
3 disclosure of such confidential information or documents. Any
4 request for production of information from the predatory
5 lending database, whether by subpoena, notice, or any other
6 source, shall be referred to the Department of Financial and
7 Professional Regulation. Any borrower may authorize in writing
8 the release of database information. The Department may use the
9 information in the database without the consent of the
10 borrower: (i) for the purposes of administering and enforcing
11 the program; (ii) to provide relevant information to a
12 counselor providing counseling to a borrower under the program;
13 or (iii) to the appropriate law enforcement agency or the
14 applicable administrative agency if the database information
15 demonstrates criminal, fraudulent, or otherwise illegal
16 activity.

17 (i) Nothing in this Article is intended to prevent a
18 borrower from making his or her own decision as to whether to
19 proceed with a transaction.

20 (j) Any person who violates any provision of this Article
21 commits an unlawful practice within the meaning of the Consumer
22 Fraud and Deceptive Business Practices Act.

23 (k) During the existence of the program, the Department
24 shall submit semi-annual reports to the Governor and to the
25 General Assembly by May 1 and November 1 of each year detailing
26 its findings regarding the program. The report shall include, l

1 by county, at least the following information for each
2 reporting period:

3 (1) the number of loans registered with the program;

4 (2) the number of borrowers receiving counseling;

5 (3) the number of loans closed;

6 (4) the number of loans requiring counseling for each
7 of the standards set forth in Section 73;

8 (5) the number of loans requiring counseling where the
9 mortgage originator changed the loan terms subsequent to
10 counseling; -

11 (6) the number of licensed mortgage brokers and loan
12 originators entering information into the database;

13 (7) the number of investigations based on information
14 obtained from the database, including the number of
15 licensees fined, the number of licenses suspended, and the
16 number of licenses revoked;

17 (8) a summary of the types of non-traditional mortgage
18 products being offered; and

19 (9) a summary of how the Department is actively
20 utilizing the program to combat mortgage fraud.

21 (Source: P.A. 95-691, eff. 6-1-08; 96-328, eff. 8-11-09.)

22 (225 ILCS 454/5-30 rep.)

23 (225 ILCS 454/5-55 rep.)

24 (225 ILCS 454/20-30 rep.)

25 (225 ILCS 454/20-35 rep.)

1 (225 ILCS 454/20-40 rep.)

2 (225 ILCS 454/20-45 rep.)

3 (225 ILCS 454/20-80 rep.)

4 (225 ILCS 454/20-120 rep.)

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

6 Section 95. The Real Estate License Act of 2000 is amended
7 by repealing Sections 5-30, 5-55, 20-30, 20-35, 20-40, 20-45,
8 20-80, 20-120, and 30-30.

9 Section 97. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law, except that Sections 5, 20, and 95 take effect on
13 December 31, 2009 and Sections 10 and 25 take effect 60 days
14 after becoming law."