



Rep. Robert Rita

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09600SB1925ham001

LRB096 11242 AMC 27087 a

1 AMENDMENT TO SENATE BILL 1925

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1925 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 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 Acts repealed on January 1, 2010 and December  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9 (a) The following Acts are repealed on January 1, 2010: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5 (b) The following Act is repealed on December 31, 2010: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. Acts repealed on January 1, 2020. The following  
10 Acts are repealed on January 1, 2020:

11 The Auction License Act.

12 The Illinois Landscape Architecture Act of 1989.

13 Section 10. The Illinois Landscape Architecture Act of 1989  
14 is amended by changing Sections 1, 3, 4, 5, 6, 7, 8, 9, 11, 13,  
15 15, 16, 17, 18, 18.1, 19, 21, 22.1, 23, 24, 25, 28, and 31 and  
16 by adding Sections 3.5, 6.5, 11.5, and 12.5 as follows:

17 (225 ILCS 315/1) (from Ch. 111, par. 8101)

18 (Section scheduled to be repealed on January 1, 2010)

19 Sec. 1. Purpose. It is the purpose of this Act to provide  
20 for the licensure ~~registration~~ of landscape architects.

21 (Source: P.A. 86-932.)

22 (225 ILCS 315/3) (from Ch. 111, par. 8103)

1 (Section scheduled to be repealed on January 1, 2010)

2 Sec. 3. Definitions. As used in this Act:

3 (a) "Board" means the Illinois Landscape Architect  
4 Registration Board.

5 (b) "Department" means the Illinois Department of  
6 Financial and Professional Regulation.

7 (c) "Secretary Director" means the Secretary Director of  
8 Financial and Professional Regulation.

9 (d) "Landscape Architect" or "Landscape Architect Design  
10 Professional" means a person who, based on education,  
11 experience, and examination ~~or both~~ in the field of landscape  
12 architecture, is licensed ~~eligible to register~~ under this Act.

13 (e) "Landscape Architecture" means the art and science of  
14 arranging land, together with the spaces and objects upon it,  
15 for the purpose of creating a safe, efficient, healthful, and  
16 aesthetically pleasing physical environment for human use and  
17 enjoyment, as performed by landscape architects.

18 (f) "Landscape Architectural Practice" means the offering  
19 or furnishing of professional services in connection with a  
20 landscape architecture project that do not require the seal of  
21 an architect, land surveyor, professional engineer, or  
22 structural engineer. Such services may include ~~including~~, but  
23 are not limited to, providing preliminary studies; developing  
24 design concepts; planning for the relationships of physical  
25 improvements and intended uses of the site; establishing form  
26 and aesthetic elements; analyzing and providing for life safety

1 requirements; developing those construction details on the  
2 site which are exclusive of any building or structure ~~and do~~  
3 ~~not require the seal of an engineer, architect, or structural~~  
4 ~~engineer~~; preparing and coordinating technical submissions;  
5 and conducting site observation of a landscape architecture  
6 project.

7 (g) "Person" means any person, sole proprietorship, or  
8 entity such as a partnership, professional service  
9 corporation, or corporation.

10 (Source: P.A. 86-932.)

11 (225 ILCS 315/3.5 new)

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

13 Sec. 3.5. References.

14 (a) References in this Act (i) to the Department of  
15 Professional Regulation are deemed, in appropriate contexts,  
16 to be references to the Department of Financial and  
17 Professional Regulation and (ii) to the Director of  
18 Professional Regulation are deemed, in appropriate contexts,  
19 to be references to the Secretary of Financial and Professional  
20 Regulation.

21 (b) References to registration in the rules promulgated  
22 pursuant to this Act shall be deemed, in appropriate contexts,  
23 to be references to licensure.

24 (225 ILCS 315/4) (from Ch. 111, par. 8104)

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

2 Sec. 4. Use of title. ~~No After the effective date of this~~  
3 ~~Act,~~ ~~no~~ person may represent himself to be a landscape  
4 architect, ~~or~~ use the title "landscape architect", "registered  
5 landscape architect", "licensed landscape architect",  
6 "landscape architect design professional", or any other title  
7 which includes the words "landscape architect" or "landscape  
8 architecture", unless licensed ~~registered~~ under this Act.

9 (Source: P.A. 86-932.)

10 (225 ILCS 315/5) (from Ch. 111, par. 8105)

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

12 Sec. 5. Practice without license. Nothing in this Act  
13 prevents any person from being engaged in the practice of  
14 landscape architecture so long as he or she does not represent  
15 himself or herself as, or use the titles of, "landscape  
16 architect", ~~or~~ "registered landscape architect", "licensed  
17 landscape architect", "landscape architecture", "landscape  
18 architect design professional", or "landscape architecture  
19 design professional".

20 (Source: P.A. 86-932.)

21 (225 ILCS 315/6) (from Ch. 111, par. 8106)

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

23 Sec. 6. Issuance of Certificate. Whenever an applicant for  
24 licensure ~~registration~~ has complied with the provisions of

1 Section 11 of this Act, the Department shall issue a  
2 certificate of licensure ~~registration~~ to the applicant as a  
3 licensed ~~registered~~ landscape architect subject to the  
4 provisions of this Act.

5 (Source: P.A. 86-932.)

6 (225 ILCS 315/6.5 new)

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

8 Sec. 6.5. Display of license; seal.

9 (a) Every holder of a landscape architect license shall  
10 display his or her certificate of licensure in a conspicuous  
11 place in his or her principal office. A certificate of  
12 registration issued under this Act that is in good standing on  
13 the effective date of this amendatory Act of the 96th General  
14 Assembly shall be deemed to be a certificate of licensure and  
15 the Department shall not be required to issue a new certificate  
16 of licensure to replace it.

17 (b) Every landscape architect shall have a seal, approved  
18 by the Department and the Board, which shall contain the name  
19 of the landscape architect, the number of his or her license,  
20 and the legend "Landscape Architect, State of Illinois" and  
21 other words or figures as the Department deems necessary.  
22 Plans, specifications, and reports related to landscape  
23 architectural practice and prepared by the landscape  
24 architect, or under his or her supervision, shall be stamped  
25 with his or her seal when filed. Notwithstanding the

1 requirements of this Section, an architect, land surveyor,  
2 professional engineer, or structural engineer shall be  
3 permitted to affix his or her professional seal or stamp to any  
4 plans, specifications, and reports prepared by or under his or  
5 her responsible control in connection with the incidental  
6 practice of landscape architecture.

7 (c) A landscape architect who endorses a document with his  
8 or her seal while his or her license is suspended, expired, or  
9 has been revoked, who has been placed on probation or inactive  
10 status, or who endorses a document that the landscape architect  
11 did not actually prepare or supervise the preparation of, is  
12 subject to the penalties prescribed in Section 18.1.

13 (225 ILCS 315/7) (from Ch. 111, par. 8107)

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

15 Sec. 7. ~~Current~~ Address of Record. Every landscape  
16 architect shall maintain a current address with the Department.  
17 It is the duty of every applicant or licensee to inform the  
18 Department of any change of address, and such changes must be  
19 made either through the Department's website or by directly  
20 contacting the Department ~~shall be the responsibility of the~~  
21 ~~registrant to notify the Department in writing of any change of~~  
22 ~~address.~~

23 (Source: P.A. 91-255, eff. 12-30-99.)

24 (225 ILCS 315/8) (from Ch. 111, par. 8108)

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

2 Sec. 8. Powers and Duties of the Department.

3 (a) The Department shall exercise the powers and duties  
4 prescribed by the Civil Administrative Code of Illinois for the  
5 administration of licensing acts and shall exercise such other  
6 powers and duties vested by this Act.

7 (b) The Department shall promulgate rules and regulations  
8 consistent with the provisions of this Act for the  
9 administration and enforcement thereof which shall include  
10 standards and criteria for licensure ~~registration~~ and for the  
11 payment of fees connected therewith. The Department shall  
12 prescribe forms required for the administration of this Act.

13 (c) The Department shall consult the Landscape  
14 Architecture Board in promulgating rules and regulations.  
15 Notice of proposed rulemaking shall be transmitted to the Board  
16 and the Department shall review the Board's response and any  
17 recommendations made therein. The Department shall notify the  
18 Board in writing of the explanation for any deviations from the  
19 Board's recommendations and response.

20 (d) The Department may at any time seek the advice and the  
21 expert knowledge of the Board on any matter relating to the  
22 administration of this Act.

23 (e) The Department shall issue a quarterly report to the  
24 Board setting forth the status of all complaints received by  
25 the Department related to ~~the~~ landscape architectural  
26 ~~architecture~~ practice.



1           (f) The Department shall maintain membership and  
2 representation in the national body composed of state licensing  
3 and testing boards for landscape architects.

4           (Source: P.A. 86-932.)

5           (225 ILCS 315/9) (from Ch. 111, par. 8109)

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

7           Sec. 9. Composition, qualification, and terms of Board.

8           (a) The Secretary ~~Director~~ shall appoint a Board consisting  
9 of 5 persons who are residents of the State of Illinois and who  
10 shall be appointed by and shall serve in an advisory capacity  
11 to the Secretary ~~Director~~. Four persons shall be individuals  
12 experienced in landscape architectural work who would qualify  
13 upon application to the Department under the provisions of this  
14 Act to be licensed ~~registered~~ landscape architects, one of whom  
15 shall be a tenured member of the landscape architecture faculty  
16 of a university located within this State that maintains an  
17 accredited school of landscape architecture ~~the University of~~  
18 ~~Illinois~~ and 3 of whom shall have engaged in landscape  
19 architectural work for at least 5 years. The fifth person shall  
20 be a public member, not an employee of the State of Illinois,  
21 who is not licensed or registered under this Act or a similar  
22 Act of another jurisdiction. The public member may not be  
23 elected or appointed as chairman of the Board or serve in such  
24 capacity in any other manner.

25           (b) Members of the Board shall serve 5 year terms and until

1 their successors are appointed and qualified. No member shall  
2 be reappointed to the Board for a term which would cause that  
3 member's cumulative service on the Board to be longer than 10  
4 years. No member who is an initial appointment to the Board  
5 shall be reappointed to the Board for a term which would cause  
6 that member's cumulative service on the Board to be longer than  
7 13 years. Appointments to fill vacancies shall be made in the  
8 same manner as original appointments for the unexpired portion  
9 of the vacated term. Initial terms shall begin upon the  
10 effective date of this Act.

11 (c) The Secretary ~~Director~~ may remove any member of the  
12 Board for cause, which may include without limitation a member  
13 who does not attend 2 consecutive meetings.

14 (d) The Secretary ~~Director~~ shall consider the  
15 recommendations of the Board on questions involving standards  
16 of professional conduct, discipline, and qualifications of  
17 applicants ~~candidates~~ and licensees ~~registrants~~ under this  
18 Act.

19 (e) Three members ~~A quorum~~ of the Board shall constitute a  
20 quorum ~~consist of a majority of members currently appointed~~. A  
21 ~~majority vote of the~~ quorum is required for Board ~~board~~  
22 decisions.

23 (f) The Board shall annually elect a chairperson and vice  
24 chairperson, both of whom shall be licensed landscape  
25 architects.

26 (Source: P.A. 91-255, eff. 12-30-99.)

1 (225 ILCS 315/11) (from Ch. 111, par. 8111)

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

3 Sec. 11. Licensure ~~Registration~~ Qualifications.

4 (a) Every person applying to the Department for licensure  
5 ~~registration~~ shall do so on forms approved by the Department  
6 and shall pay the required fee. Every person applying to the  
7 Department for licensure ~~registration~~ shall submit, with his  
8 application, satisfactory evidence that the person holds an  
9 approved professional degree in landscape architecture from an  
10 approved and accredited program, as such terms are defined by  
11 the rules and regulations of the Department, and that he has  
12 had such practical experience in landscape architectural work  
13 as shall be required by the rules and regulations of the  
14 Department. ~~Every In lieu of evidence of any approved~~  
15 ~~professional degree in landscape architecture, the applicant~~  
16 ~~may submit satisfactory evidence of such other education or~~  
17 ~~experience as shall be required by the rules and regulations of~~  
18 ~~the Department; provided, however, that after January 1, 1993~~  
19 ~~every~~ applicant for initial licensure ~~registration~~ must have an  
20 approved professional degree. If an applicant is qualified the  
21 Department shall, by means of a written examination, examine  
22 the applicant on such technical and professional subjects as  
23 shall be required by the rules and regulations of the  
24 Department.

25 (b) The Department may exempt from such written examination

1 an applicant who holds a certificate of qualification issued by  
2 the National Council of Landscape Architecture Registration  
3 Boards, or who holds a registration or license in another state  
4 which has equivalent or substantially equivalent requirements  
5 as the State of Illinois.

6 (c) The Department shall adopt rules determining  
7 requirements for practical training and education. The  
8 Department may also adopt the examinations and recommended  
9 grading procedures of the National Council of Landscape  
10 Architectural Registration Boards and the accreditation  
11 procedures of the Landscape Architectural Accrediting Board.  
12 The Department shall issue a certificate of licensure  
13 ~~registration~~ to each applicant who satisfies the requirements  
14 set forth in this Section. Such licensure ~~registration~~ shall be  
15 effective upon issuance.

16 (d) If an applicant neglects, fails without an approved  
17 excuse, or refuses to take an examination or fails to pass an  
18 examination to obtain a certificate of licensure ~~registration~~  
19 under this Act within 3 years after filing the application, the  
20 application shall be denied. However, such applicant may  
21 thereafter submit a new application accompanied by the required  
22 fee.

23 (e) For a period of 2 years after the effective date of  
24 this amendatory Act of the 96th General Assembly, persons  
25 demonstrating to the Department that they have been engaged in  
26 landscape architectural practice for a period of 10 years and

1 have an accredited degree and license in urban or regional  
2 planning, architecture, or civil engineering are eligible to  
3 achieve licensure through examination. ~~Any person who has been~~  
4 ~~engaged in the practice of landscape architecture prior to the~~  
5 ~~effective date of this Act, shall, upon application within 2~~  
6 ~~years from the effective date of this Act and upon payment of~~  
7 ~~the required current registration fee and application fee, be~~  
8 ~~issued registration without examination upon furnishing to the~~  
9 ~~Department satisfactory proof that he was so engaged prior to~~  
10 ~~such date. The Director, through the Board, shall accept as~~  
11 ~~satisfactory evidence of the competency and qualifications of~~  
12 ~~the applicant for registration the following:~~

13 ~~(1) A diploma of graduation or satisfactory completion~~  
14 ~~certificate from a college, school, or university offering~~  
15 ~~an accredited program in landscape architecture, together~~  
16 ~~with evidence of at least 2 years of actual, practical~~  
17 ~~experience in landscape architectural work of a grade and~~  
18 ~~character acceptable to the Board; or~~

19 ~~(2) Evidence that the applicant has a total of at least~~  
20 ~~7 years of actual, practical experience in landscape~~  
21 ~~architectural work of a grade and character acceptable to~~  
22 ~~the Board and has been actually engaged in the active~~  
23 ~~practice of landscape architecture for not less than 4~~  
24 ~~years immediately prior to the effective date of this Act.~~

25 (Source: P.A. 91-255, eff. 12-30-99.)

1 (225 ILCS 315/11.5 new)

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

3 Sec. 11.5. Professional liability.

4 (a) Any individual licensed under this Act as a landscape  
5 architect is liable for his or her negligent or willful acts,  
6 errors, and omissions and any shareholder, member, or partner  
7 of any entity that provides landscape architecture services  
8 through an individual licensed under this Act is liable for the  
9 negligent or willful acts, errors, and omissions of the  
10 employees, members, and partners of the entity. Eligible claims  
11 of liability may be covered under a qualifying policy of  
12 professional liability insurance, as set forth in subsection  
13 (b) of this Section, maintained by an individual or entity.

14 (b) A qualifying policy of professional liability  
15 insurance must insure an individual or entity against liability  
16 imposed upon it by law for damages arising out of the negligent  
17 acts, errors, and omissions of the individual or of the  
18 licensed and unlicensed employees, members, and partners of the  
19 entity. The policy may exclude coverage of the following:

20 (1) a dishonest, fraudulent, criminal, or malicious  
21 act or omission of the insured individual or entity or any  
22 stockholder, employee, member, or partner of the insured  
23 entity;

24 (2) the conducting of a business enterprise that is not  
25 landscape architectural practice by the insured individual  
26 or entity;

1           (3) the conducting of a business enterprise in which  
2           the insured individual or entity may be a partner or that  
3           may be controlled, operated, or managed by the individual  
4           or entity in its own or in a fiduciary capacity, including  
5           without limitation the ownership, maintenance, or use of  
6           property;

7           (4) bodily injury, sickness, disease, or death of a  
8           person; or

9           (5) damage to or destruction of tangible property owned  
10          by the insured individual or entity.

11          The policy may include any other reasonable provisions with  
12          respect to policy periods, territory, claims, conditions, and  
13          ministerial matters.

14           (225 ILCS 315/12.5 new)

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

16          Sec. 12.5. Continuing education. The Department may adopt  
17          rules of continuing education for persons licensed under this  
18          Act. The Department shall consider the recommendations of the  
19          Board in establishing the guidelines for the continuing  
20          education requirements. Rules adopted under this Section apply  
21          to any person seeking renewal or restoration of licensure under  
22          this Act. The continuing education shall consist of at least 6  
23          hours per year and may include relevant courses offered in  
24          various formats or mediums.

1 (225 ILCS 315/13) (from Ch. 111, par. 8113)

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

3 Sec. 13. Inactive Status.

4 (a) Any landscape architect who notifies the Department in  
5 writing on forms prescribed by the Department may elect to  
6 place his or her license ~~registration~~ on an inactive status and  
7 shall be excused from payment of renewal fees until he or she  
8 notifies the Department in writing of his or her desire to  
9 resume active status.

10 (b) Any person whose license has been expired for more than  
11 3 years may have his or her license restored by making  
12 application to the Department and filing proof acceptable to  
13 the Department of his or her fitness to have his or her license  
14 restored, including evidence certifying to active practice in  
15 another jurisdiction, and by paying the required restoration  
16 fee.

17 (c) Any landscape architect whose license ~~registration~~ is  
18 in an inactive status, has been suspended or revoked, or has  
19 expired shall not represent himself or herself to be a  
20 landscape architect or use the title "landscape architect",  
21 "registered landscape architect", "licensed landscape  
22 architect", or any other title which includes the words  
23 "landscape architect" or "landscape architecture".

24 (Source: P.A. 86-932.)

25 (225 ILCS 315/15) (from Ch. 111, par. 8115)



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

2 Sec. 15. Disposition of funds. All of the fees collected  
3 pursuant to this Act shall be deposited in the General  
4 Professions Dedicated Fund.

5 On January 1, 2000 the State Comptroller shall transfer the  
6 balance of the monies in the Landscape Architects'  
7 Administration and Investigation Fund into the General  
8 Professions Dedicated Fund. Amounts appropriated for fiscal  
9 year 2000 out of the Landscape Architects' Administration and  
10 Investigation Fund may be paid out of the General Professions  
11 Dedicated Fund.

12 The monies deposited in the General Professions Dedicated  
13 Fund may be used for the expenses of the Department in the  
14 administration of this Act.

15 Moneys from the Fund may also be used for direct and  
16 allocable indirect costs related to the public purposes of the  
17 Department of Financial and Professional Regulation. Moneys in  
18 the Fund may be transferred to the Professions Indirect Cost  
19 Fund as authorized by Section 2105-300 of the Department of  
20 Professional Regulation Law (20 ILCS 2105/2105-300).

21 (Source: P.A. 91-239, eff. 1-1-00; 91-255, eff. 12-30-99;  
22 92-16, eff. 6-28-01.)

23 (225 ILCS 315/16) (from Ch. 111, par. 8116)

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

25 Sec. 16. Roster. The Department shall maintain a roster of

1 the names and addresses of all licensed ~~registered~~ landscape  
2 architects. This roster shall be available upon written request  
3 and payment of the required fee.

4 (Source: P.A. 86-932.)

5 (225 ILCS 315/17) (from Ch. 111, par. 8117)

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

7 Sec. 17. Advertising. Any person licensed ~~registered~~ under  
8 this Act may advertise the availability of professional  
9 services in the public media or on the premises where such  
10 professional services are rendered provided that such  
11 advertising is truthful and not misleading.

12 (Source: P.A. 86-932.)

13 (225 ILCS 315/18) (from Ch. 111, par. 8118)

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

15 Sec. 18. Violation; injunction; cease and desist order.

16 (a) If any person violates the provisions of this Act, the  
17 Secretary ~~Director~~ may, in the name of the People of the State  
18 of Illinois, through the Attorney General of the State of  
19 Illinois or the State's Attorney of any county in which the  
20 action is brought, petition for an order enjoining such  
21 violation and for an order enforcing compliance with this Act.  
22 Upon the filing of a verified petition in court, the court may  
23 issue a temporary restraining order, without notice or bond,  
24 and may preliminarily and permanently enjoin such violation. If

1 it is established that such person has violated or is violating  
2 the injunction, the Court may punish the offender for contempt  
3 of court. Proceedings under this Section shall be in addition  
4 to, and not in lieu of, all other remedies and penalties  
5 provided by this Act.

6 (b) If any person shall hold himself or herself out as a  
7 "landscape architect", "licensed landscape architect", or  
8 "registered landscape architect", or use any other title that  
9 includes the words "landscape architect" or "landscape  
10 architecture" without being licensed ~~registered~~ under the  
11 provisions of this Act, then any licensed ~~registered~~ landscape  
12 architect, any interested party or any person injured thereby  
13 may, in addition to the Secretary ~~Director~~, petition for relief  
14 as provided in subsection (a) of this Section.

15 (c) Whoever holds himself or herself out as a "landscape  
16 architect", "licensed landscape architect", or ~~a~~ "registered  
17 landscape architect", or uses any other title that includes the  
18 words "landscape architect" or "landscape architecture" in  
19 this State without being licensed under this Act ~~registered for~~  
20 ~~that purpose~~ shall be guilty of a Class A misdemeanor, and for  
21 each subsequent conviction shall be guilty of a Class 4 felony.

22 (d) Whenever, in the opinion of the Department, a person  
23 violates any provision of this Act, the Department may issue a  
24 rule to show cause why an order to cease and desist should not  
25 be entered against that person. The rule shall clearly set  
26 forth the grounds relied upon by the Department and shall allow

1 the person at least 7 days from the date of the rule to file an  
2 answer that is satisfactory to the Department. Failure to  
3 answer to the satisfaction of the Department shall cause an  
4 order to cease and desist to be issued.

5 (Source: P.A. 88-363.)

6 (225 ILCS 315/18.1)

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

8 Sec. 18.1. Grounds for Discipline.

9 (a) The Department may refuse to issue or to, renew, or may  
10 revoke, suspend, place on probation, reprimand, or take other  
11 disciplinary or non-disciplinary action as deemed appropriate  
12 including the impositions of fines ~~the Department considers~~  
13 ~~appropriate, including the issuance of fines~~ not to exceed  
14 \$10,000 ~~\$1,000~~ for each violation, as the Department may deem  
15 proper with regard to any license for any one or combination  
16 ~~more~~ of the following:

17 (1) Material misstatement in furnishing information to  
18 the Department or to any other State agency.

19 (2) Negligent or intentional disregard of this Act, or  
20 violation of any rules under this Act.

21 (3) Conviction of or plea of guilty or nolo contendere  
22 to any crime under the laws of the United States or any  
23 state or territory thereof that is a felony, or that is a  
24 misdemeanor, an essential element of which is dishonesty,  
25 or of any crime that is directly related to the practice of

1 the profession.

2 (4) Making any misrepresentation for the purpose of  
3 obtaining a license, or violating any provision of this Act  
4 or its rules.

5 (5) Professional incompetence or gross negligence in  
6 the rendering of landscape architectural services.

7 (6) Aiding or assisting another person in violating any  
8 provision of this Act or any rules.

9 (7) Failing to provide information within 60 days in  
10 response to a written request made by the Department.

11 (8) Engaging in dishonorable, unethical, or  
12 unprofessional conduct of a character likely to deceive,  
13 defraud, or harm the public and violating the rules of  
14 professional conduct adopted by the Department.

15 (9) Habitual or excessive use or addiction to alcohol,  
16 narcotics, stimulants, or any other chemical agent or drug  
17 that results in an inability to practice with reasonable  
18 skill, judgment, or safety.

19 (10) Discipline by another jurisdiction, if at least  
20 one of the grounds for the discipline is the same or  
21 substantially equivalent to those set forth in this  
22 Section.

23 (11) Directly or indirectly giving to or receiving from  
24 any person, firm, corporation, partnership, or association  
25 any fee, commission, rebate, or other form of compensation  
26 for any professional service not actually rendered.

1           (12) A finding by the Board that the licensee, after  
2           having the license placed on probationary status, has  
3           violated the terms of probation.

4           (12.5) A finding by the Board that the licensee has  
5           failed to pay a fine imposed by the Department.

6           (13) Abandonment of a client.

7           (14) Willfully filing false reports relating to a  
8           licensee's practice, including but not limited to, false  
9           records filed with federal or State agencies or  
10          departments.

11          (15) Being named as a perpetrator in an indicated  
12          report by the Department of Children and Family Services  
13          under the Abused and Neglected Child Reporting Act, and  
14          upon proof by clear and convincing evidence that the  
15          licensee has caused a child to be an abused child or  
16          neglected child as defined in the Abused and Neglected  
17          Child Reporting Act.

18          (16) Physical or mental disability, including  
19          deterioration through the aging process or loss of  
20          abilities and skills that results in the inability to  
21          practice the profession with reasonable judgment, skill,  
22          or safety.

23          (17) Solicitation of professional services by using  
24          false or misleading advertising.

25          (18) Failure to file a return, or to pay the tax,  
26          penalty, or interest shown in a filed return, or to pay any

1 final assessment of tax, penalty, or interest, as required  
2 by any tax Act administered by the Illinois Department of  
3 Revenue or any successor agency or the Internal Revenue  
4 Service or any successor agency.

5 (b) Any fines imposed under this Section shall not exceed  
6 \$10,000 ~~\$1,000~~ for each violation.

7 (c) The determination by a court that a licensee is subject  
8 to involuntary admission or judicial admission as provided in  
9 the Mental Health and Developmental Disabilities Code will  
10 result in an automatic suspension of his or her license. The  
11 suspension will end upon a finding by a court that the licensee  
12 is no longer subject to involuntary admission or judicial  
13 admission, the issuance of an order so finding and discharging  
14 the patient, and the recommendation of the Board to the  
15 Secretary ~~Director~~ that the licensee be allowed to resume  
16 professional practice.

17 (d) In enforcing this Section, the Board, upon a showing of  
18 a possible violation, may compel a person licensed ~~registered~~  
19 under this Act or who has applied for licensure ~~registration~~  
20 pursuant to this Act to submit to a mental or physical  
21 examination, or both, as required by and at the expense of the  
22 Department. The examining physicians shall be those  
23 specifically designated by the Board. The Board or the  
24 Department may order the examining physician to present  
25 testimony concerning this mental or physical examination of the  
26 licensee ~~registrant~~ or applicant. No information shall be

1 excluded by reason of any common law or statutory privilege  
2 relating to communications between the licensee ~~registrant~~ or  
3 applicant and the examining physician. The person to be  
4 examined may have, at his or her own expense, another physician  
5 of his or her choice present during all aspects of the  
6 examination. Failure of any person to submit to a mental or  
7 physical examination when directed shall be grounds for  
8 suspension of a license ~~registration~~ until the person submits  
9 to the examination if the Board finds, after notice and  
10 hearing, that the refusal to submit to the examination was  
11 without reasonable cause.

12 If the Board finds a person unable to practice because of  
13 the reasons set forth in this Section, the Board may require  
14 that person to submit to care, counseling, or treatment by  
15 physicians approved or designated by the Board as a condition,  
16 term, or restriction for continued, reinstated, or renewed  
17 licensure ~~registration~~; or, in lieu of care, counseling, or  
18 treatment, the Board may recommend that the Department file a  
19 complaint to immediately suspend, revoke, or otherwise  
20 discipline the license ~~registration~~ of the person. Any person  
21 whose license ~~registration~~ was granted, continued, reinstated,  
22 renewed, disciplined, or supervised subject to such terms,  
23 conditions, or restrictions and who fails to comply with such  
24 terms, conditions, or restrictions shall be referred to the  
25 Secretary ~~Director~~ for a determination as to whether the person  
26 shall have his or her license ~~registration~~ suspended



1 immediately, pending a hearing by the Board.

2 (Source: P.A. 91-255, eff. 12-30-99.)

3 (225 ILCS 315/19) (from Ch. 111, par. 8119)

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

5 Sec. 19. Investigation; notice and hearing. The Department  
6 may investigate the actions or qualifications of any applicant  
7 or person holding or claiming to hold a license ~~certificate of~~  
8 ~~registration~~. The Department shall, before suspending or  
9 revoking, placing on probation, reprimanding, or taking any  
10 other disciplinary action under Section 18.1 of this Act, at  
11 least 30 days before the date set for the hearing, notify the  
12 applicant or licensee ~~holder of a certificate of registration~~  
13 in writing of the nature of the charges and that a hearing will  
14 be held on the date designated. The written notice may be  
15 served by personal delivery or certified or registered mail to  
16 the applicant or licensee at the address of record with his  
17 ~~last notification to~~ the Department. The Department shall  
18 direct the applicant or licensee to file a written answer with  
19 the Department, under oath, within 20 days after the service of  
20 the notice, and inform the person that if he or she fails to  
21 file an answer, his or her license may be revoked, suspended,  
22 placed on probation, reprimanded, or the Department may take  
23 any other additional disciplinary action including the  
24 issuance of fines, not to exceed \$10,000 ~~\$1,000~~ for each  
25 violation, as the Department may consider necessary, without a

1 hearing. At the time and place fixed in the notice, the Board  
2 shall proceed to hear the charges and the parties or their  
3 counsel. All parties shall be accorded an opportunity to  
4 present any statements, testimony, evidence, and arguments as  
5 may be pertinent to the charges or to their defense. The Board  
6 may continue the hearing from time to time.

7 (Source: P.A. 87-1031; 88-363.)

8 (225 ILCS 315/21) (from Ch. 111, par. 8121)

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

10 Sec. 21. Subpoenas; depositions; oaths. The Department has  
11 power to subpoena and bring before it any person and to take  
12 testimony either orally or by deposition, or both, with the  
13 same fees and mileage and in the same manner as prescribed in  
14 civil cases in circuit courts of this State.

15 The Secretary ~~Director~~, the designated hearing officer,  
16 and every member of the Board has the power to administer oaths  
17 to witnesses at any hearing which the Department is authorized  
18 to conduct, and any other oaths authorized in any Act  
19 administered by the Department.

20 (Source: P.A. 88-363.)

21 (225 ILCS 315/22.1)

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

23 Sec. 22.1. Findings and recommendations. At the conclusion  
24 of the hearing, the Board shall present to the Secretary

1 ~~Director~~ a written report of its findings of fact, conclusions  
2 of law, and recommendations. The report shall contain a finding  
3 whether the licensee violated this Act or failed to comply with  
4 the conditions required in this Act. The Board shall specify  
5 the nature of the violation or failure to comply, and shall  
6 make its recommendations to the Secretary ~~Director~~.

7 The report of findings of fact, conclusions of law, and  
8 recommendation of the Board shall be the basis for the  
9 Department's order for refusal or for the granting of the  
10 license. If the Secretary ~~Director~~ disagrees with the  
11 recommendations of the Board, the Secretary ~~Director~~ may issue  
12 an order in contravention of the Board recommendations. The  
13 Secretary ~~Director~~ shall provide a written report to the Board  
14 on any disagreement and shall specify the reasons for the  
15 action in the final order. The findings are not admissible in  
16 evidence against the person in a criminal prosecution for  
17 violation of this Act, but the hearing and findings are not a  
18 bar to a criminal prosecution for violation of this Act.

19 (Source: P.A. 88-363.)

20 (225 ILCS 315/23) (from Ch. 111, par. 8123)

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

22 Sec. 23. Board; Rehearing. At the conclusion of the  
23 hearing, a copy of the Board's report shall be served upon the  
24 accused person, either personally or as provided in this Act  
25 for the service of the notice. Within 20 days after such

1 service, the applicant or licensee may present to the  
2 Department a motion in writing for a rehearing which shall  
3 specify the particular grounds for rehearing. If no motion for  
4 a rehearing is filed, then upon the expiration of the time  
5 specified for filing such a motion, or if a motion for  
6 rehearing is denied, then upon the denial, the Secretary  
7 ~~Director~~ may enter any order in accordance with recommendations  
8 of the Board, except as provided in Section 120 of this Act. If  
9 the applicant or licensee requests and pays for a transcript of  
10 the record within the time for filing a motion for rehearing,  
11 the 20-day period within which a motion may be filed shall  
12 commence upon the delivery of the transcript to the applicant  
13 or licensee.

14 Whenever the Secretary ~~Director~~ is not satisfied that  
15 substantial justice has been done, he may order a rehearing by  
16 the same or another special board. At the expiration of the  
17 time specified for filing a motion for a rehearing the  
18 Secretary ~~Director~~ has the right to take the action recommended  
19 by the Board.

20 (Source: P.A. 88-363.)

21 (225 ILCS 315/24) (from Ch. 111, par. 8124)

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

23 Sec. 24. Appointment of a hearing officer. The Secretary  
24 ~~Director~~ has the authority to appoint any attorney licensed to  
25 practice law in the State of Illinois to serve as the hearing

1 officer in any action for refusal to issue or renew a license  
2 or permit or to discipline a licensee. The Secretary ~~Director~~  
3 shall notify the Board of any such appointment. The hearing  
4 officer has full authority to conduct the hearing. At least one  
5 member of the Board shall attend each hearing. The hearing  
6 officer shall report his findings of fact, conclusions of law  
7 and recommendations to the Board and the Secretary ~~Director~~.  
8 The Board has 60 days from receipt of the report to review it  
9 and present its findings of fact, conclusions of law and  
10 recommendations to the Secretary ~~Director~~. If the Board fails  
11 to present its report within the 60 day period, the Secretary  
12 ~~Director~~ shall issue an order based on the report of the  
13 hearing officer. If the Secretary ~~Director~~ disagrees with the  
14 recommendation of the Board or hearing officer, the Secretary  
15 ~~Director~~ may issue an order in contravention of the  
16 recommendation. The Secretary ~~Director~~ shall promptly provide  
17 a written explanation to the Board on any disagreement.

18 (Source: P.A. 88-363.)

19 (225 ILCS 315/25) (from Ch. 111, par. 8125)

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

21 Sec. 25. Order or certified copy; prima facie proof. An  
22 order or a certified copy thereof, over the seal of the  
23 Department and purporting to be signed by the Secretary  
24 ~~Director~~, shall be prima facie proof that:

25 (a) the signature is the genuine signature of the

1        Secretary Director;

2            (b) the Secretary Director is duly appointed and  
3        qualified; and

4            (c) the Board and the members thereof are qualified to  
5        act.

6        (Source: P.A. 91-357, eff. 7-29-99.)

7            (225 ILCS 315/28) (from Ch. 111, par. 8128)

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

9            Sec. 28. Summary suspension of a license. The Secretary  
10        ~~Director~~ may summarily suspend the license of a landscape  
11        architect without a hearing, simultaneously with the  
12        institution of proceedings for a hearing provided for in  
13        Section 24 of this Act, if the Secretary Director finds that  
14        evidence in the possession of the Secretary Director indicates  
15        that the continuation in practice by the landscape architect  
16        would constitute an imminent danger to the public. In the event  
17        that the Secretary Director temporarily suspends the license of  
18        an individual without a hearing, a hearing must be held within  
19        30 days after such suspension has occurred.

20        (Source: P.A. 88-363.)

21            (225 ILCS 315/31) (from Ch. 111, par. 8131)

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

23            Sec. 31. Administrative Procedure Act. The Illinois  
24        Administrative Procedure Act is hereby expressly adopted and

1 incorporated herein as if all of the provisions of that Act  
2 were included in this Act, except that the provision of  
3 subsection (d) of Section 10-65 of the Illinois Administrative  
4 Procedure Act that provides that at hearings the licensee has  
5 the right to show compliance with all lawful requirements for  
6 retention, continuation or renewal of the license is  
7 specifically excluded. For the purposes of this Act the notice  
8 required under Section 10-25 of the Illinois Administrative  
9 Procedure Act is deemed sufficient when mailed to the ~~last~~  
10 ~~known~~ address of record of a party.

11 (Source: P.A. 88-45.)

12 (225 ILCS 315/4.5 rep.)

13 Section 15. The Illinois Landscape Architecture Act of 1989  
14 is amended by repealing Section 4.5.

15 Section 20. The Auction License Act is amended by changing  
16 Sections 5-10, 10-1, 10-20, 10-27, 10-30, 10-35, 10-40, 10-45,  
17 10-50, 15-5, 15-10, 20-5, 20-15, 20-40, 20-50, 20-55, 20-80,  
18 and 30-30 and by adding Sections 10-15a, 20-43, 20-56, 30-7 and  
19 30-13 as follows:

20 (225 ILCS 407/5-10)

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

22 Sec. 5-10. Definitions. As used in this Act:

23 "Advertisement" means any written, oral, or electronic

1 communication that contains a promotion, inducement, or offer  
2 to conduct an auction or offer to provide an auction service,  
3 including but not limited to brochures, pamphlets, radio and  
4 television scripts, telephone and direct mail solicitations,  
5 electronic media, and other means of promotion.

6 "Advisory Board" or "Board" means the Auctioneer Advisory  
7 Board.

8 "Associate auctioneer" means a person who conducts an  
9 auction, but who is under the direct supervision of, and is  
10 sponsored by, a licensed auctioneer or auction firm.

11 "Auction" means the sale or lease of property, real or  
12 personal, by means of exchanges between an auctioneer ~~or~~  
13 ~~associate auctioneer~~ and prospective purchasers or lessees,  
14 which consists of a series of invitations for offers made by  
15 the auctioneer ~~or associate auctioneer~~ and offers by  
16 prospective purchasers or lessees for the purpose of obtaining  
17 an acceptable offer for the sale or lease of the property,  
18 including the sale or lease of property via mail,  
19 telecommunications, or the Internet.

20 "Auction contract" means a written agreement between an  
21 auctioneer, ~~associate auctioneer,~~ or auction firm and a seller  
22 or sellers.

23 "Auction firm" means any corporation, partnership, or  
24 limited liability company that acts as an auctioneer and  
25 provides an auction service.

26 "Auction school" means any educational institution, public



1 or private, which offers a curriculum of auctioneer education  
2 and training approved by the Department.

3 "Auction service" means the service of arranging,  
4 managing, advertising, or conducting auctions.

5 "Auctioneer" means a person or entity who, for another, for  
6 a fee, compensation, commission, or any other valuable  
7 consideration at auction or with the intention or expectation  
8 of receiving valuable consideration by the means of or process  
9 of an auction or sale at auction or providing an auction  
10 service, offers, negotiates, or attempts to negotiate an  
11 auction contract, sale, purchase, or exchange of goods,  
12 chattels, merchandise, personal property, real property, or  
13 any commodity that may be lawfully kept or offered for sale by  
14 or at auction.

15 "Address of Record" means the designated address recorded  
16 by the Department in the applicant's or licensee's application  
17 file or license file maintained by the Department. It is the  
18 duty of the applicant or licensee to inform the Department of  
19 any change of address, and such changes must be made either  
20 through the Department's website or by directly contacting the  
21 Department.

22 "Buyer premium" means any fee or compensation paid by the  
23 successful purchaser of property sold or leased at or by  
24 auction, to the auctioneer, auction firms, seller, lessor, or  
25 other party to the transaction, other than the purchase price.

26 "Department" means the Department of Financial and

1 Professional Regulation.

2 "Goods" means chattels, movable goods, merchandise, or  
3 personal property or commodities of any form or type that may  
4 be lawfully kept or offered for sale.

5 "Licensee" means any person licensed under this Act.

6 "Managing auctioneer" means any person licensed as an  
7 auctioneer who manages and supervises licensees sponsored by an  
8 auction firm or auctioneer.

9 "Person" means an individual, association, partnership,  
10 corporation, or limited liability company or the officers,  
11 directors, or employees of the same.

12 "Pre-renewal period" means the 24 months prior to the  
13 expiration date of a license issued under this Act.

14 "Secretary" means the Secretary of the Department of  
15 Financial and Professional Regulation or his or her designee.

16 "Sponsoring auctioneer" means the auctioneer or auction  
17 firm who has issued a sponsor card to a licensed ~~associate~~  
18 ~~auctioneer or~~ auctioneer.

19 "Sponsor card" means the temporary permit issued by the  
20 sponsoring auctioneer certifying that the licensee named  
21 thereon is employed by or associated with the sponsoring  
22 auctioneer and the sponsoring auctioneer shall be responsible  
23 for the actions of the sponsored licensee.

24 (Source: P.A. 95-572, eff. 6-1-08.)

25 (225 ILCS 407/10-1)

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

2 Sec. 10-1. Necessity of license; exemptions.

3 (a) It is unlawful for any person, corporation, limited  
4 liability company, partnership, or other entity to conduct an  
5 auction, provide an auction service, hold himself or herself  
6 out as an auctioneer, or advertise his or her services as an  
7 auctioneer in the State of Illinois without a license issued by  
8 the Department under this Act, except at:

9 (1) an auction conducted solely by or for a  
10 not-for-profit organization for charitable purposes in  
11 which the individual receives no compensation;

12 (2) an auction conducted by the owner of the property,  
13 real or personal;

14 (3) an auction for the sale or lease of real property  
15 conducted by a licensee under the Real Estate License Act,  
16 or its successor Acts, in accordance with the terms of that  
17 Act;

18 (4) an auction conducted by a business registered as a  
19 market agency under the federal Packers and Stockyards Act  
20 (7 U.S.C. 181 et seq.) or under the Livestock Auction  
21 Market Law;

22 (5) an auction conducted by an agent, officer, or  
23 employee of a federal agency in the conduct of his or her  
24 official duties; and

25 (6) an auction conducted by an agent, officer, or  
26 employee of the State government or any political

1 subdivision thereof performing his or her official duties.

2 (b) Nothing in this Act shall be construed to apply to a  
3 new or used vehicle dealer or a vehicle auctioneer licensed by  
4 the Secretary of State of Illinois, or to any employee of the  
5 licensee, who is a resident of the State of Illinois, while the  
6 employee is acting in the regular scope of his or her  
7 employment for the licensee while conducting an auction that is  
8 not open to the public, provided that only new or used vehicle  
9 dealers, rebuilders, automotive parts recyclers, or scrap  
10 processors licensed by the Secretary of State or licensed by  
11 another state or jurisdiction may buy property at the auction,  
12 or to sales by or through the licensee. Out-of-state salvage  
13 vehicle buyers licensed in another state or jurisdiction may  
14 also buy property at the auction.

15 (c) Nothing in this Act shall be construed to prohibit a  
16 person under the age of 18 from selling property under \$250 in  
17 value while under the direct supervision of a licensed  
18 auctioneer.

19 (d) Nothing in this Act, except Section 10-27, shall be  
20 construed to apply to a person while providing an Internet  
21 auction listing service as defined in Section 10-27.

22 (Source: P.A. 95-572, eff. 6-1-08; 95-783, eff. 1-1-09.)

23 (225 ILCS 407/10-15a new)

24 Sec. 10-15a. Associate auctioneer license; discontinuance.

25 (a) Upon the effective date of this amendatory Act of the

1 96th General Assembly, the Department shall no longer issue or  
2 renew any associate auctioneer license.

3 (b) Any person who holds a valid license as an associate  
4 auctioneer on the effective date of this amendatory Act of the  
5 96th General Assembly shall be issued an auctioneer license  
6 without having to apply to the Department or pay any fee. Such  
7 licensee's previous record as an associate auctioneer,  
8 including any past discipline imposed on him or her, shall be  
9 become part of his or her auctioneer license record. The  
10 expiration date of such licensee's auctioneer license shall be  
11 the same as the expiration date of his or her associate  
12 auctioneer license.

13 (c) Upon receipt of an auctioneer license issued by the  
14 Department pursuant to this Section, a licensee's associate  
15 auctioneer license shall no longer be valid.

16 (225 ILCS 407/10-20)

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

18 Sec. 10-20. Requirements for auction firm license;  
19 application. Any corporation, limited liability company, or  
20 partnership who desires to obtain an auction firm license  
21 shall:

22 (1) apply to the Department on forms provided by the  
23 Department accompanied by the required fee; ~~and~~

24 (2) provide evidence to the Department that the auction  
25 firm has a properly licensed managing auctioneer; and -

1           (3) any requirement as defined by rule.

2       (Source: P.A. 95-572, eff. 6-1-08.)

3           (225 ILCS 407/10-27)

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

5           Sec. 10-27. Registration of Internet Auction Listing  
6       Service.

7           (a) For the purposes of this Section:

8               (1) "Internet Auction Listing Service" means a website  
9               on the Internet, or other interactive computer service that  
10              is designed to allow or advertised as a means of allowing  
11              users to offer personal property or services for sale or  
12              lease to a prospective buyer or lessee through an on-line  
13              bid submission process using that website or interactive  
14              computer service and that does not examine, set the price,  
15              or prepare the description of the personal property or  
16              service to be offered, or in any way utilize the services  
17              of a natural person as an auctioneer.

18              (2) "Interactive computer service" means any  
19              information service, system, or access software provider  
20              that provides or enables computer access by multiple users  
21              to a computer server, including specifically a service or  
22              system that provides access to the Internet.

23           (b) It is unlawful for any person, corporation, limited  
24       liability company, partnership, or other entity to provide an  
25       Internet auction listing service in the State of Illinois for

1 compensation without being registered with the Department  
2 when:

3 (1) the person, corporation, limited liability  
4 company, partnership, or other entity providing the  
5 Internet auction listing service is located in the State of  
6 Illinois;

7 (2) the prospective seller or seller, prospective  
8 lessor or lessor, or prospective purchaser or purchaser is  
9 located in the State of Illinois and is required to agree  
10 to terms with the person, corporation, limited liability  
11 company, partnership, or other entity providing the  
12 Internet auction listing service, no matter where that  
13 person, corporation, limited liability company,  
14 partnership, or other entity is located; or

15 (3) the personal property or services offered for sale  
16 or lease are located or will be provided in the State of  
17 Illinois.

18 (c) Any person, corporation, limited liability company,  
19 partnership, or other entity that provides an Internet auction  
20 listing service in the State of Illinois for compensation under  
21 any of the circumstances listed in subsection (b) shall  
22 register with the Department on forms provided by the  
23 Department accompanied by the required fee as provided by rule.  
24 Such registration shall include information as required by the  
25 Department and established by rule as the Department deems  
26 necessary to enable users of the Internet auction listing

1 service in Illinois to identify the entity providing the  
2 service and to seek redress or further information from such  
3 entity. The fee shall be sufficient to cover the reasonable  
4 costs of the Department in administering and enforcing the  
5 provisions of this Section. The registrant shall be required to  
6 certify:

7 (1) that the registrant does not act as the agent of  
8 users who sell items on its website, and acts only as a  
9 venue for user transactions;

10 (2) that the registrant requires sellers and bidders to  
11 register with the website and provide their name, address,  
12 telephone number and e-mail address;

13 (3) that the registrant retains such information for a  
14 period of at least 2 years;

15 (4) that the registrant retains transactional  
16 information consisting of at least seller identification,  
17 high bidder identification, and item sold for at least 2  
18 years from the close of a transaction, and has a mechanism  
19 to identify all transactions involving a particular seller  
20 or buyer;

21 (5) that the registrant has a mechanism to receive  
22 complaints or inquiries from users;

23 (6) that the registrant adopts and reasonably  
24 implements a policy of suspending, in appropriate  
25 circumstances, the accounts of users who, based on the  
26 registrant's investigation, are proven to have engaged in a



1 pattern of activity that appears to be deliberately  
2 designed to defraud consumers on the registrant's website;  
3 and

4 (7) that the registrant will comply with the Department  
5 and law enforcement requests for stored data in its  
6 possession, subject to the requirements of applicable law.

7 (d) The Department may refuse to accept a registration  
8 which is incomplete or not accompanied by the required fee. The  
9 Department may impose a civil penalty not to exceed \$10,000  
10 upon any Internet auction listing service that intentionally  
11 fails to register as required by this Section, and may impose  
12 such penalty or revoke, suspend, or place on probation or  
13 administrative supervision the registration of any Internet  
14 auction listing service that:

15 (1) intentionally makes a false or fraudulent material  
16 representation or material misstatement or  
17 misrepresentation to the Department in connection with its  
18 registration, including in the certification required  
19 under subsection (c);

20 (2) is convicted of any crime, an essential element of  
21 which is dishonesty, fraud, larceny, embezzlement, or  
22 obtaining money, property, or credit by false pretenses or  
23 by means of a confidence game; or is convicted in this or  
24 another state of a crime that is a felony under the laws of  
25 this State; or is convicted of a felony in a federal court;

26 (3) is adjudged to be a person under legal disability

1 or subject to involuntary admission or to meet the standard  
2 for judicial admission as provided in the Mental Health and  
3 Developmental Disabilities Code;

4 (4) has been subject to discipline by another state,  
5 the District of Columbia, a territory of the United States,  
6 a foreign nation, a governmental agency, or any other  
7 entity authorized to impose discipline if at least one of  
8 the grounds for that discipline is the same as or  
9 equivalent to one of the grounds for discipline set forth  
10 in this Section or for failing to report to the Department,  
11 within 30 days, any adverse final action taken against the  
12 registrant by any other licensing or registering  
13 jurisdiction, government agency, law enforcement agency,  
14 or court, or liability for conduct that would constitute  
15 grounds for action as set forth in this Section;

16 (5) fails to make available to the Department personnel  
17 during normal business hours all records and related  
18 documents maintained in connection with the activities  
19 subject to registration under this Section;

20 (6) makes or files false records or reports in  
21 connection with activities subject to registration,  
22 including but not limited to false records or reports filed  
23 with State agencies;

24 (7) fails to provide information within 30 days in  
25 response to a written request made by the Department to a  
26 person designated in the registration for receipt of such

1 requests; or

2 (8) fails to perform any act or procedure described in  
3 subsection (c) of this Section.

4 (e) Registrations issued pursuant to this Section shall be  
5 defined by rule ~~expire on September 30 of odd numbered years~~. A  
6 registrant shall submit a renewal application to the Department  
7 on forms provided by the Department along with the required fee  
8 as established by rule.

9 (f) Operating an Internet auction listing service under any  
10 of the circumstances listed in subsection (b) without being  
11 currently registered under this Section is declared to be  
12 adverse to the public welfare, to constitute a public nuisance,  
13 and to cause irreparable harm to the public welfare. The  
14 Secretary, the Attorney General of the State of Illinois, the  
15 State's Attorney of any county in the State, or any other  
16 person may maintain an action and apply for injunctive relief  
17 in any circuit court to enjoin the person or entity from  
18 engaging in such practice.

19 (g) The provisions of Sections 20-25, 20-30, 20-35, 20-40,  
20 ~~20-45~~, 20-50, 20-55, 20-60 and 20-75 of this Act shall apply to  
21 any actions of the Department exercising its authority under  
22 subsection (d) as if a person required to register under this  
23 Section were a person holding or claiming to hold a license  
24 under this Act.

25 (h) The Department shall have the authority to adopt such  
26 rules as may be necessary to implement or interpret the

1 provisions of this Section.

2 (Source: P.A. 95-572, eff. 6-1-08.)

3 (225 ILCS 407/10-30)

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

5 Sec. 10-30. Expiration, renewal, and continuing education.

6 (a) License expiration dates, renewal periods, renewal  
7 fees, and procedures for renewal of licenses issued under this  
8 Act shall be set by rule of the Department. An entity may renew  
9 its license by paying the required fee and by meeting the  
10 renewal requirements adopted by the Department under this  
11 Section.

12 (b) All renewal applicants must provide proof as determined  
13 by the Department of having met the continuing education  
14 requirements set forth by the Department by rule. At a minimum,  
15 the rules shall require an applicant for renewal licensure as  
16 an auctioneer ~~or associate auctioneer~~ to provide proof of the  
17 completion of at least 12 hours of continuing education during  
18 the pre-renewal period preceding the expiration date of the  
19 license from schools approved by the Department, as established  
20 by rule.

21 (c) The Department, in its discretion, may waive  
22 enforcement of the continuing education requirements of this  
23 Section and shall adopt rules defining the standards and  
24 criteria for such waiver.

25 (d) (Blank).

1 (Source: P.A. 95-572, eff. 6-1-08.)

2 (225 ILCS 407/10-35)

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

4 Sec. 10-35. Completed 45-day permit sponsor card;  
5 termination by sponsoring auctioneer; inoperative status.

6 (a) No auctioneer ~~or associate auctioneer~~ shall conduct an  
7 auction or provide an auction service without being properly  
8 sponsored by a licensed auctioneer or auction firm.

9 (b) The sponsoring auctioneer or sponsoring auction firm  
10 shall prepare upon forms provided by the Department and deliver  
11 to each auctioneer ~~or associate auctioneer~~ employed by or  
12 associated with the sponsoring auctioneer or sponsoring  
13 auction firm a properly completed duplicate 45-day permit  
14 sponsor card certifying that the person whose name appears  
15 thereon is in fact employed by or associated with said  
16 sponsoring auctioneer or sponsoring auction firm. The  
17 sponsoring auctioneer or sponsoring auction firm shall send the  
18 original 45-day permit sponsor card, along with a valid  
19 terminated license or other authorization as provided by rule  
20 and the appropriate fee, to the Department within 24 hours  
21 after the issuance of the sponsor card. It is a violation of  
22 this Act for any sponsoring auctioneer or sponsoring auction  
23 firm to issue a sponsor card to any auctioneer, ~~associate~~  
24 ~~auctioneer,~~ or applicant, unless the auctioneer, ~~associate~~  
25 ~~auctioneer,~~ or applicant presents in hand a valid terminated

1 license or other authorization, as provided by rule.

2 (c) An auctioneer may be self-sponsored or may be sponsored  
3 by another licensed auctioneer or auction firm.

4 (d) (Blank). ~~An associate auctioneer must be sponsored by a~~  
5 ~~licensed auctioneer or auction firm.~~

6 (e) When an auctioneer ~~or associate auctioneer~~ terminates  
7 his or her employment or association with a sponsoring  
8 auctioneer or sponsoring auction firm or the employment or  
9 association is terminated by the sponsoring auctioneer or  
10 sponsoring auction firm, the terminated licensee shall obtain  
11 from that sponsoring auctioneer or sponsoring auction firm his  
12 or her license endorsed by the sponsoring auctioneer or  
13 sponsoring auction firm indicating the termination. The  
14 terminating sponsoring auctioneer or sponsoring auction firm  
15 shall send a copy of the terminated license within 5 days after  
16 the termination to the Department or shall notify the  
17 Department in writing of the termination and explain why a copy  
18 of the terminated license was not surrendered.

19 (f) The license of any auctioneer ~~or associate auctioneer~~  
20 whose association with a sponsoring auctioneer or sponsoring  
21 auction firm has terminated shall automatically become  
22 inoperative immediately upon such termination, unless the  
23 terminated licensee accepts employment or becomes associated  
24 with a new sponsoring auctioneer or sponsoring auction firm  
25 pursuant to subsection (g) of this Section. An inoperative  
26 licensee under this Act shall not conduct an auction or provide

1 auction services while the license is in inoperative status.

2 (g) When a terminated or inoperative auctioneer ~~or~~  
3 ~~associate auctioneer~~ accepts employment or becomes associated  
4 with a new sponsoring auctioneer or sponsoring auction firm,  
5 the new sponsoring auctioneer or sponsoring auction firm shall  
6 send to the Department a properly completed 45-day permit  
7 sponsor card, the terminated license, and the appropriate fee.  
8 (Source: P.A. 95-572, eff. 6-1-08.)

9 (225 ILCS 407/10-40)

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

11 Sec. 10-40. Restoration.

12 (a) A licensee whose license has lapsed or expired shall  
13 have 2 years from the expiration date to restore his or her  
14 license without examination. The expired licensee shall make  
15 application to the Department on forms provided by the  
16 Department, including a properly completed 45-day permit  
17 sponsor card, provide evidence of successful completion of 12  
18 hours of approved continuing education during the period of  
19 time the license had lapsed, and pay all ~~lapsed~~ fees and  
20 penalties as established by ~~administrative~~ rule.

21 (b) Notwithstanding any other provisions of this Act to the  
22 contrary, any licensee whose license under this Act has expired  
23 is eligible to restore such license without paying any lapsed  
24 fees and penalties provided that the license expired while the  
25 licensee was:

1           (1) on active duty with the United States Army, United  
2           States Marine Corps, United States Navy, United States Air  
3           Force, United States Coast Guard, the State Militia called  
4           into service or training;

5           (2) engaged in training or education under the  
6           supervision of the United States prior to induction into  
7           military service; or

8           (3) serving as an employee of the Department, while the  
9           employee was required to surrender his or her license due  
10          to a possible conflict of interest.

11          A licensee shall be eligible to restore a license under the  
12          provisions of this subsection for a period of 2 years following  
13          the termination of the service, education, or training by  
14          providing a properly completed application and 45-day permit  
15          sponsor card, provided that the termination was by other than  
16          dishonorable discharge and provided that the licensee  
17          furnishes the Department with an affidavit specifying that the  
18          licensee has been so engaged.

19          (c) At any time after the suspension, revocation, placement  
20          on probationary status, or other disciplinary action taken  
21          under this Act with reference to any license, the Department  
22          may restore the license to the licensee without examination  
23          upon the order of the Secretary, if the licensee submits a  
24          properly completed application and 45-day permit sponsor card,  
25          pays appropriate fees, and otherwise complies with the  
26          conditions of the order.



1 (Source: P.A. 95-331, eff. 8-21-07; 95-572, eff. 6-1-08.)

2 (225 ILCS 407/10-45)

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

4 Sec. 10-45. Nonresident auctioneer reciprocity.

5 (a) A person holding a license to engage in auctions issued  
6 to him or her by the proper authority of a state, territory, or  
7 possession of the United States of America or the District of  
8 Columbia that has licensing requirements equal to or  
9 substantially equivalent to the requirements of this State and  
10 that otherwise meets the requirements of this Act may obtain a  
11 license under this Act without examination, provided:

12 (1) that the Department has entered into a valid  
13 reciprocal agreement with the proper authority of the  
14 state, territory, or possession of the United States of  
15 America or the District of Columbia from which the  
16 nonresident applicant has a valid license;

17 (2) that the applicant provides the Department with a  
18 certificate of good standing from the applicant's ~~resident~~  
19 state of licensure;

20 (3) that the applicant completes and submits an  
21 application as provided by the Department; and

22 (4) that the applicant pays all applicable fees  
23 required under this Act.

24 (b) A nonresident applicant shall file an irrevocable  
25 consent with the Department that actions may be commenced

1 against the applicant or nonresident licensee in a court of  
2 competent jurisdiction in this State by the service of summons,  
3 process, or other pleading authorized by the law upon the  
4 Secretary. The consent shall stipulate and agree that service  
5 of the process, summons, or pleading upon the Secretary shall  
6 be taken and held in all courts to be valid and binding as if  
7 actual service had been made upon the applicant in Illinois. If  
8 a summons, process, or other pleading is served upon the  
9 Secretary, it shall be by duplicate copies, one of which shall  
10 be retained by the Department and the other immediately  
11 forwarded by certified or registered mail to the last known  
12 business address of the applicant or nonresident licensee  
13 against whom the summons, process, or other pleading may be  
14 directed.

15 (Source: P.A. 95-572, eff. 6-1-08.)

16 (225 ILCS 407/10-50)

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

18 Sec. 10-50. Fees; disposition of funds. ~~Fees shall be~~  
19 ~~determined by rule and shall be non-refundable.~~

20 (a) The Department shall establish by rule a schedule of  
21 fees for the administration and maintenance of this Act. Such  
22 fees shall be nonrefundable.

23 (b) All fees collected under this Act shall be deposited  
24 into the General Professions Dedicated Fund and appropriated to  
25 the Department for the ordinary and contingent expenses of the

1 ~~Department in the administration of this Act. The Department~~  
2 ~~shall provide by administrative rule for fees to be collected~~  
3 ~~from licensees and applicants to cover the statutory~~  
4 ~~requirements for funding the Auctioneer Recovery Fund. The~~  
5 ~~Department may also provide by administrative rule for general~~  
6 ~~fees to cover the reasonable expenses of carrying out other~~  
7 ~~functions and responsibilities under this Act.~~

8 (Source: P.A. 95-572, eff. 6-1-08.)

9 (225 ILCS 407/15-5)

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

11 Sec. 15-5. Representations. An auctioneer, ~~associate~~  
12 ~~auctioneer,~~ or auction firm, or the sponsored licensees,  
13 agents, or employees of an auctioneer or auction firm,  
14 conducting an auction or providing an auction service shall  
15 not:

16 (1) misrepresent a fact material to a purchaser's  
17 decision to buy at or by auction;

18 (2) predict specific or immediate increases in the  
19 value of any item offered for sale at auction; or

20 (3) materially misrepresent the qualities or  
21 characteristics of any item offered for sale at auction.

22 (Source: P.A. 91-603, eff. 1-1-00.)

23 (225 ILCS 407/15-10)

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

1           Sec. 15-10. Auction contract. Any auctioneer,~~associate~~  
2 ~~auctioneer,~~ or auction firm shall not conduct an auction or  
3 provide an auction service, unless the auctioneer,~~associate~~  
4 ~~auctioneer,~~ or auction firm enters into a written ~~or oral~~  
5 auction contract with the seller of any property at auction  
6 prior to the date of the auction. Any agreement shall state  
7 whether the auction is with reserve or absolute. The agreement  
8 shall be signed by the auctioneer,~~associate auctioneer,~~ or  
9 auction firm conducting an auction or providing an auction  
10 service and the seller or sellers, or the legal agent of the  
11 seller or sellers of the property to be offered at or by  
12 auction, and shall include, but not be limited to the following  
13 disclosures:

14           (1) Licensees shall disclose:

15                   (A) the name, license number, business address,  
16 and phone number of the auctioneer,~~associate~~  
17 ~~auctioneer,~~ or auction firm conducting an auction or  
18 providing an auction service;

19                   (B) the fee to be paid to the auctioneer,~~associate~~  
20 ~~auctioneer,~~ or auction firm for conducting an auction  
21 or providing an auction service; and

22                   (C) an estimate of the advertising costs that shall  
23 be paid by the seller or sellers of property at auction  
24 and a disclosure that, if the actual advertising costs  
25 exceeds 120% of the estimated advertising cost, the  
26 auctioneer,~~associate auctioneer,~~ or auction firm

1 shall pay the advertising costs that exceed 120% of the  
2 estimated advertising costs or shall have the seller or  
3 sellers agree in writing to pay for the actual  
4 advertising costs in excess of 120% of the estimated  
5 advertising costs.

6 (D) the buyer premium and the party to the  
7 transaction that receives it.

8 (2) Sellers shall disclose:

9 (A) the name, address, and phone number of the  
10 seller or sellers or the legal agent of the seller or  
11 sellers of property to be sold at auction; and

12 (B) any mortgage, lien, easement, or encumbrance  
13 of which the seller has knowledge on any property or  
14 goods to be sold or leased at or by auction.

15 (Source: P.A. 91-603, eff. 1-1-00.)

16 (225 ILCS 407/20-5)

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

18 Sec. 20-5. Unlicensed practice; civil penalty.

19 (a) Any person who practices, offers to practice, attempts  
20 to practice, or holds oneself out to practice as an auctioneer,  
21 ~~an associate auctioneer,~~ an auction firm, or any other licensee  
22 under this Act without being licensed under this Act shall, in  
23 addition to any other penalty provided by law, pay a civil  
24 penalty to the Department in an amount not to exceed \$10,000  
25 for each offense as determined by the Department. The civil

1 penalty fine shall be assessed by the Department after a  
2 hearing is held in accordance with the provisions set forth in  
3 this Act regarding a hearing for the discipline of a license.

4 (b) The Department has the authority and power to  
5 investigate any and all unlicensed activity pursuant to this  
6 Act.

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

12 (d) Conducting an auction or providing an auction service  
13 in Illinois without holding a valid and current license under  
14 this Act is declared to be adverse to the public welfare, to  
15 constitute a public nuisance, and to cause irreparable harm to  
16 the public welfare. The Secretary, the Attorney General, the  
17 State's Attorney of any county in the State, or any other  
18 person may maintain an action in the name of the People of the  
19 State of Illinois and may apply for injunctive relief in any  
20 circuit court to enjoin the person or entity from engaging in  
21 such practice.

22 Upon the filing of a verified petition in a circuit court,  
23 the court, if satisfied by affidavit or otherwise that the  
24 person or entity has been engaged in the practice of auctioning  
25 without a valid and current license, may enter a temporary  
26 restraining order without notice or bond enjoining the

1 defendant from further practice. Only the showing of  
2 non-licensure, by affidavit or otherwise, is necessary in order  
3 for a temporary injunction to be issued. A copy of the verified  
4 complaint shall be served upon the defendant and the  
5 proceedings shall thereafter be conducted as in other civil  
6 cases except as modified by this Section. If it is established  
7 that the defendant has been or is engaged in unlawful practice,  
8 the court may enter an order or judgment perpetually enjoining  
9 the defendant from further practice. In all proceedings  
10 hereunder, the court, in its discretion, may apportion the  
11 costs among the parties interested in the action, including  
12 cost of filing the complaint, service of process, witness fees  
13 and expenses, court reporter charges, and reasonable  
14 attorneys' fees. In case of violation of any injunctive order  
15 entered under the provisions of this Section, the court may  
16 summarily try and punish the offender for contempt of court.  
17 These injunction proceedings shall be in addition to, and not  
18 in lieu of, all penalties and other remedies provided in this  
19 Act.

20 (Source: P.A. 95-572, eff. 6-1-08.)

21 (225 ILCS 407/20-15)

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

23 Sec. 20-15. Disciplinary actions; grounds. The Department  
24 may refuse to issue or renew a license, may place on probation  
25 or administrative supervision, suspend, or revoke any license

1 or may reprimand or take other disciplinary or non-disciplinary  
2 action as the Department may deem proper, including the  
3 imposition of fines not to exceed \$10,000 for each violation  
4 upon anyone licensed under this Act for any of the following  
5 reasons:

6 (1) False or fraudulent representation or material  
7 misstatement in furnishing information to the Department  
8 in obtaining or seeking to obtain a license.

9 (2) Violation of any provision of this Act or the rules  
10 promulgated pursuant to this Act.

11 (3) Conviction of or entry of a plea of guilty or nolo  
12 contendere to any crime that is a felony under the laws of  
13 the United States or any state or territory thereof, or  
14 that is a misdemeanor, an essential element of which is  
15 dishonesty, or any crime that is directly related to the  
16 practice of the profession. ~~fraud, or larceny,~~  
17 ~~embezzlement, or obtaining money, property, or credit by~~  
18 ~~false pretenses or by means of a confidence game,~~  
19 ~~conviction in this or another state of a crime that is a~~  
20 ~~felony under the laws of this State, or conviction of a~~  
21 ~~felony in a federal court.~~

22 (4) Being adjudged to be a person under legal  
23 disability or subject to involuntary admission or to meet  
24 the standard for judicial admission as provided in the  
25 Mental Health and Developmental Disabilities Code.

26 (5) Discipline of a licensee by another state, the



1 District of Columbia, a territory of the United States, a  
2 foreign nation, a governmental agency, or any other entity  
3 authorized to impose discipline if at least one of the  
4 grounds for that discipline is the same as or the  
5 equivalent to one of the grounds for discipline set forth  
6 in this Act or for failing to report to the Department,  
7 within 30 days, any adverse final action taken against the  
8 licensee by any other licensing jurisdiction, government  
9 agency, law enforcement agency, or court, or liability for  
10 conduct that would constitute grounds for action as set  
11 forth in this Act.

12 (6) Engaging in the practice of auctioneering,  
13 conducting an auction, or providing an auction service  
14 without a license or after the license was expired,  
15 revoked, suspended, or terminated or while the license was  
16 inoperative.

17 (7) Attempting to subvert or cheat on the auctioneer  
18 exam or any continuing education exam, or aiding or  
19 abetting another to do the same.

20 (8) Directly or indirectly giving to or receiving from  
21 a person, firm, corporation, partnership, or association a  
22 fee, commission, rebate, or other form of compensation for  
23 professional service not actually or personally rendered,  
24 except that an auctioneer licensed under this Act may  
25 receive a fee from another licensed auctioneer from this  
26 State or jurisdiction for the referring of a client or

1       prospect for auction services to the licensed auctioneer.

2           (9) Making any substantial misrepresentation or  
3 untruthful advertising.

4           (10) Making any false promises of a character likely to  
5 influence, persuade, or induce.

6           (11) Pursuing a continued and flagrant course of  
7 misrepresentation or the making of false promises through a  
8 licensee, agent, employee, advertising, or otherwise.

9           (12) Any misleading or untruthful advertising, or  
10 using any trade name or insignia of membership in any  
11 auctioneer association or organization of which the  
12 licensee is not a member.

13           (13) Commingling funds of others with his or her own  
14 funds or failing to keep the funds of others in an escrow  
15 or trustee account.

16           (14) Failure to account for, remit, or return any  
17 moneys, property, or documents coming into his or her  
18 possession that belong to others, acquired through the  
19 practice of auctioneering, conducting an auction, or  
20 providing an auction service within 30 days of the written  
21 request from the owner of said moneys, property, or  
22 documents.

23           (15) Failure to maintain and deposit into a special  
24 account, separate and apart from any personal or other  
25 business accounts, all moneys belonging to others  
26 entrusted to a licensee while acting as an auctioneer,

1 associate auctioneer, auction firm, or as a temporary  
2 custodian of the funds of others.

3 (16) Failure to make available to Department personnel  
4 during normal business hours all escrow and trustee records  
5 and related documents maintained in connection with the  
6 practice of auctioneering, conducting an auction, or  
7 providing an auction service within 24 hours after a  
8 request from Department personnel.

9 (17) Making or filing false records or reports in his  
10 or her practice, including but not limited to false records  
11 or reports filed with State agencies.

12 (18) Failing to voluntarily furnish copies of all  
13 written instruments prepared by the auctioneer and signed  
14 by all parties to all parties at the time of execution.

15 (19) Failing to provide information within 30 days in  
16 response to a written request made by the Department.

17 (20) Engaging in any act that constitutes a violation  
18 of Section 2-102, 3-103, or 3-105 of the Illinois Human  
19 Rights Act.

20 (21) (Blank) ~~Causing a payment from the Auction~~  
21 ~~Recovery Fund.~~

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

25 (23) Offering or advertising real estate for sale or  
26 lease at auction without a valid broker or salesperson's

1 license under the Real Estate License Act of 1983, or any  
2 successor Act, unless exempt from licensure under the terms  
3 of the Real Estate License Act of 2000 ~~2001~~, or any  
4 successor Act.

5 (24) Inability to practice the profession with  
6 reasonable judgement, skill, or safety as a result of a  
7 physical illness, including, but not limited to,  
8 deterioration through the aging process or loss of motor  
9 skill, or a mental illness or disability. ~~Physical illness,~~  
10 ~~mental illness, or other impairment including without~~  
11 ~~limitation deterioration through the aging process, mental~~  
12 ~~illness, or disability that results in the inability to~~  
13 ~~practice the profession with reasonable judgment, skill,~~  
14 ~~and safety.~~

15 (25) A pattern of practice or other behavior that  
16 demonstrates incapacity or incompetence to practice under  
17 this Act.

18 (26) Being named as a perpetrator in an indicated  
19 report by the Department of Children and Family Services  
20 under the Abused and Neglected Child Reporting Act and upon  
21 proof by clear and convincing evidence that the licensee  
22 has caused a child to be an abused child or a neglected  
23 child as defined in the Abused and Neglected Child  
24 Reporting Act.

25 (27) Inability to practice with reasonable judgement,  
26 skill, or safety as a result of habitual or excessive use

1        or addiction to alcohol, narcotics, stimulants, or any  
2        other chemical agent or drug. ~~Habitual or excessive use or~~  
3        ~~addiction to alcohol, narcotics, stimulants, or any other~~  
4        ~~chemical agent or drug that results in a licensee's~~  
5        ~~inability to practice with reasonable judgment, skill, or~~  
6        ~~safety.~~

7            (28) Wilfully failing to report an instance of  
8        suspected child abuse or neglect as required by the Abused  
9        and Neglected Child Reporting Act.

10        The entry of an order by a circuit court establishing that  
11        any person holding a license under this Act is subject to  
12        involuntary admission or judicial admission, as provided for in  
13        the Mental Health and Developmental Disabilities Code,  
14        operates as an automatic suspension of that license. That  
15        person may have his or her license restored only upon the  
16        determination by a circuit court that the patient is no longer  
17        subject to involuntary admission or judicial admission and the  
18        issuance of an order so finding and discharging the patient and  
19        upon the Board's recommendation to the Department that the  
20        license be restored. Where circumstances so indicate, the Board  
21        may recommend to the Department that it require an examination  
22        prior to restoring a suspended license.

23        If the Department or Board finds an individual unable to  
24        practice because of the reasons set forth in this Section, the  
25        Department or Board may require that individual to submit to  
26        care, counseling, or treatment by physicians approved or

1 designated by the Department or Board, as a condition, term, or  
2 restriction for continued, reinstated, or renewed licensure to  
3 practice; or, in lieu of care, counseling, or treatment, the  
4 Department may file, or the Board may recommend to the  
5 Department to file, a complaint to immediately suspend, revoke,  
6 or otherwise discipline the license of the individual. An  
7 individual whose license was granted, continued, reinstated,  
8 renewed, disciplined or supervised subject to such terms,  
9 conditions, or restrictions, and who fails to comply with such  
10 terms, conditions, or restrictions, shall be referred to the  
11 Secretary for a determination as to whether the individual  
12 shall have his or her license suspended immediately, pending a  
13 hearing by the Department. In instances in which the Secretary  
14 immediately suspends a person's license under this Section, a  
15 hearing on that person's license must be convened by the  
16 Department within 21 days after the suspension and completed  
17 without appreciable delay. The Department and Board shall have  
18 the authority to review the subject individual's record of  
19 treatment and counseling regarding the impairment to the extent  
20 permitted by applicable federal statutes and regulations  
21 safeguarding the confidentiality of medical records.

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

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

21       (Source: P.A. 95-572, eff. 6-1-08.)

22           (225 ILCS 407/20-40)

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

24           Sec. 20-40. Hearings; record of hearings.

25           (a) The Department shall have the authority to conduct

1 hearings ~~before the Advisory Board~~ on proceedings to revoke,  
2 suspend, place on probation or administrative review,  
3 reprimand, or refuse to issue or renew any license under this  
4 Act or to impose a civil penalty not to exceed \$10,000 upon any  
5 licensee under this Act.

6 (b) The Department, at its expense, shall preserve a record  
7 of all proceedings at the formal hearing of any case. The  
8 notice of hearing, complaint, all other documents in the nature  
9 of pleadings, written motions filed in the proceedings, the  
10 transcripts of testimony, the report of the Board, and orders  
11 of the Department shall be in the record of the proceeding. The  
12 Department shall furnish a transcript of such record to any  
13 person interested in such hearing upon payment of the fee  
14 required under Section 2105-115 of the Department of  
15 Professional Regulation Law (20 ILCS 2105/2105-115). ~~The~~  
16 ~~Department, at its expense, shall preserve a record of all~~  
17 ~~proceedings at the formal hearing of any case involving the~~  
18 ~~discipline of any license under this Act. The notice of~~  
19 ~~hearing, complaint and all other documents in the nature of~~  
20 ~~pleadings and written motions filed in the proceedings, the~~  
21 ~~transcript of testimony, the report of the Board, and the order~~  
22 ~~of the Department shall be the record of proceeding. At all~~  
23 ~~hearings or prehearing conference, the Department and the~~  
24 ~~respondent shall be entitled to have a court reporter in~~  
25 ~~attendance for purposes of transcribing the proceeding or~~  
26 ~~prehearing conference.~~



1 (Source: P.A. 95-572, eff. 6-1-08.)

2 (225 ILCS 407/20-43 new)

3 Sec. 20-43. Investigations; notice and hearing. The  
4 Department may investigate the actions of any applicant or  
5 person rendering or offering to render auction services, or  
6 holding or claiming to hold a license as a licensed auctioneer.  
7 At least 30 days before any disciplinary hearing under this  
8 Act, the Department shall: (i) notify the accused in writing of  
9 the charges made and the time and place of the hearing; (ii)  
10 direct the accused to file with the Board a written answer  
11 under oath to the charges within 20 days of receiving service  
12 of the notice; and (iii) inform the accused that if he or she  
13 fails to file an answer to the charges within 20 days of  
14 receiving service of the notice, a default judgement may be  
15 entered against him or her, or his or her license may be  
16 suspended, revoked, placed on probationary status, or other  
17 disciplinary action taken with regard to the license as the  
18 Department may consider proper, including, but not limited to,  
19 limiting the scope, nature, or extent of the licensee's  
20 practice, or imposing a fine.

21 At the time and place of the hearing fixed in the notice,  
22 the Board shall proceed to hear the charges and the accused or  
23 his or her counsel shall be accorded ample opportunity to  
24 present any pertinent statements, testimony, evidence, and  
25 arguments in his or her defense. The Board may continue the

1 hearing when it deems it appropriate.

2 Written notice of the hearing may be served by personal  
3 delivery or by certified mail to the last known address of  
4 record, unless specified as otherwise by the accused in his or  
5 her last communication with the Department.

6 (225 ILCS 407/20-50)

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

8 Sec. 20-50. Findings and recommendations. Board's findings  
9 of fact, conclusions of law, and recommendation to the  
10 Secretary. At the conclusion of the hearing, the Board shall  
11 present to the Secretary a written report of its findings of  
12 fact, conclusions of law, and recommendations. The report shall  
13 contain a finding whether or not the accused person violated  
14 this Act or any rules promulgated pursuant to this Act. The  
15 Board shall specify the nature of any violations and shall make  
16 its recommendations to the Secretary. In making  
17 recommendations for any disciplinary action, the Board may take  
18 into consideration all facts and circumstances bearing upon the  
19 reasonableness of the conduct of the accused, including, but  
20 not limited to, previous discipline of the accused by the  
21 Department, intent, degree of harm to the public and likelihood  
22 of future harm to the public, any restitution made by the  
23 accused, and whether the incident or incidents contained in the  
24 complaint appear to be isolated or represent a continuing  
25 pattern of conduct. In making its recommendations for

1 discipline, the Board shall endeavor to ensure that the  
2 severity of the discipline recommended is reasonably  
3 proportional to the severity of the violation.

4 The report of the Board's findings of fact, conclusions of  
5 law, and recommendations shall be the basis for the  
6 Department's decision to refuse to issue, restore, or renew a  
7 license, or to take any other disciplinary action. If the  
8 Secretary disagrees with the recommendations of the Board, the  
9 Secretary may issue an order in contravention of the Board  
10 recommendations. The report's findings are not admissible in  
11 evidence against the person in a criminal prosecution brought  
12 for a violation of this Act, but the hearing and findings are  
13 not a bar to a criminal prosecution for the violation of this  
14 Act. At the conclusion of the hearing, the Advisory Board shall  
15 present to the Secretary a written report of its findings of  
16 facts, conclusions of law, and recommendations regarding  
17 discipline or a fine. The report shall contain a finding  
18 whether or not the accused person violated this Act or failed  
19 to comply with the conditions required in this Act. The  
20 Advisory Board shall specify the nature of the violation or  
21 failure to comply and shall make its recommendations to the  
22 Secretary.

23 If the Secretary disagrees in any regard with the report of  
24 the Advisory Board, the Secretary may issue an order in  
25 contravention of the report. The Secretary shall provide a  
26 written report to the Advisory Board on any deviation and shall

1 specify with particularity the reasons for that action in the  
2 final order.

3 (Source: P.A. 95-572, eff. 6-1-08.)

4 (225 ILCS 407/20-55)

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

6 Sec. 20-55. Appointment of a hearing officer. ~~Motion for~~  
7 ~~rehearing; rehearing.~~ The Secretary has the authority to  
8 appoint any attorney licensed to practice law in the State of  
9 Illinois to serve as the hearing officer in any action for  
10 refusal to issue, restore, or renew a license or to discipline  
11 a licensee. The hearing officer has full authority to conduct  
12 the hearing. Any Board member may attend hearings. The hearing  
13 officer shall report his or her findings of fact, conclusions  
14 of law, and recommendations to the Board. The Board shall  
15 review the report of the hearing officer and present its  
16 findings of fact, conclusions of law, and recommendations to  
17 the Secretary and to all parties to the proceedings.

18 If the Secretary disagrees with the recommendations of the  
19 Board or hearing officer, the Secretary may issue an order in  
20 contravention of the Board's recommendations. ~~In any hearing~~  
21 ~~involving the discipline of a license, a copy of the Advisory~~  
22 ~~Board's report shall be served upon the respondent by the~~  
23 ~~Department, either personally or as provided in this Act for~~  
24 ~~the service of the notice of hearing. Within 20 calendar days~~  
25 ~~after the service, the respondent may present to the Department~~

1 ~~a motion in writing for a rehearing, which shall specify the~~  
2 ~~particular grounds for rehearing.~~

3 ~~If no motion for rehearing is filed, then upon the~~  
4 ~~expiration of the time specified for filing a motion, or if a~~  
5 ~~motion for rehearing is denied, then upon denial, the Secretary~~  
6 ~~may enter an order in accordance with the recommendations of~~  
7 ~~the Advisory Board, except as provided for in this Act. If the~~  
8 ~~respondent orders a transcript of the record from the reporting~~  
9 ~~service and pays for it within the time for filing a motion for~~  
10 ~~rehearing, the 20 calendar day period within which a motion for~~  
11 ~~rehearing may be filed shall commence upon the delivery of the~~  
12 ~~transcript to the respondent.~~

13 ~~Whenever the Secretary is not satisfied that substantial~~  
14 ~~justice has been done in the hearing or in the Advisory Board's~~  
15 ~~report, the Secretary may order a rehearing by the same.~~

16 (Source: P.A. 95-572, eff. 6-1-08.)

17 (225 ILCS 407/20-56 new)

18 Sec. 20-56. Board; rehearing. At the conclusion of the  
19 hearing, a copy of the Board's report shall be served upon the  
20 applicant or licensee by the Department, either personally or  
21 as provided in this Act for the service of a notice of hearing.  
22 Within 20 days after service, the applicant or licensee may  
23 present to the Department a motion in writing for a rehearing,  
24 which shall specify the particular grounds for rehearing. The  
25 Department may respond to the motion for rehearing within 20

1 days after its service on the Department. If no motion for  
2 rehearing is filed, then upon the expiration of the time  
3 specified for filing such a motion, or if a motion for  
4 rehearing is denied, then upon denial, the Secretary may enter  
5 an order in accordance with recommendations of the Board except  
6 as provided in Section 120 of this Act. If the applicant or  
7 licensee orders from the reporting service and pays for a  
8 transcript of the record within the time for filing a motion  
9 for rehearing, the 20-day period within which a motion may be  
10 filed shall commence upon the delivery of the transcript to the  
11 applicant or licensee.

12 (225 ILCS 407/20-80)

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

14 Sec. 20-80. Summary suspension. The Secretary may  
15 temporarily suspend any license pursuant to this Act, without  
16 hearing, simultaneously with the institution of proceedings  
17 for a hearing provided for in this Act, if the Secretary finds  
18 that the evidence indicates that the public interest, safety,  
19 or welfare requires emergency action. In the event that the  
20 Secretary temporarily suspends any license without a hearing, a  
21 hearing shall be commenced ~~held~~ within 30 calendar days after  
22 the suspension has begun. The suspended licensee may seek a  
23 continuance of the hearing during which the suspension shall  
24 remain in effect. The proceeding shall be concluded without  
25 appreciable delay.

1 (Source: P.A. 95-572, eff. 6-1-08.)

2 (225 ILCS 407/30-7 new)

3 Sec. 30-7. Department; powers and duties. The Department  
4 shall exercise the powers and duties prescribed by the Civil  
5 Administrative Code of Illinois for the administration of  
6 licensing acts and shall exercise such other powers and duties  
7 as are prescribed by this Act. The Department may contract with  
8 third parties for services necessary for the proper  
9 administration of this Act.

10 (225 ILCS 407/30-13 new)

11 Sec. 30-13. The General Professions Dedicated Fund. All of  
12 the fees, fines, and penalties collected under this Act shall  
13 be deposited into the General Professions Dedicated Fund. The  
14 monies deposited into the General Professions Dedicated Fund  
15 shall be used by the Department, as appropriated, for the  
16 ordinary and contingent expenses of the Department. Monies in  
17 the General Professions Dedicated Fund may be invested and  
18 reinvested, with all earnings received from investments to be  
19 deposited into that Fund and used for the same purposes as fees  
20 deposited in that Fund.

21 (225 ILCS 407/30-30)

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

23 Sec. 30-30. Auction Advisory Board.

1           (a) There is hereby created the Auction Advisory Board. The  
2 Advisory Board shall consist of 7 members and shall be  
3 appointed by the Secretary. In making the appointments, the  
4 Secretary shall give due consideration to the recommendations  
5 by members and organizations of the industry, including but not  
6 limited to the Illinois State Auctioneers Association. Five  
7 members of the Advisory Board shall be licensed auctioneers,  
8 except that for the initial appointments, these members may be  
9 persons without a license, but who have been auctioneers for at  
10 least 5 years preceding their appointment to the Advisory  
11 Board. One member shall be a public member who represents the  
12 interests of consumers and who is not licensed under this Act  
13 or the spouse of a person licensed under this Act or who has  
14 any responsibility for management or formation of policy of or  
15 any financial interest in the auctioneering profession or any  
16 other connection with the profession. One member shall be  
17 actively engaged in the real estate industry and licensed as a  
18 broker or salesperson. The Advisory Board shall annually elect  
19 one of its members to serve as Chairperson.

20           (b) Members shall be appointed for a term of 4 years,  
21 except that of the initial appointments, 3 members shall be  
22 appointed to serve a term of 3 years and 4 members shall be  
23 appointed to serve a term of 4 years. The Secretary shall fill  
24 a vacancy for the remainder of any unexpired term. Each member  
25 shall serve on the Advisory Board until his or her successor is  
26 appointed and qualified. No person shall be appointed to serve



1 more than 2 terms, including the unexpired portion of a term  
2 due to vacancy. To the extent practicable, the Secretary shall  
3 appoint members to insure that the various geographic regions  
4 of the State are properly represented on the Advisory Board.

5 (c) Four ~~A majority of the Advisory Board members currently~~  
6 ~~appointed~~ shall constitute a quorum. A quorum is required for  
7 all Board decisions ~~A vacancy in the membership of the Advisory~~  
8 ~~Board shall not impair the right of a quorum to exercise all of~~  
9 ~~the rights and perform all the duties of the Board.~~

10 (d) Each member of the Advisory Board shall receive a per  
11 diem stipend in an amount to be determined by the Secretary.  
12 Each member shall be paid his or her necessary expenses while  
13 engaged in the performance of his or her duties.

14 (e) Members of the Advisory Board shall be immune from suit  
15 in an action based upon any disciplinary proceedings or other  
16 acts performed in good faith as members of the Advisory Board.

17 (f) The Advisory Board shall meet ~~monthly or~~ as convened by  
18 the Department Chairperson.

19 (g) The Advisory Board shall advise the Department on  
20 matters of licensing and education and make recommendations to  
21 the Department on those matters and shall hear and make  
22 recommendations to the Secretary on disciplinary matters that  
23 require a formal evidentiary hearing.

24 (h) The Secretary shall give due consideration to all  
25 recommendations of the Advisory Board.

26 (Source: P.A. 95-572, eff. 6-1-08.)

1 (225 ILCS 407/10-15 rep.)

2 (225 ILCS 407/10-25 rep.)

3 (225 ILCS 407/15-20 rep.)

4 (225 ILCS 407/20-45 rep.)

5 (225 ILCS 407/20-90 rep.)

6 (225 ILCS 407/30-15 rep.)

7 (225 ILCS 407/30-20 rep.)

8 (225 ILCS 407/30-25 rep.)

9 (225 ILCS 407/30-35 rep.)

10 (225 ILCS 407/30-40 rep.)

11 (225 ILCS 407/30-45 rep.)

12 Section 25. The Auction License Act is amended by repealing  
13 Sections 10-15, 10-25, 15-20, 20-45, 20-90, 30-15, 30-20,  
14 30-25, 30-35, 30-40 and 30-45.

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