



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1723

by Rep. Jim Sacia

SYNOPSIS AS INTRODUCED:

225 ILCS 407/10-8 new
225 ILCS 454/5-20

Amends the Auction License Act to provide a licensed auctioneer to sell real property at auction. Provides the requirements for a real property auction qualification. Amends the Real Estate License Law. Creates an exemption for a licensed auctioneer who has obtained a real property auction qualification under the Auction License Act. Effective immediately.

LRB097 07139 CEL 47241 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Auction License Act is amended by adding
5 Section 10-8 as follows:

6 (225 ILCS 407/10-8 new)

7 Sec. 10-8. Real property auction qualification
8 requirements.

9 (a) A licensed auctioneer may qualify to sell real property
10 at auction if he or she:

11 (1) is a licensed auctioneer within the State;

12 (2) is at least 21 years of age;

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

19 (4) completes 14 hours of real estate course
20 instruction, approved by the Advisory Council;

21 (5) personally takes and passes a written examination
22 authorized by the Department; and

23 (6) presents a valid application for issuance of the

1 qualification accompanied by all fees established by
2 Department rule.

3 (b) A real property auction qualification does not
4 authorize:

5 (1) the listing of real property;

6 (2) the selling of real property through private treaty
7 or sale; or

8 (3) leasing or renting real property.

9 Section 10. The Real Estate License Act of 2000 is amended
10 by changing Section 5-20 as follows:

11 (225 ILCS 454/5-20)

12 (Section scheduled to be repealed on January 1, 2020)

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

16 (1) Any person, partnership, or corporation that as
17 owner or lessor performs any of the acts described in the
18 definition of "broker" under Section 1-10 of this Act with
19 reference to property owned or leased by it, or to the
20 regular employees thereof with respect to the property so
21 owned or leased, where such acts are performed in the
22 regular course of or as an incident to the management,
23 sale, or other disposition of such property and the
24 investment therein, provided that such regular employees

1 do not perform any of the acts described in the definition
2 of "broker" under Section 1-10 of this Act in connection
3 with a vocation of selling or leasing any real estate or
4 the improvements thereon not so owned or leased.

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

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

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

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

23 (6) Any officer or employee of the State government or
24 any political subdivision thereof performing official
25 duties.

26 (7) Any multiple listing service or other similar

1 information exchange that is engaged in the collection and
2 dissemination of information concerning real estate
3 available for sale, purchase, lease, or exchange for the
4 purpose of providing licensees with a system by which
5 licensees may cooperatively share information along with
6 which no other licensed activities, as defined in Section
7 1-10 of this Act, are provided.

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

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

19 (10) Any resident lessee of a residential dwelling unit
20 who refers for compensation to the owner of the dwelling
21 unit, or to the owner's agent, prospective lessees of
22 dwelling units in the same building or complex as the
23 resident lessee's unit, but only if the resident lessee (i)
24 refers no more than 3 prospective lessees in any 12-month
25 period, (ii) receives compensation of no more than \$1,500
26 or the equivalent of one month's rent, whichever is less,

1 in any 12-month period, and (iii) limits his or her
2 activities to referring prospective lessees to the owner,
3 or the owner's agent, and does not show a residential
4 dwelling unit to a prospective lessee, discuss terms or
5 conditions of leasing a dwelling unit with a prospective
6 lessee, or otherwise participate in the negotiation of the
7 leasing of a dwelling unit.

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

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

23 (13) Any person who is licensed without examination
24 under Section 10-25 (now repealed) of the Auction License
25 Act is exempt from holding a broker's or salesperson's
26 license under this Act for the limited purpose of selling

1 or leasing real estate at auction, so long as:

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

4 (B) that person verifies to the Department that he
5 or she has sold real estate at auction for a period of
6 5 years prior to licensure as an auctioneer;

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

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

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

21 (15) A licensed auctioneer who has obtained a real
22 property auction qualification under Section 10-8 of the
23 Auction License Act.

24 (Source: P.A. 96-328, eff. 8-11-09; 96-856, eff. 12-31-09.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.