



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3275

Introduced 2/19/2016, by Sen. Michael Connelly

SYNOPSIS AS INTRODUCED:

225 ILCS 427/15
225 ILCS 427/45
225 ILCS 427/50
225 ILCS 427/60
225 ILCS 427/85
225 ILCS 454/10-20
225 ILCS 454/20-20

Amends the Community Association Manager Licensing and Disciplinary Act. Removes the requirement that the Department of Financial and Professional Regulation use licensing examination standards from the National Organization for Competency Assurances. Provides that no supervisory community association manager may be the designated supervisory community association manager for more than one firm, corporation, limited liability company, or other legal entity (rather than no community association manager may be the licensee-in-charge for more than one firm, corporation, limited liability company, or other legal entity). Provides that the Department may require a person whose license is lapsed to complete a period of evaluated experience (rather than evaluated clinical experience). Makes technical changes. Amends the Real Estate License Act of 2000. Includes limited liability companies in provisions concerning a sponsoring broker in an employment agreement with a licensee. Makes grammatical changes. Effective immediately.

LRB099 15977 MLM 40294 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 Community Association Manager Licensing and
5 Disciplinary Act is amended by changing Sections 15, 45, 50,
6 60, and 85 as follows:

7 (225 ILCS 427/15)

8 (Section scheduled to be repealed on January 1, 2020)

9 Sec. 15. License required. It shall be unlawful for any
10 person, corporation, partnership, limited liability company,
11 or other entity to provide community association management
12 services, provide services as a community association manager,
13 or hold himself, herself, or itself out as a community
14 association manager or community association management firm
15 to any community association in this State, unless he, she, or
16 it holds a current and valid license issued ~~licensed~~ by the
17 Department or is otherwise exempt from licensure under this
18 Act.

19 (Source: P.A. 98-365, eff. 1-1-14.)

20 (225 ILCS 427/45)

21 (Section scheduled to be repealed on January 1, 2020)

22 Sec. 45. Examinations.

1 (a) The Department shall authorize examinations of
2 applicants for licensure as a community association manager at
3 such times and places as it may determine. The examination of
4 applicants shall be of a character to give a fair test of the
5 qualifications of the applicant to practice as a community
6 association manager.

7 (b) Applicants for examination shall be required to pay,
8 either to the Department or the designated testing service, a
9 fee covering the cost of providing the examination.

10 (c) The Department may employ consultants for the purpose
11 of preparing and conducting examinations.

12 (d) An applicant shall be eligible to take the examination
13 only after successfully completing the education requirements
14 set forth in this Act and attaining the minimum age required
15 under this Act.

16 (e) The examination approved by the Department should
17 utilize the basic principles of professional testing standards
18 ~~utilizing psychometric measurement. The examination shall use~~
19 ~~standards set forth by the National Organization for Competency~~
20 ~~Assurances and shall be approved by the Department.~~

21 (Source: P.A. 96-726, eff. 7-1-10.)

22 (225 ILCS 427/50)

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

24 Sec. 50. Community association management firm.

25 (a) No corporation, partnership, limited liability

1 company, or other legal entity shall provide or offer to
2 provide community association management services, unless it
3 has applied in writing on the prescribed forms and has paid the
4 required nonrefundable fees and provided evidence to the
5 Department that the firm has designated a licensed supervising
6 community association manager to supervise and manage the firm.
7 A designated supervising community association manager shall
8 be a continuing requirement of firm licensure. No supervising
9 community association manager may be the supervising community
10 association manager for more than one firm.

11 (b) Any corporation, partnership, limited liability
12 company, or other legal entity that is providing, or offering
13 to provide, community association management services and is
14 not in compliance with Section 50 and other provisions of this
15 Act shall be subject to the fines, injunctions, cease and
16 desist provisions, and penalties provided for in Sections 90,
17 92, and 155 of this Act.

18 (c) No supervisory community association manager may be the
19 designated supervisory community association manager
20 ~~licensee in charge~~ for more than one firm, corporation,
21 limited liability company, or other legal entity.

22 (Source: P.A. 98-365, eff. 1-1-14.)

23 (225 ILCS 427/60)

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

25 Sec. 60. Licenses; renewals; restoration; person in

1 military service.

2 (a) The expiration date and renewal period for each license
3 issued under this Act shall be set by rule. The Department may
4 promulgate rules requiring continuing education and set all
5 necessary requirements for such, including but not limited to
6 fees, approved coursework, number of hours, and waivers of
7 continuing education.

8 (b) Any licensee who has permitted his, her, or its license
9 to expire may have the license restored by making application
10 to the Department and filing proof acceptable to the Department
11 of fitness to have his, her, or its license restored, by which
12 may include sworn evidence certifying to active practice in
13 another jurisdiction satisfactory to the Department, complying
14 with any continuing education requirements, and paying the
15 required restoration fee.

16 (c) If the person has not maintained an active practice in
17 another jurisdiction satisfactory to the Department, the
18 Department shall determine, by an evaluation program
19 established by rule, the person's fitness to resume active
20 status and may require the person to complete a period of
21 evaluated ~~clinical~~ experience and successful completion of a
22 practical examination. However, any person whose license
23 expired while (i) in federal service on active duty with the
24 Armed Forces of the United States or called into service or
25 training with the State Militia or (ii) in training or
26 education under the supervision of the United States

1 preliminary to induction into the military service may have his
2 or her license renewed or restored without paying any lapsed
3 renewal fees if, within 2 years after honorable termination of
4 the service, training or education, except under condition
5 other than honorable, he or she furnishes the Department with
6 satisfactory evidence to the effect that he or she has been so
7 engaged and that the service, training, or education has been
8 so terminated.

9 (d) A community association manager, community association
10 management firm or supervising community association manager
11 who notifies the Department, in writing on forms prescribed by
12 the Department, may place his, her, or its license on inactive
13 status and shall be excused from the payment of renewal fees
14 until the person notifies the Department in writing of the
15 intention to resume active practice.

16 (e) A community association manager, community association
17 management firm, or supervising community association manager
18 requesting his, her, or its license be changed from inactive to
19 active status shall be required to pay the current renewal fee
20 and shall also demonstrate compliance with the continuing
21 education requirements.

22 (f) Any licensee with a nonrenewed or on inactive license
23 status shall not provide community association management
24 services as set forth in this Act.

25 (g) Any person violating subsection (f) of this Section
26 shall be considered to be practicing without a license and will

1 be subject to the disciplinary provisions of this Act.

2 (Source: P.A. 98-365, eff. 1-1-14.)

3 (225 ILCS 427/85)

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

5 Sec. 85. Grounds for discipline; refusal, revocation, or
6 suspension.

7 (a) The Department may refuse to issue or renew a license,
8 or may place on probation, reprimand, suspend, or revoke any
9 license, or take any other disciplinary or non-disciplinary
10 action as the Department may deem proper and impose a fine not
11 to exceed \$10,000 for each violation upon any licensee or
12 applicant under this Act or any person or entity who holds
13 himself, herself, or itself out as an applicant or licensee for
14 any one or combination of the following causes:

15 (1) Material misstatement in furnishing information to
16 the Department.

17 (2) Violations of this Act or its rules.

18 (3) Conviction of or entry of a plea of guilty or plea
19 of nolo contendere to a felony or a misdemeanor under the
20 laws of the United States, any state, or any other
21 jurisdiction or entry of an administrative sanction by a
22 government agency in this State or any other jurisdiction.
23 Action taken under this paragraph (3) for a misdemeanor or
24 an administrative sanction is limited to a misdemeanor or
25 administrative sanction that has as an essential element

1 dishonesty or fraud, that involves larceny, embezzlement,
2 or obtaining money, property, or credit by false pretenses
3 or by means of a confidence game, or that is directly
4 related to the practice of the profession.

5 (4) Making any misrepresentation for the purpose of
6 obtaining a license or violating any provision of this Act
7 or its rules.

8 (5) Professional incompetence.

9 (6) Gross negligence.

10 (7) Aiding or assisting another person in violating any
11 provision of this Act or its rules.

12 (8) Failing, within 30 days, to provide information in
13 response to a request made by the Department.

14 (9) Engaging in dishonorable, unethical, or
15 unprofessional conduct of a character likely to deceive,
16 defraud or harm the public as defined by the rules of the
17 Department, or violating the rules of professional conduct
18 adopted by the Department.

19 (10) Habitual or excessive use or addiction to alcohol,
20 narcotics, stimulants, or any other chemical agent or drug
21 that results in the inability to practice with reasonable
22 judgment, skill, or safety.

23 (11) Having been disciplined by another state, the
24 District of Columbia, a territory, a foreign nation, or a
25 governmental agency authorized to impose discipline if at
26 least one of the grounds for the discipline is the same or

1 substantially equivalent of one of the grounds for which a
2 licensee may be disciplined under this Act. A certified
3 copy of the record of the action by the other state or
4 jurisdiction shall be prima facie evidence thereof.

5 (12) Directly or indirectly giving to or receiving from
6 any person, firm, corporation, partnership or association
7 any fee, commission, rebate, or other form of compensation
8 for any professional services not actually or personally
9 rendered.

10 (13) A finding by the Department that the licensee,
11 after having his, her, or its license placed on
12 probationary status, has violated the terms of probation.

13 (14) Willfully making or filing false records or
14 reports relating to a licensee's practice, including but
15 not limited to false records filed with any State or
16 federal agencies or departments.

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

23 (16) Physical illness or mental illness or impairment,
24 including, but not limited to, deterioration through the
25 aging process or loss of motor skill that results in the
26 inability to practice the profession with reasonable

1 judgment, skill, or safety.

2 (17) Solicitation of professional services by using
3 false or misleading advertising.

4 (18) A finding that licensure has been applied for or
5 obtained by fraudulent means.

6 (19) Practicing or attempting to practice under a name
7 other than the full name as shown on the license or any
8 other legally authorized name.

9 (20) Gross overcharging for professional services
10 including, but not limited to, (i) collection of fees or
11 moneys for services that are not rendered; and (ii)
12 charging for services that are not in accordance with the
13 contract between the licensee and the community
14 association.

15 (21) Improper commingling of personal and client funds
16 in violation of this Act or any rules promulgated thereto.

17 (22) Failing to account for or remit any moneys or
18 documents coming into the licensee's possession that
19 belong to another person or entity.

20 (23) Giving differential treatment to a person that is
21 to that person's detriment because of race, color, creed,
22 sex, religion, or national origin.

23 (24) Performing and charging for services without
24 reasonable authorization to do so from the person or entity
25 for whom service is being provided.

26 (25) Failing to make available to the Department, upon

1 request, any books, records, or forms required by this Act.

2 (26) Purporting to be a supervising community
3 association manager of a firm without active participation
4 in the firm.

5 (27) Failing to make available to the Department at the
6 time of the request any indicia of licensure or
7 registration issued under this Act.

8 (28) Failing to maintain and deposit funds belonging to
9 a community association in accordance with subsection (b)
10 of Section 55 of this Act.

11 (29) Violating the terms of a disciplinary order issued
12 by the Department.

13 (b) In accordance with subdivision (a)(5) of Section
14 2105-15 of the Department of Professional Regulation Law of the
15 Civil Administrative Code of Illinois (20 ILCS 2105/2105-15),
16 the Department shall deny a license or renewal authorized by
17 this Act to a person who has defaulted on an educational loan
18 or scholarship provided or guaranteed by the Illinois Student
19 Assistance Commission or any governmental agency of this State.

20 (c) The determination by a circuit court that a licensee is
21 subject to involuntary admission or judicial admission, as
22 provided in the Mental Health and Developmental Disabilities
23 Code, operates as an automatic suspension. The suspension will
24 terminate only upon a finding by a court that the patient is no
25 longer subject to involuntary admission or judicial admission
26 and the issuance of an order so finding and discharging the

1 patient, and upon the recommendation of the Board to the
2 Secretary that the licensee be allowed to resume his or her
3 practice as a licensed community association manager.

4 (d) In accordance with subsection (g) of Section 2105-15 of
5 the Department of Professional Regulation Law of the Civil
6 Administrative Code of Illinois (20 ILCS 2105/2105-15), the
7 Department may refuse to issue or renew or may suspend the
8 license of any person who fails to file a return, to pay the
9 tax, penalty, or interest shown in a filed return, or to pay
10 any final assessment of tax, penalty, or interest, as required
11 by any tax Act administered by the Department of Revenue, until
12 such time as the requirements of that tax Act are satisfied.

13 (e) In accordance with subdivision (a)(5) of Section
14 2105-15 of the Department of Professional Regulation Law of the
15 Civil Administrative Code of Illinois (20 ILCS 2105/2105-15)
16 and in cases where the Department of Healthcare and Family
17 Services (formerly Department of Public Aid) has previously
18 determined that a licensee or a potential licensee is more than
19 30 days delinquent in the payment of child support and has
20 subsequently certified the delinquency to the Department, the
21 Department may refuse to issue or renew or may revoke or
22 suspend that person's license or may take other disciplinary
23 action against that person based solely upon the certification
24 of delinquency made by the Department of Healthcare and Family
25 Services.

26 (f) In enforcing this Section, the Department or Board upon

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

21 If the Department or Board finds an individual unable to
22 practice because of the reasons set forth in this Section, the
23 Department or Board may require that individual to submit to
24 care, counseling, or treatment by physicians approved or
25 designated by the Department or Board, as a condition, term, or
26 restriction for continued, reinstated, or renewed licensure to

1 practice; or, in lieu of care, counseling, or treatment, the
2 Department may file, or the Board may recommend to the
3 Department to file, a complaint to immediately suspend, revoke,
4 deny, or otherwise discipline the license of the individual. An
5 individual whose license was granted, continued, reinstated,
6 renewed, disciplined or supervised subject to such terms,
7 conditions, or restrictions, and who fails to comply with such
8 terms, conditions, or restrictions, shall be referred to the
9 Secretary for a determination as to whether the individual
10 shall have his or her license suspended immediately, pending a
11 hearing by the Department.

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

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

26 (Source: P.A. 97-333, eff. 8-12-11; 98-365, eff. 1-1-14;

1 98-756, eff. 7-16-14.)

2 Section 10. The Real Estate License Act of 2000 is amended
3 by changing Sections 10-20 and 20-20 as follows:

4 (225 ILCS 454/10-20)

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

6 Sec. 10-20. Sponsoring broker; employment agreement.

7 (a) A licensee may perform activities as a licensee only
8 for his or her sponsoring broker. A licensee must have only one
9 sponsoring broker at any one time.

10 (b) Every broker who employs licensees or has an
11 independent contractor relationship with a licensee shall have
12 a written employment agreement with each such licensee. The
13 broker having this written employment agreement with the
14 licensee must be that licensee's sponsoring broker.

15 (c) Every sponsoring broker must have a written employment
16 agreement with each licensee the broker sponsors. The agreement
17 shall address the employment or independent contractor
18 relationship terms, including without limitation supervision,
19 duties, compensation, and termination.

20 (d) Every sponsoring broker must have a written employment
21 agreement with each licensed personal assistant who assists a
22 licensee sponsored by the sponsoring broker. This requirement
23 applies to all licensed personal assistants whether or not they
24 perform licensed activities in their capacity as a personal

1 assistant. The agreement shall address the employment or
2 independent contractor relationship terms, including without
3 limitation supervision, duties, compensation, and termination.

4 (e) Notwithstanding the fact that a sponsoring broker has
5 an employment agreement with a licensee, a sponsoring broker
6 may pay compensation directly to a corporation or limited
7 liability company solely owned by that licensee that has been
8 formed for the purpose of receiving compensation earned by the
9 licensee. A corporation or limited liability company formed for
10 the purpose herein stated in this subsection (e) shall not be
11 required to be licensed under this Act so long as the person
12 who is the sole shareholder of the corporation or sole member
13 of the limited liability company is licensed.

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

15 (225 ILCS 454/20-20)

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

17 Sec. 20-20. Grounds for discipline.

18 (a) The Department may refuse to issue or renew a license,
19 may place on probation, suspend, or revoke any license,
20 reprimand, or take any other disciplinary or non-disciplinary
21 action as the Department may deem proper and impose a fine not
22 to exceed \$25,000 upon any licensee or applicant under this Act
23 or any person who holds himself or herself out as an applicant
24 or licensee or against a licensee in handling his or her own
25 property, whether held by deed, option, or otherwise, for any

1 one or any combination of the following causes:

2 (1) Fraud or misrepresentation in applying for, or
3 procuring, a license under this Act or in connection with
4 applying for renewal of a license under this Act.

5 (2) The conviction of or plea of guilty or plea of nolo
6 contendere to a felony or misdemeanor in this State or any
7 other jurisdiction; or the entry of an administrative
8 sanction by a government agency in this State or any other
9 jurisdiction. Action taken under this paragraph (2) for a
10 misdemeanor or an administrative sanction is limited to a
11 misdemeanor or administrative sanction that has as an
12 essential element dishonesty or fraud or involves larceny,
13 embezzlement, or obtaining money, property, or credit by
14 false pretenses or by means of a confidence game.

15 (3) Inability to practice the profession with
16 reasonable judgment, skill, or safety as a result of a
17 physical illness, including, but not limited to,
18 deterioration through the aging process or loss of motor
19 skill, or a mental illness or disability.

20 (4) Practice under this Act as a licensee in a retail
21 sales establishment from an office, desk, or space that is
22 not separated from the main retail business by a separate
23 and distinct area within the establishment.

24 (5) Having been disciplined by another state, the
25 District of Columbia, a territory, a foreign nation, or a
26 governmental agency authorized to impose discipline if at

1 least one of the grounds for that discipline is the same as
2 or the equivalent of one of the grounds for which a
3 licensee may be disciplined under this Act. A certified
4 copy of the record of the action by the other state or
5 jurisdiction shall be prima facie evidence thereof.

6 (6) Engaging in the practice of real estate brokerage
7 without a license or after the licensee's license was
8 expired or while the license was inoperative.

9 (7) Cheating on or attempting to subvert the Real
10 Estate License Exam or continuing education exam.

11 (8) Aiding or abetting an applicant to subvert or cheat
12 on the Real Estate License Exam or continuing education
13 exam administered pursuant to this Act.

14 (9) Advertising that is inaccurate, misleading, or
15 contrary to the provisions of the Act.

16 (10) Making any substantial misrepresentation or
17 untruthful advertising.

18 (11) Making any false promises of a character likely to
19 influence, persuade, or induce.

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

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

26 (14) Acting for more than one party in a transaction

1 without providing written notice to all parties for whom
2 the licensee acts.

3 (15) Representing or attempting to represent a broker
4 other than the sponsoring broker.

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

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

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

26 (B) deemed abandoned and transferred to the Office

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

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

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

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

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

1 the Department.

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

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

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

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

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

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

23 (27) Failing to provide information requested by the
24 Department, or otherwise respond to that request, within 30
25 days of the request.

26 (28) Advertising by means of a blind advertisement,

1 except as otherwise permitted in Section 10-30 of this Act.

2 (29) Offering guaranteed sales plans, as defined in
3 clause (A) of this subdivision (29), except to the extent
4 hereinafter set forth:

5 (A) A "guaranteed sales plan" is any real estate
6 purchase or sales plan whereby a licensee enters into a
7 conditional or unconditional written contract with a
8 seller, prior to entering into a brokerage agreement
9 with the seller, by the terms of which a licensee
10 agrees to purchase a property of the seller within a
11 specified period of time at a specific price in the
12 event the property is not sold in accordance with the
13 terms of a brokerage agreement to be entered into
14 between the sponsoring broker and the seller.

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

18 (C) A licensee offering a guaranteed sales plan
19 shall provide to the party to whom the plan is offered
20 evidence of sufficient financial resources to satisfy
21 the commitment to purchase undertaken by the broker in
22 the plan.

23 (D) Any licensee offering a guaranteed sales plan
24 shall undertake to market the property of the seller
25 subject to the plan in the same manner in which the
26 broker would market any other property, unless the

1 agreement with the seller provides otherwise.

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

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

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

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

24 (32) Inducing any party to a contract of sale or lease
25 or brokerage agreement to break the contract of sale or
26 lease or brokerage agreement for the purpose of

1 substituting, in lieu thereof, a new contract for sale or
2 lease or brokerage agreement with a third party.

3 (33) Negotiating a sale, exchange, or lease of real
4 estate directly with any person if the licensee knows that
5 the person has an exclusive brokerage agreement with
6 another broker, unless specifically authorized by that
7 broker.

8 (34) When a licensee is also an attorney, acting as the
9 attorney for either the buyer or the seller in the same
10 transaction in which the licensee is acting or has acted as
11 a managing broker or broker.

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

25 (36) Disregarding or violating any provision of the
26 Land Sales Registration Act of 1989, the Illinois Real

1 Estate Time-Share Act, or the published rules promulgated
2 by the Department to enforce those Acts.

3 (37) Violating the terms of an ~~a disciplinary~~ order
4 issued by the Department.

5 (38) Paying or failing to disclose compensation in
6 violation of Article 10 of this Act.

7 (39) Requiring a party to a transaction who is not a
8 client of the licensee to allow the licensee to retain a
9 portion of the escrow moneys for payment of the licensee's
10 commission or expenses as a condition for release of the
11 escrow moneys to that party.

12 (40) Disregarding or violating any provision of this
13 Act or the published rules promulgated by the Department to
14 enforce this Act or aiding or abetting any individual,
15 partnership, registered limited liability partnership,
16 limited liability company, or corporation in disregarding
17 any provision of this Act or the published rules
18 promulgated by the Department to enforce this Act.

19 (41) Failing to provide the minimum services required
20 by Section 15-75 of this Act when acting under an exclusive
21 brokerage agreement.

22 (42) Habitual or excessive use or addiction to alcohol,
23 narcotics, stimulants, or any other chemical agent or drug
24 that results in a managing broker, broker, or leasing
25 agent's inability to practice with reasonable skill or
26 safety.

1 (43) Enabling, aiding, or abetting an auctioneer, as
2 defined in the Auction License Act, to conduct a real
3 estate auction in a manner that is in violation of this
4 Act.

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

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

20 (d) In cases where the Department of Healthcare and Family
21 Services (formerly Department of Public Aid) has previously
22 determined that a licensee or a potential licensee is more than
23 30 days delinquent in the payment of child support and has
24 subsequently certified the delinquency to the Department, the
25 Department may refuse to issue or renew or may revoke or
26 suspend that person's license or may take other disciplinary

1 action against that person based solely upon the certification
2 of delinquency made by the Department of Healthcare and Family
3 Services in accordance with item (5) of subsection (a) of
4 Section 2105-15 of the Civil Administrative Code of Illinois.

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

25 If the Department or Board finds an individual unable to
26 practice because of the reasons set forth in this Section, the

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

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

25 An individual licensed under this Act and affected under
26 this Section shall be afforded an opportunity to demonstrate to

1 the Department or Board that he or she can resume practice in
2 compliance with acceptable and prevailing standards under the
3 provisions of his or her license.

4 (Source: P.A. 98-553, eff. 1-1-14; 98-756, eff. 7-16-14;
5 99-227, eff. 8-3-15.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.