

1 AN ACT concerning professional regulation.

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

4 Section 5. The Real Estate License Act of 2000 is amended
5 by changing Sections 1-10, 5-30, 5-50, 5-70, and 20-20 and by
6 adding Section 15-75 as follows:

7 (225 ILCS 454/1-10)

8 (Section scheduled to be repealed on January 1, 2010)

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

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

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

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

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

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

29 "Board" means the Real Estate Administration and
30 Disciplinary Board of OBRE.

31 "Branch office" means a sponsoring broker's office other
32 than the sponsoring broker's principal office.

1 "Broker" means an individual, partnership, limited
2 liability company, corporation, or registered limited
3 liability partnership other than a real estate salesperson or
4 leasing agent who for another and for compensation, or with the
5 intention or expectation of receiving compensation, either
6 directly or indirectly:

7 (1) Sells, exchanges, purchases, rents, or leases real
8 estate.

9 (2) Offers to sell, exchange, purchase, rent, or lease
10 real estate.

11 (3) Negotiates, offers, attempts, or agrees to
12 negotiate the sale, exchange, purchase, rental, or leasing
13 of real estate.

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

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

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

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

23 (8) Assists or directs in procuring or referring of
24 prospects, intended to result in the sale, exchange, lease,
25 or rental of real estate.

26 (9) Assists or directs in the negotiation of any
27 transaction intended to result in the sale, exchange,
28 lease, or rental of real estate.

29 (10) Opens real estate to the public for marketing
30 purposes.

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

33 "Brokerage agreement" means a written or oral agreement
34 between a sponsoring broker and a consumer for licensed
35 activities to be provided to a consumer in return for
36 compensation or the right to receive compensation from another.

1 Brokerage agreements may constitute either a bilateral or a
2 unilateral agreement between the broker and the broker's client
3 depending upon the content of the brokerage agreement. All
4 exclusive brokerage agreements shall be in writing.

5 "Client" means a person who is being represented by a
6 licensee.

7 "Commissioner" means the Commissioner of Banks and Real
8 Estate or a person authorized by the Commissioner, the Office
9 of Banks and Real Estate Act, or this Act to act in the
10 Commissioner's stead.

11 "Compensation" means the valuable consideration given by
12 one person or entity to another person or entity in exchange
13 for the performance of some activity or service. Compensation
14 shall include the transfer of valuable consideration,
15 including without limitation the following:

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

31 "Confidential information" means information obtained by a
32 licensee from a client during the term of a brokerage agreement
33 that (i) was made confidential by the written request or
34 written instruction of the client, (ii) deals with the
35 negotiating position of the client, or (iii) is information the
36 disclosure of which could materially harm the negotiating

1 position of the client, unless at any time:

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

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

5 (3) the information becomes public from a source other
6 than the licensee.

7 "Confidential information" shall not be considered to
8 include material information about the physical condition of
9 the property.

10 "Consumer" means a person or entity seeking or receiving
11 licensed activities.

12 "Continuing education school" means any person licensed by
13 OBRE as a school for continuing education in accordance with
14 Section 30-15 of this Act.

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

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

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

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

28 "Director" means the Director of the Real Estate Division,
29 OBRE.

30 "Dual agency" means an agency relationship in which a
31 licensee is representing both buyer and seller or both landlord
32 and tenant in the same transaction. When the agency
33 relationship is a designated agency, the question of whether
34 there is a dual agency shall be determined by the agency
35 relationships of the designated agent of the parties and not of
36 the sponsoring broker.

1 "Employee" or other derivative of the word "employee", when
2 used to refer to, describe, or delineate the relationship
3 between a real estate broker and a real estate salesperson,
4 another real estate broker, or a leasing agent, shall be
5 construed to include an independent contractor relationship,
6 provided that a written agreement exists that clearly
7 establishes and states the relationship. All responsibilities
8 of a broker shall remain.

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

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

24 "Inoperative" means a status of licensure where the
25 licensee holds a current license under this Act, but the
26 licensee is prohibited from engaging in licensed activities
27 because the licensee is unsponsored or the license of the
28 sponsoring broker with whom the licensee is associated or by
29 whom he or she is employed is currently expired, revoked,
30 suspended, or otherwise rendered invalid under this Act.

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

35 "License" means the document issued by OBRE certifying that
36 the person named thereon has fulfilled all requirements

1 prerequisite to licensure under this Act.

2 "Licensed activities" means those activities listed in the
3 definition of "broker" under this Section.

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

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

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

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

19 "Ministerial acts" means those acts that a licensee may
20 perform for a consumer that are informative or clerical in
21 nature and do not rise to the level of active representation on
22 behalf of a consumer. Examples of these acts include without
23 limitation (i) responding to phone inquiries by consumers as to
24 the availability and pricing of brokerage services, (ii)
25 responding to phone inquiries from a consumer concerning the
26 price or location of property, (iii) attending an open house
27 and responding to questions about the property from a consumer,
28 (iv) setting an appointment to view property, (v) responding to
29 questions of consumers walking into a licensee's office
30 concerning brokerage services offered or particular
31 properties, (vi) accompanying an appraiser, inspector,
32 contractor, or similar third party on a visit to a property,
33 (vii) describing a property or the property's condition in
34 response to a consumer's inquiry, (viii) completing business or
35 factual information for a consumer on an offer or contract to
36 purchase on behalf of a client, (ix) showing a client through a

1 property being sold by an owner on his or her own behalf, or
2 (x) referral to another broker or service provider.

3 "OBRE" means the Office of Banks and Real Estate.

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

8 "Person" means and includes individuals, entities,
9 corporations, limited liability companies, registered limited
10 liability partnerships, and partnerships, foreign or domestic,
11 except that when the context otherwise requires, the term may
12 refer to a single individual or other described entity.

13 "Personal assistant" means a licensed or unlicensed person
14 who has been hired for the purpose of aiding or assisting a
15 sponsored licensee in the performance of the sponsored
16 licensee's job.

17 "Pocket card" means the card issued by OBRE to signify that
18 the person named on the card is currently licensed under this
19 Act.

20 "Pre-license school" means a school licensed by OBRE
21 offering courses in subjects related to real estate
22 transactions, including the subjects upon which an applicant is
23 examined in determining fitness to receive a license.

24 "Pre-renewal period" means the period between the date of
25 issue of a currently valid license and the license's expiration
26 date.

27 "Real estate" means and includes leaseholds as well as any
28 other interest or estate in land, whether corporeal,
29 incorporeal, freehold, or non-freehold, including timeshare
30 interests, and whether the real estate is situated in this
31 State or elsewhere.

32 "Real Estate Administration and Disciplinary Board" or
33 "Board" means the Real Estate Administration and Disciplinary
34 Board created by Section 25-10 of this Act.

35 "Salesperson" means any individual, other than a real
36 estate broker or leasing agent, who is employed by a real

1 estate broker or is associated by written agreement with a real
2 estate broker as an independent contractor and participates in
3 any activity described in the definition of "broker" under this
4 Section.

5 "Sponsoring broker" means the broker who has issued a
6 sponsor card to a licensed salesperson, another licensed
7 broker, or a leasing agent.

8 "Sponsor card" means the temporary permit issued by the
9 sponsoring real estate broker certifying that the real estate
10 broker, real estate salesperson, or leasing agent named thereon
11 is employed by or associated by written agreement with the
12 sponsoring real estate broker, as provided for in Section 5-40
13 of this Act.

14 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;
15 91-603, eff. 1-1-00; 91-702, eff. 5-12-00; 92-217, eff.
16 8-2-01.)

17 (225 ILCS 454/5-30)

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

19 Sec. 5-30. Education requirements to obtain an original
20 broker or salesperson license.

21 (a) All applicants for a broker's license, except
22 applicants who meet the criteria set forth in subsection (c) of
23 this Section shall (i) give satisfactory evidence of having
24 completed at least 120 classroom hours, 45 of which shall be
25 those hours required to obtain a salesperson's license plus 15
26 hours in brokerage administration courses, in real estate
27 courses approved by the Advisory Council or (ii) for applicants
28 who currently hold a valid real estate salesperson's license,
29 give satisfactory evidence of having completed at least 75
30 hours in real estate courses, not including the courses that
31 are required to obtain a salesperson's license, approved by the
32 Advisory Council.

33 (b) All applicants for a salesperson's license, except
34 applicants who meet the criteria set forth in subsection (c) of
35 this Section shall give satisfactory evidence that they have

1 completed at least 45 hours of instruction in real estate
2 courses approved by the Advisory Council.

3 (c) The requirements specified in subsections (a) and (b)
4 of this Section do not apply to applicants who: ~~(1) are~~
5 currently admitted to practice law by the Supreme Court of
6 Illinois and are currently in active standing, ~~or (2) show~~
7 ~~evidence of receiving a baccalaureate degree including courses~~
8 ~~involving real estate or related material from a college or~~
9 ~~university approved by the Advisory Council.~~

10 (d) A minimum of 15 of the required hours of pre-license
11 education shall be in the areas of Article 15 of this Act,
12 disclosure and environmental issues, or any other currently
13 topical areas that are determined by the Advisory Council.

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

15 (225 ILCS 454/5-50)

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

17 Sec. 5-50. Expiration date and renewal period of broker,
18 salesperson, or leasing agent license; sponsoring broker;
19 register of licensees; pocket card.

20 (a) The expiration date and renewal period for each license
21 issued under this Act shall be set by rule. Except as otherwise
22 provided in Section 5-55 of this Act, the holder of a license
23 may renew the license within 90 days preceding the expiration
24 date thereof by paying the fees specified by rule. Upon written
25 request from the sponsoring broker, OBRE shall prepare and mail
26 to the sponsoring broker a listing of licensees under this Act
27 who, according to the records of OBRE, are sponsored by that
28 broker. Every licensee associated with or employed by a broker
29 whose license is revoked, suspended, terminated, or expired
30 shall be considered as inoperative until such time as the
31 sponsoring broker's license is reinstated or renewed, or the
32 licensee changes employment as set forth in subsection (c) of
33 Section 5-40 of this Act.

34 (b) OBRE shall establish and maintain a register of all
35 persons currently licensed by the State and shall issue and

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

17 (c) Any person licensed as a broker shall be entitled at
18 any renewal date to change his or her license status from
19 broker to salesperson.

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

21 (225 ILCS 454/5-70)

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

23 Sec. 5-70. Continuing education requirement; broker or
24 salesperson.

25 (a) The requirements of this Section apply to all licensees
26 ~~who have had a license for less than 15 years as of January 1,~~
27 ~~1992.~~

28 (b) Except as otherwise provided in this Section, each
29 person who applies for renewal of his or her license as a real
30 estate broker or real estate salesperson must successfully
31 complete real estate continuing education courses approved by
32 the Advisory Council at the rate of 6 hours per year or its
33 equivalent. In addition, beginning with the pre-renewal period
34 for broker licensees that begins after the effective date of
35 this amendatory Act of the 93rd General Assembly, to renew a

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

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

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

22 (3) serve as a full-time employee of OBRE; or

23 (4) are admitted to practice law pursuant to Illinois
24 Supreme Court rule.

25 (c) A person who is issued an initial license as a real
26 estate salesperson less than one year prior to the expiration
27 date of that license shall not be required to complete
28 continuing education as a condition of license renewal. A
29 person who is issued an initial license as a real estate broker
30 less than one year prior to the expiration date of that license
31 and who has not been licensed as a real estate salesperson
32 during the pre-renewal period shall not be required to complete
33 continuing education as a condition of license renewal. A
34 person receiving an initial license as a real estate broker
35 during the 90 days before the broker renewal date shall not be
36 required to complete the broker management continuing

1 education course provided for in subsection (b) of this Section
2 as a condition of initial license renewal.

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

21 (e) The subject areas of continuing education courses
22 approved by the Advisory Council may include without limitation
23 the following:

- 24 (1) license law and escrow;
- 25 (2) antitrust;
- 26 (3) fair housing;
- 27 (4) agency;
- 28 (5) appraisal;
- 29 (6) property management;
- 30 (7) residential brokerage;
- 31 (8) farm property management;
- 32 (9) rights and duties of sellers, buyers, and brokers;
- 33 (10) commercial brokerage and leasing; and
- 34 (11) real estate financing.

35 (f) In lieu of credit for those courses listed in
36 subsection (e) of this Section, credit may be earned for

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

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

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

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

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

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

23 (225 ILCS 454/15-75 new)

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

25 Sec. 15-75. Exclusive brokerage agreements. All exclusive
26 brokerage agreements must specify that the sponsoring broker,
27 through one or more sponsored licensees, must provide, at a
28 minimum, the following services:

29 (1) accept delivery of and present to the client offers
30 and counteroffers to buy, sell, or lease the client's
31 property or the property the client seeks to purchase or
32 lease;

33 (2) assist the client in developing, communicating,
34 negotiating, and presenting offers, counteroffers, and
35 notices that relate to the offers and counteroffers until a

1 lease or purchase agreement is signed and all contingencies
2 are satisfied or waived; and
3 (3) answer the client's questions relating to the
4 offers, counteroffers, notices, and contingencies.

5 (225 ILCS 454/20-20)

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

7 Sec. 20-20. Disciplinary actions; causes. OBRE may refuse
8 to issue or renew a license, may place on probation, suspend,
9 or revoke any license, or may censure, reprimand, or otherwise
10 discipline or impose a civil fine not to exceed \$25,000 upon
11 any licensee hereunder for any one or any combination of the
12 following causes:

13 (a) When the applicant or licensee has, by false or
14 fraudulent representation, obtained or sought to obtain a
15 license.

16 (b) When the applicant or licensee has been convicted of
17 any crime, an essential element of which is dishonesty or fraud
18 or larceny, embezzlement, or obtaining money, property, or
19 credit by false pretenses or by means of a confidence game, has
20 been convicted in this or another state of a crime that is a
21 felony under the laws of this State, or has been convicted of a
22 felony in a federal court.

23 (c) When the applicant or licensee has been adjudged to be
24 a person under legal disability or subject to involuntary
25 admission or to meet the standard for judicial admission as
26 provided in the Mental Health and Developmental Disabilities
27 Code.

28 (d) When the licensee performs or attempts to perform any
29 act as a broker or salesperson in a retail sales establishment
30 from an office, desk, or space that is not separated from the
31 main retail business by a separate and distinct area within the
32 establishment.

33 (e) Discipline of a licensee by another state, the District
34 of Columbia, a territory, a foreign nation, a governmental
35 agency, or any other entity authorized to impose discipline if

1 at least one of the grounds for that discipline is the same as
2 or the equivalent of one of the grounds for discipline set
3 forth in this Act, in which case the only issue will be whether
4 one of the grounds for that discipline is the same or
5 equivalent to one of the grounds for discipline under this Act.

6 (f) When the applicant or licensee has engaged in real
7 estate activity without a license or after the licensee's
8 license was expired or while the license was inoperative.

9 (g) When the applicant or licensee attempts to subvert or
10 cheat on the Real Estate License Exam or continuing education
11 exam or aids and abets an applicant to subvert or cheat on the
12 Real Estate License Exam or continuing education exam
13 administered pursuant to this Act.

14 (h) When the licensee in performing, attempting to perform,
15 or pretending to perform any act as a broker, salesperson, or
16 leasing agent or when the licensee in handling his or her own
17 property, whether held by deed, option, or otherwise, is found
18 guilty of:

19 (1) Making any substantial misrepresentation or
20 untruthful advertising.

21 (2) Making any false promises of a character likely to
22 influence, persuade, or induce.

23 (3) Pursuing a continued and flagrant course of
24 misrepresentation or the making of false promises through
25 licensees, employees, agents, advertising, or otherwise.

26 (4) Any misleading or untruthful advertising, or using
27 any trade name or insignia of membership in any real estate
28 organization of which the licensee is not a member.

29 (5) Acting for more than one party in a transaction
30 without providing written notice to all parties for whom
31 the licensee acts.

32 (6) Representing or attempting to represent a broker
33 other than the sponsoring broker.

34 (7) Failure to account for or to remit any moneys or
35 documents coming into his or her possession that belong to
36 others.

1 (8) Failure to maintain and deposit in a special
2 account, separate and apart from personal and other
3 business accounts, all escrow moneys belonging to others
4 entrusted to a licensee while acting as a real estate
5 broker, escrow agent, or temporary custodian of the funds
6 of others or failure to maintain all escrow moneys on
7 deposit in the account until the transactions are
8 consummated or terminated, except to the extent that the
9 moneys, or any part thereof, shall be disbursed prior to
10 the consummation or termination in accordance with (i) the
11 written direction of the principals to the transaction or
12 their duly authorized agents, (ii) directions providing
13 for the release, payment, or distribution of escrow moneys
14 contained in any written contract signed by the principals
15 to the transaction or their duly authorized agents, or
16 (iii) pursuant to an order of a court of competent
17 jurisdiction. The account shall be noninterest bearing,
18 unless the character of the deposit is such that payment of
19 interest thereon is otherwise required by law or unless the
20 principals to the transaction specifically require, in
21 writing, that the deposit be placed in an interest bearing
22 account.

23 (9) Failure to make available to the real estate
24 enforcement personnel of OBRE during normal business hours
25 all escrow records and related documents maintained in
26 connection with the practice of real estate within 24 hours
27 of a request for those documents by OBRE personnel.

28 (10) Failing to furnish copies upon request of all
29 documents relating to a real estate transaction to all
30 parties executing them.

31 (11) Failure of a sponsoring broker to timely provide
32 information, sponsor cards, or termination of licenses to
33 OBRE.

34 (12) Engaging in dishonorable, unethical, or
35 unprofessional conduct of a character likely to deceive,
36 defraud, or harm the public.

1 (13) Commingling the money or property of others with
2 his or her own.

3 (14) Employing any person on a purely temporary or
4 single deal basis as a means of evading the law regarding
5 payment of commission to nonlicensees on some contemplated
6 transactions.

7 (15) Permitting the use of his or her license as a
8 broker to enable a salesperson or unlicensed person to
9 operate a real estate business without actual
10 participation therein and control thereof by the broker.

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

14 (17) Displaying a "for rent" or "for sale" sign on any
15 property without the written consent of an owner or his or
16 her duly authorized agent or advertising by any means that
17 any property is for sale or for rent without the written
18 consent of the owner or his or her authorized agent.

19 (18) Failing to provide information requested by OBRE,
20 within 30 days of the request, either as the result of a
21 formal or informal complaint to OBRE or as a result of a
22 random audit conducted by OBRE, which would indicate a
23 violation of this Act.

24 (19) Advertising by means of a blind advertisement,
25 except as otherwise permitted in Section 10-30 of this Act.

26 (20) Offering guaranteed sales plans, as defined in
27 clause (A) of this subdivision (20), except to the extent
28 hereinafter set forth:

29 (A) A "guaranteed sales plan" is any real estate
30 purchase or sales plan whereby a licensee enters into a
31 conditional or unconditional written contract with a
32 seller by the terms of which a licensee agrees to
33 purchase a property of the seller within a specified
34 period of time at a specific price in the event the
35 property is not sold in accordance with the terms of a
36 listing contract between the sponsoring broker and the

1 seller or on other terms acceptable to the seller.

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

5 (C) A licensee offering a guaranteed sales plan
6 shall provide to the party to whom the plan is offered
7 evidence of sufficient financial resources to satisfy
8 the commitment to purchase undertaken by the broker in
9 the plan.

10 (D) Any licensee offering a guaranteed sales plan
11 shall undertake to market the property of the seller
12 subject to the plan in the same manner in which the
13 broker would market any other property, unless the
14 agreement with the seller provides otherwise.

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

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

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

34 (23) Inducing any party to a contract of sale or lease
35 or brokerage agreement to break the contract of sale or
36 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 (24) Negotiating a sale, exchange, or lease of real
4 estate directly with any person if the licensee knows that
5 the person has a written exclusive brokerage agreement with
6 another broker, unless specifically authorized by that
7 broker.

8 (25) 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 broker or salesperson.

12 (26) 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 (26), "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 (27) Disregarding or violating any provision of the
26 Land Sales Registration Act of 1989, the Illinois Real
27 Estate Time-Share Act, or the published rules promulgated
28 by OBRE to enforce those Acts.

29 (28) Violating the terms of a disciplinary order issued
30 by OBRE.

31 (29) Paying compensation in violation of Article 10 of
32 this Act.

33 (30) Requiring a party to a transaction who is not a
34 client of the licensee to allow the licensee to retain a
35 portion of the escrow moneys for payment of the licensee's
36 commission or expenses as a condition for release of the

1 escrow moneys to that party.

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

9 (32) Failing to provide the minimum services required
10 by Section 15-75 of this Act when acting under an exclusive
11 brokerage agreement.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.