



Rep. LaShawn K. Ford

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09500HB1361ham001

LRB095 08275 RAS 35050 a

1 AMENDMENT TO HOUSE BILL 1361

2 AMENDMENT NO. _____. Amend House Bill 1361 by replacing
3 everything after the enacting clause with the following:

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

6 (225 ILCS 454/20-20)

7 (Section scheduled to be repealed on January 1, 2010)

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

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

1 (b) When the applicant or licensee has been convicted of
2 any crime, an essential element of which is dishonesty or fraud
3 or larceny, embezzlement, or obtaining money, property, or
4 credit by false pretenses or by means of a confidence game, has
5 been convicted in this or another state of a crime that is a
6 felony under the laws of this State, or has been convicted of a
7 felony in a federal court.

8 (c) When the applicant or licensee has been adjudged to be
9 a person under legal disability or subject to involuntary
10 admission or to meet the standard for judicial admission as
11 provided in the Mental Health and Developmental Disabilities
12 Code.

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

18 (e) Discipline of a licensee by another state, the District
19 of Columbia, a territory, a foreign nation, a governmental
20 agency, or any other entity authorized to impose discipline if
21 at least one of the grounds for that discipline is the same as
22 or the equivalent of one of the grounds for discipline set
23 forth in this Act, in which case the only issue will be whether
24 one of the grounds for that discipline is the same or
25 equivalent to one of the grounds for discipline under this Act.

26 (f) When the applicant or licensee has engaged in real

1 estate activity without a license or after the licensee's
2 license was expired or while the license was inoperative.

3 (g) When the applicant or licensee attempts to subvert or
4 cheat on the Real Estate License Exam or continuing education
5 exam or aids and abets an applicant to subvert or cheat on the
6 Real Estate License Exam or continuing education exam
7 administered pursuant to this Act.

8 (h) When the licensee in performing, attempting to perform,
9 or pretending to perform any act as a broker, salesperson, or
10 leasing agent or when the licensee in handling his or her own
11 property, whether held by deed, option, or otherwise, is found
12 guilty of:

13 (1) Making any substantial misrepresentation or
14 untruthful advertising.

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

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

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

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

26 (6) Representing or attempting to represent a broker

1 other than the sponsoring broker.

2 (7) Failure to account for or to remit any moneys or
3 documents coming into his or her possession that belong to
4 others.

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

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

23 (B) deemed abandoned and transferred to the Office
24 of the State Treasurer to be handled as unclaimed
25 property pursuant to the Uniform Disposition of
26 Unclaimed Property Act. Escrow moneys may be deemed

1 abandoned under this subparagraph (B) only: (i) in the
2 absence of disbursement under subparagraph (A); (ii)
3 in the absence of notice of the filing of any claim in
4 a court of competent jurisdiction; and (iii) if 6
5 months have elapsed after the receipt of a written
6 demand for the escrow moneys from one of the principals
7 to the transaction or the principal's duly authorized
8 agent.

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

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

20 (10) Failing to furnish copies upon request of all
21 documents relating to a real estate transaction to all
22 parties executing them.

23 (11) Failure of a sponsoring broker to timely provide
24 information, sponsor cards, or termination of licenses to
25 OBRE.

26 (12) Engaging in dishonorable, unethical, or

1 unprofessional conduct of a character likely to deceive,
2 defraud, or harm the public.

3 (13) Commingling the money or property of others with
4 his or her own.

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

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

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

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

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

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

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

2 (20) Offering guaranteed sales plans, as defined in
3 clause (A) of this subdivision (20), 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 by the terms of which a licensee agrees to
9 purchase a property of the seller within a specified
10 period of time at a specific price in the event the
11 property is not sold in accordance with the terms of a
12 listing contract between the sponsoring broker and the
13 seller or on other terms acceptable to the seller.

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

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

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

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

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

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

20 (23) Inducing any party to a contract of sale or lease
21 or brokerage agreement to break the contract of sale or
22 lease or brokerage agreement for the purpose of
23 substituting, in lieu thereof, a new contract for sale or
24 lease or brokerage agreement with a third party.

25 (24) Negotiating a sale, exchange, or lease of real
26 estate directly with any person if the licensee knows that

1 the person has a written exclusive brokerage agreement with
2 another broker, unless specifically authorized by that
3 broker.

4 (25) When a licensee is also an attorney, acting as the
5 attorney for either the buyer or the seller in the same
6 transaction in which the licensee is acting or has acted as
7 a broker or salesperson.

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

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

25 (28) Violating the terms of a disciplinary order issued
26 by OBRE.

1 (29) Paying compensation in violation of Article 10 of
2 this Act.

3 (30) Requiring a party to a transaction who is not a
4 client of the licensee to allow the licensee to retain a
5 portion of the escrow moneys for payment of the licensee's
6 commission or expenses as a condition for release of the
7 escrow moneys to that party.

8 (31) Disregarding or violating any provision of this
9 Act or the published rules promulgated by OBRE to enforce
10 this Act or aiding or abetting any individual, partnership,
11 registered limited liability partnership, limited
12 liability company, or corporation in disregarding any
13 provision of this Act or the published rules promulgated by
14 OBRE to enforce this Act.

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

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