

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 Regulatory Sunset Act is amended by changing
5 Section 4.20 and adding Section 4.30 as follows:

6 (5 ILCS 80/4.20)

7 Sec. 4.20. Acts repealed on January 1, 2010 and December
8 31, 2010.

9 (a) The following Acts are repealed on January 1, 2010:

10 ~~The Auction License Act.~~

11 The Illinois Architecture Practice Act of 1989.

12 ~~The Illinois Landscape Architecture Act of 1989.~~

13 The Illinois Professional Land Surveyor Act of 1989.

14 The Land Sales Registration Act of 1999.

15 The Orthotics, Prosthetics, and Pedorthics Practice
16 Act.

17 The Perfusionist Practice Act.

18 The Professional Engineering Practice Act of 1989.

19 The Real Estate License Act of 2000.

20 The Structural Engineering Practice Act of 1989.

21 (b) The following Act is repealed on December 31, 2010:

22 The Medical Practice Act of 1987.

23 (Source: P.A. 95-1018, eff. 12-18-08.)

1 (5 ILCS 80/4.30 new)

2 Sec. 4.30. Acts repealed on January 1, 2020. The following
3 Acts are repealed on January 1, 2020:

4 The Auction License Act.

5 The Illinois Landscape Architecture Act of 1989.

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

10 (225 ILCS 315/1) (from Ch. 111, par. 8101)

11 (Section scheduled to be repealed on January 1, 2010)

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

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

15 (225 ILCS 315/3) (from Ch. 111, par. 8103)

16 (Section scheduled to be repealed on January 1, 2010)

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

18 (a) "Board" means the Illinois Landscape Architect
19 Registration Board.

20 (b) "Department" means the Illinois Department of
21 Financial and Professional Regulation.

22 (c) "Secretary ~~Director~~" means the Secretary ~~Director~~ of

1 Financial and Professional Regulation.

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

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

11 (f) "Landscape Architectural Practice" means the offering
12 or furnishing of professional services in connection with a
13 landscape architecture project that do not require the seal of
14 an architect, land surveyor, professional engineer, or
15 structural engineer. Such services may include ~~including~~, but
16 are not limited to, providing preliminary studies; developing
17 design concepts; planning for the relationships of physical
18 improvements and intended uses of the site; establishing form
19 and aesthetic elements; analyzing and providing for life safety
20 requirements; developing those construction details on the
21 site which are exclusive of any building or structure ~~and do~~
22 ~~not require the seal of an engineer, architect, or structural~~
23 ~~engineer~~; preparing and coordinating technical submissions;
24 and conducting site observation of a landscape architecture
25 project.

26 (g) "Person" means any person, sole proprietorship, or

1 entity such as a partnership, professional service
2 corporation, or corporation.

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

4 (225 ILCS 315/3.5 new)

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

6 Sec. 3.5. References.

7 (a) References in this Act (i) to the Department of
8 Professional Regulation are deemed, in appropriate contexts,
9 to be references to the Department of Financial and
10 Professional Regulation and (ii) to the Director of
11 Professional Regulation are deemed, in appropriate contexts,
12 to be references to the Secretary of Financial and Professional
13 Regulation.

14 (b) References to registration in the rules promulgated
15 pursuant to this Act shall be deemed, in appropriate contexts,
16 to be references to licensure.

17 (225 ILCS 315/4) (from Ch. 111, par. 8104)

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

19 Sec. 4. Use of title. No ~~After the effective date of this~~
20 ~~Act, no~~ person may represent himself to be a landscape
21 architect, ~~or~~ use the title "landscape architect", "registered
22 landscape architect", "licensed landscape architect",
23 "landscape architect design professional", or any other title
24 which includes the words "landscape architect" or "landscape

1 architecture", unless licensed ~~registered~~ under this Act.

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

3 (225 ILCS 315/5) (from Ch. 111, par. 8105)

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

5 Sec. 5. Practice without license. Nothing in this Act
6 prevents any person from being engaged in the practice of
7 landscape architecture so long as he or she does not represent
8 himself or herself as, or use the titles of, "landscape
9 architect", ~~or~~ "registered landscape architect", "licensed
10 landscape architect", "landscape architecture", "landscape
11 architect design professional", or "landscape architecture
12 design professional".

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

14 (225 ILCS 315/6) (from Ch. 111, par. 8106)

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

16 Sec. 6. Issuance of Certificate. Whenever an applicant for
17 licensure ~~registration~~ has complied with the provisions of
18 Section 11 of this Act, the Department shall issue a
19 certificate of licensure ~~registration~~ to the applicant as a
20 licensed ~~registered~~ landscape architect subject to the
21 provisions of this Act.

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

23 (225 ILCS 315/6.5 new)

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

2 Sec. 6.5. Display of license; seal.

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

11 (b) Every landscape architect shall have a seal, approved
12 by the Department and the Board, which shall contain the name
13 of the landscape architect, the number of his or her license,
14 and the legend "Landscape Architect, State of Illinois" and
15 other words or figures as the Department deems necessary.
16 Plans, specifications, and reports related to landscape
17 architectural practice and prepared by the landscape
18 architect, or under his or her supervision, shall be stamped
19 with his or her seal when filed. Notwithstanding the
20 requirements of this Section, an architect, land surveyor,
21 professional engineer, or structural engineer shall be
22 permitted to affix his or her professional seal or stamp to any
23 plans, specifications, and reports prepared by or under his or
24 her responsible control in connection with the incidental
25 practice of landscape architecture.

26 (c) A landscape architect who endorses a document with his

1 or her seal while his or her license is suspended, expired, or
2 has been revoked, who has been placed on probation or inactive
3 status, or who endorses a document that the landscape architect
4 did not actually prepare or supervise the preparation of, is
5 subject to the penalties prescribed in Section 18.1.

6 (225 ILCS 315/7) (from Ch. 111, par. 8107)

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

8 Sec. 7. ~~Current~~ Address of Record. Every landscape
9 architect shall maintain a current address with the Department.
10 It is the duty of every applicant or licensee to inform the
11 Department of any change of address, and such changes must be
12 made either through the Department's website or by directly
13 contacting the Department ~~shall be the responsibility of the~~
14 ~~registrant to notify the Department in writing of any change of~~
15 ~~address.~~

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

17 (225 ILCS 315/8) (from Ch. 111, par. 8108)

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

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

20 (a) The Department shall exercise the powers and duties
21 prescribed by the Civil Administrative Code of Illinois for the
22 administration of licensing acts and shall exercise such other
23 powers and duties vested by this Act.

24 (b) The Department shall promulgate rules and regulations

1 consistent with the provisions of this Act for the
2 administration and enforcement thereof which shall include
3 standards and criteria for licensure ~~registration~~ and for the
4 payment of fees connected therewith. The Department shall
5 prescribe forms required for the administration of this Act.

6 (c) The Department shall consult the Landscape
7 Architecture Board in promulgating rules and regulations.
8 Notice of proposed rulemaking shall be transmitted to the Board
9 and the Department shall review the Board's response and any
10 recommendations made therein. The Department shall notify the
11 Board in writing of the explanation for any deviations from the
12 Board's recommendations and response.

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

16 (e) The Department shall issue a quarterly report to the
17 Board setting forth the status of all complaints received by
18 the Department related to ~~the~~ landscape architectural
19 ~~architecture~~ practice.

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

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

24 (225 ILCS 315/9) (from Ch. 111, par. 8109)

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

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

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

19 (b) Members of the Board shall serve 5 year terms and until
20 their successors are appointed and qualified. No member shall
21 be reappointed to the Board for a term which would cause that
22 member's cumulative service on the Board to be longer than 10
23 years. No member who is an initial appointment to the Board
24 shall be reappointed to the Board for a term which would cause
25 that member's cumulative service on the Board to be longer than
26 13 years. Appointments to fill vacancies shall be made in the

1 same manner as original appointments for the unexpired portion
2 of the vacated term. Initial terms shall begin upon the
3 effective date of this Act.

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

7 (d) The Secretary ~~Director~~ shall consider the
8 recommendations of the Board on questions involving standards
9 of professional conduct, discipline, and qualifications of
10 applicants ~~candidates~~ and licensees ~~registrants~~ under this
11 Act.

12 (e) Three members ~~A quorum~~ of the Board shall constitute a
13 quorum ~~consist of a majority of members currently appointed~~. A
14 ~~majority vote of the~~ quorum is required for Board ~~board~~
15 decisions.

16 (f) The Board shall annually elect a chairperson and vice
17 chairperson, both of whom shall be licensed landscape
18 architects.

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

20 (225 ILCS 315/11) (from Ch. 111, par. 8111)

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

22 Sec. 11. Licensure ~~Registration~~ Qualifications.

23 (a) Every person applying to the Department for licensure
24 ~~registration~~ shall do so on forms approved by the Department
25 and shall pay the required fee. Every person applying to the

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

19 (b) The Department may exempt from such written examination
20 an applicant who holds a certificate of qualification issued by
21 the National Council of Landscape Architecture Registration
22 Boards, or who holds a registration or license in another state
23 which has equivalent or substantially equivalent requirements
24 as the State of Illinois.

25 (c) The Department shall adopt rules determining
26 requirements for practical training and education. The

1 Department may also adopt the examinations and recommended
2 grading procedures of the National Council of Landscape
3 Architectural Registration Boards and the accreditation
4 procedures of the Landscape Architectural Accrediting Board.
5 The Department shall issue a certificate of licensure
6 ~~registration~~ to each applicant who satisfies the requirements
7 set forth in this Section. Such licensure ~~registration~~ shall be
8 effective upon issuance.

9 (d) If an applicant neglects, fails without an approved
10 excuse, or refuses to take an examination or fails to pass an
11 examination to obtain a certificate of licensure ~~registration~~
12 under this Act within 3 years after filing the application, the
13 application shall be denied. However, such applicant may
14 thereafter submit a new application accompanied by the required
15 fee.

16 (e) For a period of 2 years after the effective date of
17 this amendatory Act of the 96th General Assembly, persons
18 demonstrating to the Department that they have been engaged in
19 landscape architectural practice for a period of 10 years and
20 have an accredited degree and license in urban or regional
21 planning, architecture, or civil engineering are eligible to
22 achieve licensure through examination. ~~Any person who has been~~
23 ~~engaged in the practice of landscape architecture prior to the~~
24 ~~effective date of this Act, shall, upon application within 2~~
25 ~~years from the effective date of this Act and upon payment of~~
26 ~~the required current registration fee and application fee, be~~

1 ~~issued registration without examination upon furnishing to the~~
2 ~~Department satisfactory proof that he was so engaged prior to~~
3 ~~such date. The Director, through the Board, shall accept as~~
4 ~~satisfactory evidence of the competency and qualifications of~~
5 ~~the applicant for registration the following:~~

6 ~~(1) A diploma of graduation or satisfactory completion~~
7 ~~certificate from a college, school, or university offering~~
8 ~~an accredited program in landscape architecture, together~~
9 ~~with evidence of at least 2 years of actual, practical~~
10 ~~experience in landscape architectural work of a grade and~~
11 ~~character acceptable to the Board; or~~

12 ~~(2) Evidence that the applicant has a total of at least~~
13 ~~7 years of actual, practical experience in landscape~~
14 ~~architectural work of a grade and character acceptable to~~
15 ~~the Board and has been actually engaged in the active~~
16 ~~practice of landscape architecture for not less than 4~~
17 ~~years immediately prior to the effective date of this Act.~~

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

19 (225 ILCS 315/11.5 new)

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

21 Sec. 11.5. Professional liability.

22 (a) Any individual licensed under this Act as a landscape
23 architect is liable for his or her negligent or willful acts,
24 errors, and omissions and any shareholder, member, or partner
25 of any entity that provides landscape architecture services

1 through an individual licensed under this Act is liable for the
2 negligent or willful acts, errors, and omissions of the
3 employees, members, and partners of the entity. Eligible claims
4 of liability may be covered under a qualifying policy of
5 professional liability insurance, as set forth in subsection
6 (b) of this Section, maintained by an individual or entity.

7 (b) A qualifying policy of professional liability
8 insurance must insure an individual or entity against liability
9 imposed upon it by law for damages arising out of the negligent
10 acts, errors, and omissions of the individual or of the
11 licensed and unlicensed employees, members, and partners of the
12 entity. The policy may exclude coverage of the following:

13 (1) a dishonest, fraudulent, criminal, or malicious
14 act or omission of the insured individual or entity or any
15 stockholder, employee, member, or partner of the insured
16 entity;

17 (2) the conducting of a business enterprise that is not
18 landscape architectural practice by the insured individual
19 or entity;

20 (3) the conducting of a business enterprise in which
21 the insured individual or entity may be a partner or that
22 may be controlled, operated, or managed by the individual
23 or entity in its own or in a fiduciary capacity, including
24 without limitation the ownership, maintenance, or use of
25 property;

26 (4) bodily injury, sickness, disease, or death of a

1 person; or
2 (5) damage to or destruction of tangible property owned
3 by the insured individual or entity.
4 The policy may include any other reasonable provisions with
5 respect to policy periods, territory, claims, conditions, and
6 ministerial matters.

7 (225 ILCS 315/12.5 new)

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

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

18 (225 ILCS 315/13) (from Ch. 111, par. 8113)

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

20 Sec. 13. Inactive Status.

21 (a) Any landscape architect who notifies the Department in
22 writing on forms prescribed by the Department may elect to
23 place his or her license ~~registration~~ on an inactive status and
24 shall be excused from payment of renewal fees until he or she

1 notifies the Department in writing of his or her desire to
2 resume active status.

3 (b) Any person whose license has been expired for more than
4 3 years may have his or her license restored by making
5 application to the Department and filing proof acceptable to
6 the Department of his or her fitness to have his or her license
7 restored, including evidence certifying to active practice in
8 another jurisdiction, and by paying the required restoration
9 fee.

10 (c) Any landscape architect whose license registration is
11 in an inactive status, has been suspended or revoked, or has
12 expired shall not represent himself or herself to be a
13 landscape architect or use the title "landscape architect",
14 "registered landscape architect", "licensed landscape
15 architect", or any other title which includes the words
16 "landscape architect" or "landscape architecture".

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

18 (225 ILCS 315/15) (from Ch. 111, par. 8115)

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

20 Sec. 15. Disposition of funds. All of the fees collected
21 pursuant to this Act shall be deposited in the General
22 Professions Dedicated Fund.

23 On January 1, 2000 the State Comptroller shall transfer the
24 balance of the monies in the Landscape Architects'
25 Administration and Investigation Fund into the General

1 Professions Dedicated Fund. Amounts appropriated for fiscal
2 year 2000 out of the Landscape Architects' Administration and
3 Investigation Fund may be paid out of the General Professions
4 Dedicated Fund.

5 The monies deposited in the General Professions Dedicated
6 Fund may be used for the expenses of the Department in the
7 administration of this Act.

8 Moneys from the Fund may also be used for direct and
9 allocable indirect costs related to the public purposes of the
10 Department of Financial and Professional Regulation. Moneys in
11 the Fund may be transferred to the Professions Indirect Cost
12 Fund as authorized by Section 2105-300 of the Department of
13 Professional Regulation Law (20 ILCS 2105/2105-300).

14 (Source: P.A. 91-239, eff. 1-1-00; 91-255, eff. 12-30-99;
15 92-16, eff. 6-28-01.)

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

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

18 Sec. 16. Roster. The Department shall maintain a roster of
19 the names and addresses of all licensed ~~registered~~ landscape
20 architects. This roster shall be available upon written request
21 and payment of the required fee.

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

23 (225 ILCS 315/17) (from Ch. 111, par. 8117)

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

1 Sec. 17. Advertising. Any person licensed ~~registered~~ under
2 this Act may advertise the availability of professional
3 services in the public media or on the premises where such
4 professional services are rendered provided that such
5 advertising is truthful and not misleading.

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

7 (225 ILCS 315/18) (from Ch. 111, par. 8118)

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

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

10 (a) If any person violates the provisions of this Act, the
11 Secretary ~~Director~~ may, in the name of the People of the State
12 of Illinois, through the Attorney General of the State of
13 Illinois or the State's Attorney of any county in which the
14 action is brought, petition for an order enjoining such
15 violation and for an order enforcing compliance with this Act.
16 Upon the filing of a verified petition in court, the court may
17 issue a temporary restraining order, without notice or bond,
18 and may preliminarily and permanently enjoin such violation. If
19 it is established that such person has violated or is violating
20 the injunction, the Court may punish the offender for contempt
21 of court. Proceedings under this Section shall be in addition
22 to, and not in lieu of, all other remedies and penalties
23 provided by this Act.

24 (b) If any person shall hold himself or herself out as a
25 "landscape architect", "licensed landscape architect", or

1 "registered landscape architect", or use any other title that
2 includes the words "landscape architect" or "landscape
3 architecture" without being licensed ~~registered~~ under the
4 provisions of this Act, then any licensed ~~registered~~ landscape
5 architect, any interested party or any person injured thereby
6 may, in addition to the Secretary ~~Director~~, petition for relief
7 as provided in subsection (a) of this Section.

8 (c) Whoever holds himself or herself out as a "landscape
9 architect", "licensed landscape architect", or ~~a~~ "registered
10 landscape architect", or uses any other title that includes the
11 words "landscape architect" or "landscape architecture" in
12 this State without being licensed under this Act ~~registered for~~
13 ~~that purpose~~ shall be guilty of a Class A misdemeanor, and for
14 each subsequent conviction shall be guilty of a Class 4 felony.

15 (d) Whenever, in the opinion of the Department, a person
16 violates any provision of this Act, the Department may issue a
17 rule to show cause why an order to cease and desist should not
18 be entered against that person. The rule shall clearly set
19 forth the grounds relied upon by the Department and shall allow
20 the person at least 7 days from the date of the rule to file an
21 answer that is satisfactory to the Department. Failure to
22 answer to the satisfaction of the Department shall cause an
23 order to cease and desist to be issued.

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

25 (225 ILCS 315/18.1)

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

2 Sec. 18.1. Grounds for Discipline.

3 (a) The Department may refuse to issue or to~~renew~~, or may
4 revoke, suspend, place on probation, reprimand, or take other
5 disciplinary or non-disciplinary action as deemed appropriate
6 including the impositions of fines ~~the Department considers~~
7 ~~appropriate, including the issuance of fines~~ not to exceed
8 \$10,000 ~~\$1,000~~ for each violation, as the Department may deem
9 proper with regard to any license for any one or combination
10 ~~more~~ of the following:

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

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

15 (3) Conviction of or plea of guilty or nolo contendere
16 to any crime under the laws of the United States or any
17 state or territory thereof that is a felony, or that is a
18 misdemeanor, an essential element of which is dishonesty,
19 or of any crime that is directly related to the practice of
20 the profession.

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

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

26 (6) Aiding or assisting another person in violating any

1 provision of this Act or any rules.

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

4 (8) Engaging in dishonorable, unethical, or
5 unprofessional conduct of a character likely to deceive,
6 defraud, or harm the public and violating the rules of
7 professional conduct adopted by the Department.

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

12 (10) Discipline by another jurisdiction, if at least
13 one of the grounds for the discipline is the same or
14 substantially equivalent to those set forth in this
15 Section.

16 (11) Directly or indirectly giving to or receiving from
17 any person, firm, corporation, partnership, or association
18 any fee, commission, rebate, or other form of compensation
19 for any professional service not actually rendered.

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

23 (12.5) A finding by the Board that the licensee has
24 failed to pay a fine imposed by the Department.

25 (13) Abandonment of a client.

26 (14) Willfully filing false reports relating to a

1 licensee's practice, including but not limited to, false
2 records filed with federal or State agencies or
3 departments.

4 (15) Being named as a perpetrator in an indicated
5 report by the Department of Children and Family Services
6 under the Abused and Neglected Child Reporting Act, and
7 upon proof by clear and convincing evidence that the
8 licensee has caused a child to be an abused child or
9 neglected child as defined in the Abused and Neglected
10 Child Reporting Act.

11 (16) Physical or mental disability, including
12 deterioration through the aging process or loss of
13 abilities and skills that results in the inability to
14 practice the profession with reasonable judgment, skill,
15 or safety.

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

18 (18) Failure to file a return, or to pay the tax,
19 penalty, or interest shown in a filed return, or to pay any
20 final assessment of tax, penalty, or interest, as required
21 by any tax Act administered by the Illinois Department of
22 Revenue or any successor agency or the Internal Revenue
23 Service or any successor agency.

24 (b) Any fines imposed under this Section shall not exceed
25 \$10,000 ~~\$1,000~~ for each violation.

26 (c) The determination by a court that a licensee is subject

1 to involuntary admission or judicial admission as provided in
2 the Mental Health and Developmental Disabilities Code will
3 result in an automatic suspension of his or her license. The
4 suspension will end upon a finding by a court that the licensee
5 is no longer subject to involuntary admission or judicial
6 admission, the issuance of an order so finding and discharging
7 the patient, and the recommendation of the Board to the
8 Secretary ~~Director~~ that the licensee be allowed to resume
9 professional practice.

10 (d) In enforcing this Section, the Board, upon a showing of
11 a possible violation, may compel a person licensed ~~registered~~
12 under this Act or who has applied for licensure ~~registration~~
13 pursuant to this Act to submit to a mental or physical
14 examination, or both, as required by and at the expense of the
15 Department. The examining physicians shall be those
16 specifically designated by the Board. The Board or the
17 Department may order the examining physician to present
18 testimony concerning this mental or physical examination of the
19 licensee ~~registrant~~ or applicant. No information shall be
20 excluded by reason of any common law or statutory privilege
21 relating to communications between the licensee ~~registrant~~ or
22 applicant and the examining physician. The person to be
23 examined may have, at his or her own expense, another physician
24 of his or her choice present during all aspects of the
25 examination. Failure of any person to submit to a mental or
26 physical examination when directed shall be grounds for

1 suspension of a license ~~registration~~ until the person submits
2 to the examination if the Board finds, after notice and
3 hearing, that the refusal to submit to the examination was
4 without reasonable cause.

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

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

22 (225 ILCS 315/19) (from Ch. 111, par. 8119)

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

24 Sec. 19. Investigation; notice and hearing. The Department
25 may investigate the actions or qualifications of any applicant

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

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

1 (225 ILCS 315/21) (from Ch. 111, par. 8121)

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

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

8 The Secretary ~~Director~~, the designated hearing officer,
9 and every member of the Board has the power to administer oaths
10 to witnesses at any hearing which the Department is authorized
11 to conduct, and any other oaths authorized in any Act
12 administered by the Department.

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

14 (225 ILCS 315/22.1)

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

16 Sec. 22.1. Findings and recommendations. At the conclusion
17 of the hearing, the Board shall present to the Secretary
18 ~~Director~~ a written report of its findings of fact, conclusions
19 of law, and recommendations. The report shall contain a finding
20 whether the licensee violated this Act or failed to comply with
21 the conditions required in this Act. The Board shall specify
22 the nature of the violation or failure to comply, and shall
23 make its recommendations to the Secretary ~~Director~~.

24 The report of findings of fact, conclusions of law, and

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

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

13 (225 ILCS 315/23) (from Ch. 111, par. 8123)

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

15 Sec. 23. Board; Rehearing. At the conclusion of the
16 hearing, a copy of the Board's report shall be served upon the
17 accused person, either personally or as provided in this Act
18 for the service of the notice. Within 20 days after such
19 service, the applicant or licensee may present to the
20 Department a motion in writing for a rehearing which shall
21 specify the particular grounds for rehearing. If no motion for
22 a rehearing is filed, then upon the expiration of the time
23 specified for filing such a motion, or if a motion for
24 rehearing is denied, then upon the denial, the Secretary
25 ~~Director~~ may enter any order in accordance with recommendations

1 of the Board, except as provided in Section 120 of this Act. If
2 the applicant or licensee requests and pays for a transcript of
3 the record within the time for filing a motion for rehearing,
4 the 20-day period within which a motion may be filed shall
5 commence upon the delivery of the transcript to the applicant
6 or licensee.

7 Whenever the Secretary ~~Director~~ is not satisfied that
8 substantial justice has been done, he may order a rehearing by
9 the same or another special board. At the expiration of the
10 time specified for filing a motion for a rehearing the
11 Secretary ~~Director~~ has the right to take the action recommended
12 by the Board.

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

14 (225 ILCS 315/24) (from Ch. 111, par. 8124)

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

16 Sec. 24. Appointment of a hearing officer. The Secretary
17 ~~Director~~ has the authority to appoint any attorney licensed to
18 practice law in the State of Illinois to serve as the hearing
19 officer in any action for refusal to issue or renew a license
20 or permit or to discipline a licensee. The Secretary ~~Director~~
21 shall notify the Board of any such appointment. The hearing
22 officer has full authority to conduct the hearing. At least one
23 member of the Board shall attend each hearing. The hearing
24 officer shall report his findings of fact, conclusions of law
25 and recommendations to the Board and the Secretary ~~Director~~.

1 The Board has 60 days from receipt of the report to review it
2 and present its findings of fact, conclusions of law and
3 recommendations to the Secretary ~~Director~~. If the Board fails
4 to present its report within the 60 day period, the Secretary
5 ~~Director~~ shall issue an order based on the report of the
6 hearing officer. If the Secretary ~~Director~~ disagrees with the
7 recommendation of the Board or hearing officer, the Secretary
8 ~~Director~~ may issue an order in contravention of the
9 recommendation. The Secretary ~~Director~~ shall promptly provide
10 a written explanation to the Board on any disagreement.

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

12 (225 ILCS 315/25) (from Ch. 111, par. 8125)

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

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

18 (a) the signature is the genuine signature of the
19 Secretary ~~Director~~;

20 (b) the Secretary ~~Director~~ is duly appointed and
21 qualified; and

22 (c) the Board and the members thereof are qualified to
23 act.

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

1 (225 ILCS 315/28) (from Ch. 111, par. 8128)

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

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

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

15 (225 ILCS 315/31) (from Ch. 111, par. 8131)

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

17 Sec. 31. Administrative Procedure Act. The Illinois
18 Administrative Procedure Act is hereby expressly adopted and
19 incorporated herein as if all of the provisions of that Act
20 were included in this Act, except that the provision of
21 subsection (d) of Section 10-65 of the Illinois Administrative
22 Procedure Act that provides that at hearings the licensee has
23 the right to show compliance with all lawful requirements for
24 retention, continuation or renewal of the license is
25 specifically excluded. For the purposes of this Act the notice

1 required under Section 10-25 of the Illinois Administrative
2 Procedure Act is deemed sufficient when mailed to the ~~last~~
3 ~~known~~ address of record of a party.

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

5 (225 ILCS 315/4.5 rep.)

6 Section 15. The Illinois Landscape Architecture Act of 1989
7 is amended by repealing Section 4.5.

8 Section 20. The Auction License Act is amended by changing
9 Sections 5-10, 10-1, 10-20, 10-27, 10-30, 10-35, 10-40, 10-45,
10 10-50, 15-5, 15-10, 20-5, 20-15, 20-40, 20-50, 20-55, 20-80,
11 and 30-30 and by adding Sections 10-15a, 20-43, 20-56, 30-7 and
12 30-13 as follows:

13 (225 ILCS 407/5-10)

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

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

16 "Advertisement" means any written, oral, or electronic
17 communication that contains a promotion, inducement, or offer
18 to conduct an auction or offer to provide an auction service,
19 including but not limited to brochures, pamphlets, radio and
20 television scripts, telephone and direct mail solicitations,
21 electronic media, and other means of promotion.

22 "Advisory Board" or "Board" means the Auctioneer Advisory
23 Board.

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

4 "Auction" means the sale or lease of property, real or
5 personal, by means of exchanges between an auctioneer ~~or~~
6 ~~associate auctioneer~~ and prospective purchasers or lessees,
7 which consists of a series of invitations for offers made by
8 the auctioneer ~~or associate auctioneer~~ and offers by
9 prospective purchasers or lessees for the purpose of obtaining
10 an acceptable offer for the sale or lease of the property,
11 including the sale or lease of property via mail,
12 telecommunications, or the Internet.

13 "Auction contract" means a written agreement between an
14 auctioneer, ~~associate auctioneer,~~ or auction firm and a seller
15 or sellers.

16 "Auction firm" means any corporation, partnership, or
17 limited liability company that acts as an auctioneer and
18 provides an auction service.

19 "Auction school" means any educational institution, public
20 or private, which offers a curriculum of auctioneer education
21 and training approved by the Department.

22 "Auction service" means the service of arranging,
23 managing, advertising, or conducting auctions.

24 "Auctioneer" means a person or entity who, for another, for
25 a fee, compensation, commission, or any other valuable
26 consideration at auction or with the intention or expectation

1 of receiving valuable consideration by the means of or process
2 of an auction or sale at auction or providing an auction
3 service, offers, negotiates, or attempts to negotiate an
4 auction contract, sale, purchase, or exchange of goods,
5 chattels, merchandise, personal property, real property, or
6 any commodity that may be lawfully kept or offered for sale by
7 or at auction.

8 "Address of Record" means the designated address recorded
9 by the Department in the applicant's or licensee's application
10 file or license file maintained by the Department. It is the
11 duty of the applicant or licensee to inform the Department of
12 any change of address, and such changes must be made either
13 through the Department's website or by directly contacting the
14 Department.

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

19 "Department" means the Department of Financial and
20 Professional Regulation.

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

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

25 "Managing auctioneer" means any person licensed as an
26 auctioneer who manages and supervises licensees sponsored by an

1 auction firm or auctioneer.

2 "Person" means an individual, association, partnership,
3 corporation, or limited liability company or the officers,
4 directors, or employees of the same.

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

7 "Secretary" means the Secretary of the Department of
8 Financial and Professional Regulation or his or her designee.

9 "Sponsoring auctioneer" means the auctioneer or auction
10 firm who has issued a sponsor card to a licensed ~~associate~~
11 ~~auctioneer or~~ auctioneer.

12 "Sponsor card" means the temporary permit issued by the
13 sponsoring auctioneer certifying that the licensee named
14 thereon is employed by or associated with the sponsoring
15 auctioneer and the sponsoring auctioneer shall be responsible
16 for the actions of the sponsored licensee.

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

18 (225 ILCS 407/10-1)

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

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

21 (a) It is unlawful for any person, corporation, limited
22 liability company, partnership, or other entity to conduct an
23 auction, provide an auction service, hold himself or herself
24 out as an auctioneer, or advertise his or her services as an
25 auctioneer in the State of Illinois without a license issued by

1 the Department under this Act, except at:

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

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

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

11 (4) an auction conducted by a business registered as a
12 market agency under the federal Packers and Stockyards Act
13 (7 U.S.C. 181 et seq.) or under the Livestock Auction
14 Market Law;

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

18 (6) an auction conducted by an agent, officer, or
19 employee of the State government or any political
20 subdivision thereof performing his or her official duties.

21 (b) Nothing in this Act shall be construed to apply to a
22 new or used vehicle dealer or a vehicle auctioneer licensed by
23 the Secretary of State of Illinois, or to any employee of the
24 licensee, who is a resident of the State of Illinois, while the
25 employee is acting in the regular scope of his or her
26 employment for the licensee while conducting an auction that is

1 not open to the public, provided that only new or used vehicle
2 dealers, rebuilders, automotive parts recyclers, or scrap
3 processors licensed by the Secretary of State or licensed by
4 another state or jurisdiction may buy property at the auction,
5 or to sales by or through the licensee. Out-of-state salvage
6 vehicle buyers licensed in another state or jurisdiction may
7 also buy property at the auction.

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

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

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

16 (225 ILCS 407/10-15a new)

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

18 (a) Upon the effective date of this amendatory Act of the
19 96th General Assembly, the Department shall no longer issue or
20 renew any associate auctioneer license.

21 (b) Any person who holds a valid license as an associate
22 auctioneer on the effective date of this amendatory Act of the
23 96th General Assembly shall be issued an auctioneer license
24 without having to apply to the Department or pay any fee. Such
25 licensee's previous record as an associate auctioneer,

1 including any past discipline imposed on him or her, shall
2 become part of his or her auctioneer license record. The
3 expiration date of such licensee's auctioneer license shall be
4 the same as the expiration date of his or her associate
5 auctioneer license.

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

9 (225 ILCS 407/10-20)

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

11 Sec. 10-20. Requirements for auction firm license;
12 application. Any corporation, limited liability company, or
13 partnership who desires to obtain an auction firm license
14 shall:

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

17 (2) provide evidence to the Department that the auction
18 firm has a properly licensed managing auctioneer; and ~~and~~

19 (3) any requirement as defined by rule.

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

21 (225 ILCS 407/10-27)

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

23 Sec. 10-27. Registration of Internet Auction Listing
24 Service.

1 (a) For the purposes of this Section:

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

12 (2) "Interactive computer service" means any
13 information service, system, or access software provider
14 that provides or enables computer access by multiple users
15 to a computer server, including specifically a service or
16 system that provides access to the Internet.

17 (b) It is unlawful for any person, corporation, limited
18 liability company, partnership, or other entity to provide an
19 Internet auction listing service in the State of Illinois for
20 compensation without being registered with the Department
21 when:

22 (1) the person, corporation, limited liability
23 company, partnership, or other entity providing the
24 Internet auction listing service is located in the State of
25 Illinois;

26 (2) the prospective seller or seller, prospective

1 lessor or lessor, or prospective purchaser or purchaser is
2 located in the State of Illinois and is required to agree
3 to terms with the person, corporation, limited liability
4 company, partnership, or other entity providing the
5 Internet auction listing service, no matter where that
6 person, corporation, limited liability company,
7 partnership, or other entity is located; or

8 (3) the personal property or services offered for sale
9 or lease are located or will be provided in the State of
10 Illinois.

11 (c) Any person, corporation, limited liability company,
12 partnership, or other entity that provides an Internet auction
13 listing service in the State of Illinois for compensation under
14 any of the circumstances listed in subsection (b) shall
15 register with the Department on forms provided by the
16 Department accompanied by the required fee as provided by rule.
17 Such registration shall include information as required by the
18 Department and established by rule as the Department deems
19 necessary to enable users of the Internet auction listing
20 service in Illinois to identify the entity providing the
21 service and to seek redress or further information from such
22 entity. The fee shall be sufficient to cover the reasonable
23 costs of the Department in administering and enforcing the
24 provisions of this Section. The registrant shall be required to
25 certify:

26 (1) that the registrant does not act as the agent of

1 users who sell items on its website, and acts only as a
2 venue for user transactions;

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

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

8 (4) that the registrant retains transactional
9 information consisting of at least seller identification,
10 high bidder identification, and item sold for at least 2
11 years from the close of a transaction, and has a mechanism
12 to identify all transactions involving a particular seller
13 or buyer;

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

16 (6) that the registrant adopts and reasonably
17 implements a policy of suspending, in appropriate
18 circumstances, the accounts of users who, based on the
19 registrant's investigation, are proven to have engaged in a
20 pattern of activity that appears to be deliberately
21 designed to defraud consumers on the registrant's website;
22 and

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

26 (d) The Department may refuse to accept a registration

1 which is incomplete or not accompanied by the required fee. The
2 Department may impose a civil penalty not to exceed \$10,000
3 upon any Internet auction listing service that intentionally
4 fails to register as required by this Section, and may impose
5 such penalty or revoke, suspend, or place on probation or
6 administrative supervision the registration of any Internet
7 auction listing service that:

8 (1) intentionally makes a false or fraudulent material
9 representation or material misstatement or
10 misrepresentation to the Department in connection with its
11 registration, including in the certification required
12 under subsection (c);

13 (2) is convicted of any crime, an essential element of
14 which is dishonesty, fraud, larceny, embezzlement, or
15 obtaining money, property, or credit by false pretenses or
16 by means of a confidence game; or is convicted in this or
17 another state of a crime that is a felony under the laws of
18 this State; or is convicted of a felony in a federal court;

19 (3) is adjudged to be a person under legal disability
20 or subject to involuntary admission or to meet the standard
21 for judicial admission as provided in the Mental Health and
22 Developmental Disabilities Code;

23 (4) has been subject to discipline by another state,
24 the District of Columbia, a territory of the United States,
25 a foreign nation, a governmental agency, or any other
26 entity authorized to impose discipline if at least one of

1 the grounds for that discipline is the same as or
2 equivalent to one of the grounds for discipline set forth
3 in this Section or for failing to report to the Department,
4 within 30 days, any adverse final action taken against the
5 registrant by any other licensing or registering
6 jurisdiction, government agency, law enforcement agency,
7 or court, or liability for conduct that would constitute
8 grounds for action as set forth in this Section;

9 (5) fails to make available to the Department personnel
10 during normal business hours all records and related
11 documents maintained in connection with the activities
12 subject to registration under this Section;

13 (6) makes or files false records or reports in
14 connection with activities subject to registration,
15 including but not limited to false records or reports filed
16 with State agencies;

17 (7) fails to provide information within 30 days in
18 response to a written request made by the Department to a
19 person designated in the registration for receipt of such
20 requests; or

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

23 (e) Registrations issued pursuant to this Section shall be
24 defined by rule ~~expire on September 30 of odd-numbered years~~. A
25 registrant shall submit a renewal application to the Department
26 on forms provided by the Department along with the required fee

1 as established by rule.

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

12 (g) The provisions of Sections 20-25, 20-30, 20-35, 20-40,
13 ~~20-45~~, 20-50, 20-55, 20-60 and 20-75 of this Act shall apply to
14 any actions of the Department exercising its authority under
15 subsection (d) as if a person required to register under this
16 Section were a person holding or claiming to hold a license
17 under this Act.

18 (h) The Department shall have the authority to adopt such
19 rules as may be necessary to implement or interpret the
20 provisions of this Section.

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

22 (225 ILCS 407/10-30)

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

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

25 (a) License expiration dates, renewal periods, renewal

1 fees, and procedures for renewal of licenses issued under this
2 Act shall be set by rule of the Department. An entity may renew
3 its license by paying the required fee and by meeting the
4 renewal requirements adopted by the Department under this
5 Section.

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

15 (c) The Department, in its discretion, may waive
16 enforcement of the continuing education requirements of this
17 Section and shall adopt rules defining the standards and
18 criteria for such waiver.

19 (d) (Blank).

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

21 (225 ILCS 407/10-35)

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

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

25 (a) No auctioneer ~~or associate auctioneer~~ shall conduct an

1 auction or provide an auction service without being properly
2 sponsored by a licensed auctioneer or auction firm.

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

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

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

25 (e) When an auctioneer ~~or associate auctioneer~~ terminates
26 his or her employment or association with a sponsoring

1 auctioneer or sponsoring auction firm or the employment or
2 association is terminated by the sponsoring auctioneer or
3 sponsoring auction firm, the terminated licensee shall obtain
4 from that sponsoring auctioneer or sponsoring auction firm his
5 or her license endorsed by the sponsoring auctioneer or
6 sponsoring auction firm indicating the termination. The
7 terminating sponsoring auctioneer or sponsoring auction firm
8 shall send a copy of the terminated license within 5 days after
9 the termination to the Department or shall notify the
10 Department in writing of the termination and explain why a copy
11 of the terminated license was not surrendered.

12 (f) The license of any auctioneer ~~or associate auctioneer~~
13 whose association with a sponsoring auctioneer or sponsoring
14 auction firm has terminated shall automatically become
15 inoperative immediately upon such termination, unless the
16 terminated licensee accepts employment or becomes associated
17 with a new sponsoring auctioneer or sponsoring auction firm
18 pursuant to subsection (g) of this Section. An inoperative
19 licensee under this Act shall not conduct an auction or provide
20 auction services while the license is in inoperative status.

21 (g) When a terminated or inoperative auctioneer ~~or~~
22 ~~associate auctioneer~~ accepts employment or becomes associated
23 with a new sponsoring auctioneer or sponsoring auction firm,
24 the new sponsoring auctioneer or sponsoring auction firm shall
25 send to the Department a properly completed 45-day permit
26 sponsor card, the terminated license, and the appropriate fee.

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

2 (225 ILCS 407/10-40)

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

4 Sec. 10-40. Restoration.

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

14 (b) Notwithstanding any other provisions of this Act to the
15 contrary, any licensee whose license under this Act has expired
16 is eligible to restore such license without paying any lapsed
17 fees and penalties provided that the license expired while the
18 licensee was:

19 (1) on active duty with the United States Army, United
20 States Marine Corps, United States Navy, United States Air
21 Force, United States Coast Guard, the State Militia called
22 into service or training;

23 (2) engaged in training or education under the
24 supervision of the United States prior to induction into
25 military service; or

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

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

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

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

21 (225 ILCS 407/10-45)

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

23 Sec. 10-45. Nonresident auctioneer reciprocity.

24 (a) A person holding a license to engage in auctions issued
25 to him or her by the proper authority of a state, territory, or

1 possession of the United States of America or the District of
2 Columbia that has licensing requirements equal to or
3 substantially equivalent to the requirements of this State and
4 that otherwise meets the requirements of this Act may obtain a
5 license under this Act without examination, provided:

6 (1) that the Department has entered into a valid
7 reciprocal agreement with the proper authority of the
8 state, territory, or possession of the United States of
9 America or the District of Columbia from which the
10 nonresident applicant has a valid license;

11 (2) that the applicant provides the Department with a
12 certificate of good standing from the applicant's ~~resident~~
13 state of licensure;

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

16 (4) that the applicant pays all applicable fees
17 required under this Act.

18 (b) A nonresident applicant shall file an irrevocable
19 consent with the Department that actions may be commenced
20 against the applicant or nonresident licensee in a court of
21 competent jurisdiction in this State by the service of summons,
22 process, or other pleading authorized by the law upon the
23 Secretary. The consent shall stipulate and agree that service
24 of the process, summons, or pleading upon the Secretary shall
25 be taken and held in all courts to be valid and binding as if
26 actual service had been made upon the applicant in Illinois. If

1 a summons, process, or other pleading is served upon the
2 Secretary, it shall be by duplicate copies, one of which shall
3 be retained by the Department and the other immediately
4 forwarded by certified or registered mail to the last known
5 business address of the applicant or nonresident licensee
6 against whom the summons, process, or other pleading may be
7 directed.

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

9 (225 ILCS 407/10-50)

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

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

13 (a) The Department shall establish by rule a schedule of
14 fees for the administration and maintenance of this Act. Such
15 fees shall be nonrefundable.

16 (b) All fees collected under this Act shall be deposited
17 into the General Professions Dedicated Fund and appropriated to
18 the Department for the ordinary and contingent expenses of the
19 Department in the administration of this Act. ~~The Department~~
20 ~~shall provide by administrative rule for fees to be collected~~
21 ~~from licensees and applicants to cover the statutory~~
22 ~~requirements for funding the Auctioneer Recovery Fund. The~~
23 ~~Department may also provide by administrative rule for general~~
24 ~~fees to cover the reasonable expenses of carrying out other~~
25 ~~functions and responsibilities under this Act.~~

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

2 (225 ILCS 407/15-5)

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

4 Sec. 15-5. Representations. An auctioneer,~~associate~~
5 ~~auctioneer,~~ or auction firm,l or the sponsored licensees,
6 agents, or employees of an auctioneer or auction firm,
7 conducting an auction or providing an auction service shall
8 not:

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

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

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

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

16 (225 ILCS 407/15-10)

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

18 Sec. 15-10. Auction contract. Any auctioneer,~~associate~~
19 ~~auctioneer,~~ or auction firm shall not conduct an auction or
20 provide an auction service, unless the auctioneer,~~associate~~
21 ~~auctioneer,~~ or auction firm enters into a written ~~or oral~~
22 auction contract with the seller of any property at auction
23 prior to the date of the auction. Any agreement shall state
24 whether the auction is with reserve or absolute. The agreement

1 shall be signed by the auctioneer,~~associate auctioneer,~~ or
2 auction firm conducting an auction or providing an auction
3 service and the seller or sellers, or the legal agent of the
4 seller or sellers of the property to be offered at or by
5 auction, and shall include, but not be limited to the following
6 disclosures:

7 (1) Licensees shall disclose:

8 (A) the name, license number, business address,
9 and phone number of the auctioneer,~~associate~~
10 ~~auctioneer,~~ or auction firm conducting an auction or
11 providing an auction service;

12 (B) the fee to be paid to the auctioneer,~~associate~~
13 ~~auctioneer,~~ or auction firm for conducting an auction
14 or providing an auction service; and

15 (C) an estimate of the advertising costs that shall
16 be paid by the seller or sellers of property at auction
17 and a disclosure that, if the actual advertising costs
18 exceeds 120% of the estimated advertising cost, the
19 auctioneer,~~associate auctioneer,~~ or auction firm
20 shall pay the advertising costs that exceed 120% of the
21 estimated advertising costs or shall have the seller or
22 sellers agree in writing to pay for the actual
23 advertising costs in excess of 120% of the estimated
24 advertising costs.

25 (D) the buyer premium and the party to the
26 transaction that receives it.

1 (2) Sellers shall disclose:

2 (A) the name, address, and phone number of the
3 seller or sellers or the legal agent of the seller or
4 sellers of property to be sold at auction; and

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

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

9 (225 ILCS 407/20-5)

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

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

12 (a) Any person who practices, offers to practice, attempts
13 to practice, or holds oneself out to practice as an auctioneer,
14 ~~an associate auctioneer,~~ an auction firm, or any other licensee
15 under this Act without being licensed under this Act shall, in
16 addition to any other penalty provided by law, pay a civil
17 penalty to the Department in an amount not to exceed \$10,000
18 for each offense as determined by the Department. The civil
19 penalty fine shall be assessed by the Department after a
20 hearing is held in accordance with the provisions set forth in
21 this Act regarding a hearing for the discipline of a license.

22 (b) The Department has the authority and power to
23 investigate any and all unlicensed activity pursuant to this
24 Act.

25 (c) The civil penalty shall be paid within 60 days after

1 the effective date of the order imposing the civil penalty. The
2 order shall constitute a judgment and may be filed and
3 execution had thereon in the same manner from any court of
4 record.

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

15 Upon the filing of a verified petition in a circuit court,
16 the court, if satisfied by affidavit or otherwise that the
17 person or entity has been engaged in the practice of auctioning
18 without a valid and current license, may enter a temporary
19 restraining order without notice or bond enjoining the
20 defendant from further practice. Only the showing of
21 non-licensure, by affidavit or otherwise, is necessary in order
22 for a temporary injunction to be issued. A copy of the verified
23 complaint shall be served upon the defendant and the
24 proceedings shall thereafter be conducted as in other civil
25 cases except as modified by this Section. If it is established
26 that the defendant has been or is engaged in unlawful practice,

1 the court may enter an order or judgment perpetually enjoining
2 the defendant from further practice. In all proceedings
3 hereunder, the court, in its discretion, may apportion the
4 costs among the parties interested in the action, including
5 cost of filing the complaint, service of process, witness fees
6 and expenses, court reporter charges, and reasonable
7 attorneys' fees. In case of violation of any injunctive order
8 entered under the provisions of this Section, the court may
9 summarily try and punish the offender for contempt of court.
10 These injunction proceedings shall be in addition to, and not
11 in lieu of, all penalties and other remedies provided in this
12 Act.

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

14 (225 ILCS 407/20-15)

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

16 Sec. 20-15. Disciplinary actions; grounds. The Department
17 may refuse to issue or renew a license, may place on probation
18 or administrative supervision, suspend, or revoke any license
19 or may reprimand or take other disciplinary or non-disciplinary
20 action as the Department may deem proper, including the
21 imposition of fines not to exceed \$10,000 for each violation
22 upon anyone licensed under this Act for any of the following
23 reasons:

24 (1) False or fraudulent representation or material
25 misstatement in furnishing information to the Department

1 in obtaining or seeking to obtain a license.

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

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

15 (4) Being adjudged to be a person under legal
16 disability or subject to involuntary admission or to meet
17 the standard for judicial admission as provided in the
18 Mental Health and Developmental Disabilities Code.

19 (5) Discipline of a licensee by another state, the
20 District of Columbia, a territory of the United States, a
21 foreign nation, a governmental agency, or any other entity
22 authorized to impose discipline if at least one of the
23 grounds for that discipline is the same as or the
24 equivalent to one of the grounds for discipline set forth
25 in this Act or for failing to report to the Department,
26 within 30 days, any adverse final action taken against the

1 licensee by any other licensing jurisdiction, government
2 agency, law enforcement agency, or court, or liability for
3 conduct that would constitute grounds for action as set
4 forth in this Act.

5 (6) Engaging in the practice of auctioneering,
6 conducting an auction, or providing an auction service
7 without a license or after the license was expired,
8 revoked, suspended, or terminated or while the license was
9 inoperative.

10 (7) Attempting to subvert or cheat on the auctioneer
11 exam or any continuing education exam, or aiding or
12 abetting another to do the same.

13 (8) Directly or indirectly giving to or receiving from
14 a person, firm, corporation, partnership, or association a
15 fee, commission, rebate, or other form of compensation for
16 professional service not actually or personally rendered,
17 except that an auctioneer licensed under this Act may
18 receive a fee from another licensed auctioneer from this
19 State or jurisdiction for the referring of a client or
20 prospect for auction services to the licensed auctioneer.

21 (9) Making any substantial misrepresentation or
22 untruthful advertising.

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

25 (11) Pursuing a continued and flagrant course of
26 misrepresentation or the making of false promises through a

1 licensee, agent, employee, advertising, or otherwise.

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

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

9 (14) Failure to account for, remit, or return any
10 moneys, property, or documents coming into his or her
11 possession that belong to others, acquired through the
12 practice of auctioneering, conducting an auction, or
13 providing an auction service within 30 days of the written
14 request from the owner of said moneys, property, or
15 documents.

16 (15) Failure to maintain and deposit into a special
17 account, separate and apart from any personal or other
18 business accounts, all moneys belonging to others
19 entrusted to a licensee while acting as an auctioneer,
20 associate auctioneer, auction firm, or as a temporary
21 custodian of the funds of others.

22 (16) Failure to make available to Department personnel
23 during normal business hours all escrow and trustee records
24 and related documents maintained in connection with the
25 practice of auctioneering, conducting an auction, or
26 providing an auction service within 24 hours after a

1 request from Department personnel.

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

5 (18) Failing to voluntarily furnish copies of all
6 written instruments prepared by the auctioneer and signed
7 by all parties to all parties at the time of execution.

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

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

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

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

18 (23) Offering or advertising real estate for sale or
19 lease at auction without a valid broker or salesperson's
20 license under the Real Estate License Act of 1983, or any
21 successor Act, unless exempt from licensure under the terms
22 of the Real Estate License Act of 2000 ~~2001~~, or any
23 successor Act.

24 (24) Inability to practice the profession with
25 reasonable judgement, skill, or safety as a result of a
26 physical illness, including, but not limited to,

1 deterioration through the aging process or loss of motor
2 skill, or a mental illness or disability. ~~Physical illness,~~
3 ~~mental illness, or other impairment including without~~
4 ~~limitation deterioration through the aging process, mental~~
5 ~~illness, or disability that results in the inability to~~
6 ~~practice the profession with reasonable judgment, skill,~~
7 ~~and safety.~~

8 (25) A pattern of practice or other behavior that
9 demonstrates incapacity or incompetence to practice under
10 this Act.

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

18 (27) Inability to practice with reasonable judgement,
19 skill, or safety as a result of habitual or excessive use
20 or addiction to alcohol, narcotics, stimulants, or any
21 other chemical agent or drug. ~~Habitual or excessive use or~~
22 ~~addiction to alcohol, narcotics, stimulants, or any other~~
23 ~~chemical agent or drug that results in a licensee's~~
24 ~~inability to practice with reasonable judgment, skill, or~~
25 ~~safety.~~

26 (28) Wilfully failing to report an instance of

1 suspected child abuse or neglect as required by the Abused
2 and Neglected Child Reporting Act.

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

16 If the Department or Board finds an individual unable to
17 practice because of the reasons set forth in this Section, the
18 Department or Board may require that individual to submit to
19 care, counseling, or treatment by physicians approved or
20 designated by the Department or Board, as a condition, term, or
21 restriction for continued, reinstated, or renewed licensure to
22 practice; or, in lieu of care, counseling, or treatment, the
23 Department may file, or the Board may recommend to the
24 Department to file, a complaint to immediately suspend, revoke,
25 or otherwise discipline the license of the individual. An
26 individual whose license was granted, continued, reinstated,

1 renewed, disciplined or supervised subject to such terms,
2 conditions, or restrictions, and who fails to comply with such
3 terms, conditions, or restrictions, shall be referred to the
4 Secretary for a determination as to whether the individual
5 shall have his or her license suspended immediately, pending a
6 hearing by the Department. In instances in which the Secretary
7 immediately suspends a person's license under this Section, a
8 hearing on that person's license must be convened by the
9 Department within 21 days after the suspension and completed
10 without appreciable delay. The Department and Board shall have
11 the authority to review the subject individual's record of
12 treatment and counseling regarding the impairment to the extent
13 permitted by applicable federal statutes and regulations
14 safeguarding the confidentiality of medical records.

15 An individual licensed under this Act and affected under
16 this Section shall be afforded an opportunity to demonstrate to
17 the Department or Board that he or she can resume practice in
18 compliance with acceptable and prevailing standards under the
19 provisions of his or her license.

20 In enforcing this Section, the Department or Board, upon a
21 showing of a possible violation, may compel an individual
22 licensed to practice under this Act, or who has applied for
23 licensure under this Act, to submit to a mental or physical
24 examination, or both, as required by and at the expense of the
25 Department. The Department or Board may order the examining
26 physician to present testimony concerning the mental or

1 physical examination of the licensee or applicant. No
2 information shall be excluded by reason of any common law or
3 statutory privilege relating to communications between the
4 licensee or applicant and the examining physician. The
5 examining physicians shall be specifically designated by the
6 Board or Department. The individual to be examined may have, at
7 his or her own expense, another physician of his or her choice
8 present during all aspects of this examination. Failure of an
9 individual to submit to a mental or physical examination when
10 directed shall be grounds for suspension of his or her license
11 until the individual submits to the examination, if the
12 Department finds that, after notice and hearing, the refusal to
13 submit to the examination was without reasonable cause.

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

15 (225 ILCS 407/20-40)

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

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

18 (a) The Department shall have the authority to conduct
19 hearings ~~before the Advisory Board~~ on proceedings to revoke,
20 suspend, place on probation or administrative review,
21 reprimand, or refuse to issue or renew any license under this
22 Act or to impose a civil penalty not to exceed \$10,000 upon any
23 licensee under this Act.

24 (b) The Department, at its expense, shall preserve a record
25 of all proceedings at the formal hearing of any case. The

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

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

21 (225 ILCS 407/20-43 new)

22 Sec. 20-43. Investigations; notice and hearing. The
23 Department may investigate the actions of any applicant or
24 person rendering or offering to render auction services, or
25 holding or claiming to hold a license as a licensed auctioneer.

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

15 At the time and place of the hearing fixed in the notice,
16 the Board shall proceed to hear the charges and the accused or
17 his or her counsel shall be accorded ample opportunity to
18 present any pertinent statements, testimony, evidence, and
19 arguments in his or her defense. The Board may continue the
20 hearing when it deems it appropriate.

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

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

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

23 The report of the Board's findings of fact, conclusions of
24 law, and recommendations shall be the basis for the
25 Department's decision to refuse to issue, restore, or renew a
26 license, or to take any other disciplinary action. If the

1 Secretary disagrees with the recommendations of the Board, the
2 Secretary may issue an order in contravention of the Board
3 recommendations. The report's findings are not admissible in
4 evidence against the person in a criminal prosecution brought
5 for a violation of this Act, but the hearing and findings are
6 not a bar to a criminal prosecution for the violation of this
7 Act. ~~At the conclusion of the hearing, the Advisory Board shall~~
8 ~~present to the Secretary a written report of its findings of~~
9 ~~facts, conclusions of law, and recommendations regarding~~
10 ~~discipline or a fine. The report shall contain a finding~~
11 ~~whether or not the accused person violated this Act or failed~~
12 ~~to comply with the conditions required in this Act. The~~
13 ~~Advisory Board shall specify the nature of the violation or~~
14 ~~failure to comply and shall make its recommendations to the~~
15 ~~Secretary.~~

16 If the Secretary disagrees in any regard with the report of
17 the Advisory Board, the Secretary may issue an order in
18 contravention of the report. The Secretary shall provide a
19 written report to the Advisory Board on any deviation and shall
20 specify with particularity the reasons for that action in the
21 final order.

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

23 (225 ILCS 407/20-55)

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

25 Sec. 20-55. Appointment of a hearing officer. ~~Motion for~~

1 ~~rehearing; rehearing.~~ The Secretary has the authority to
2 appoint any attorney licensed to practice law in the State of
3 Illinois to serve as the hearing officer in any action for
4 refusal to issue, restore, or renew a license or to discipline
5 a licensee. The hearing officer has full authority to conduct
6 the hearing. Any Board member may attend hearings. The hearing
7 officer shall report his or her findings of fact, conclusions
8 of law, and recommendations to the Board. The Board shall
9 review the report of the hearing officer and present its
10 findings of fact, conclusions of law, and recommendations to
11 the Secretary and to all parties to the proceedings.

12 If the Secretary disagrees with the recommendations of the
13 Board or hearing officer, the Secretary may issue an order in
14 contravention of the Board's recommendations. In any hearing
15 involving the discipline of a license, a copy of the Advisory
16 Board's report shall be served upon the respondent by the
17 Department, either personally or as provided in this Act for
18 the service of the notice of hearing. Within 20 calendar days
19 after the service, the respondent may present to the Department
20 a motion in writing for a rehearing, which shall specify the
21 particular grounds for rehearing.

22 ~~If no motion for rehearing is filed, then upon the~~
23 ~~expiration of the time specified for filing a motion, or if a~~
24 ~~motion for rehearing is denied, then upon denial, the Secretary~~
25 ~~may enter an order in accordance with the recommendations of~~
26 ~~the Advisory Board, except as provided for in this Act. If the~~

1 ~~respondent orders a transcript of the record from the reporting~~
2 ~~service and pays for it within the time for filing a motion for~~
3 ~~rehearing, the 20 calendar day period within which a motion for~~
4 ~~rehearing may be filed shall commence upon the delivery of the~~
5 ~~transcript to the respondent.~~

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

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

10 (225 ILCS 407/20-56 new)

11 Sec. 20-56. Board; rehearing. At the conclusion of the
12 hearing, a copy of the Board's report shall be served upon the
13 applicant or licensee by the Department, either personally or
14 as provided in this Act for the service of a notice of hearing.
15 Within 20 days after service, the applicant or licensee may
16 present to the Department a motion in writing for a rehearing,
17 which shall specify the particular grounds for rehearing. The
18 Department may respond to the motion for rehearing within 20
19 days after its service on the Department. If no motion for
20 rehearing is filed, then upon the expiration of the time
21 specified for filing such a motion, or if a motion for
22 rehearing is denied, then upon denial, the Secretary may enter
23 an order in accordance with recommendations of the Board except
24 as provided in Section 120 of this Act. If the applicant or
25 licensee orders from the reporting service and pays for a

1 transcript of the record within the time for filing a motion
2 for rehearing, the 20-day period within which a motion may be
3 filed shall commence upon the delivery of the transcript to the
4 applicant or licensee.

5 (225 ILCS 407/20-80)

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

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

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

20 (225 ILCS 407/30-7 new)

21 Sec. 30-7. Department; powers and duties. The Department
22 shall exercise the powers and duties prescribed by the Civil
23 Administrative Code of Illinois for the administration of
24 licensing acts and shall exercise such other powers and duties

1 as are prescribed by this Act. The Department may contract with
2 third parties for services necessary for the proper
3 administration of this Act.

4 (225 ILCS 407/30-13 new)

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

15 (225 ILCS 407/30-30)

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

17 Sec. 30-30. Auction Advisory Board.

18 (a) There is hereby created the Auction Advisory Board. The
19 Advisory Board shall consist of 7 members and shall be
20 appointed by the Secretary. In making the appointments, the
21 Secretary shall give due consideration to the recommendations
22 by members and organizations of the industry, including but not
23 limited to the Illinois State Auctioneers Association. Five
24 members of the Advisory Board shall be licensed auctioneers,

1 except that for the initial appointments, these members may be
2 persons without a license, but who have been auctioneers for at
3 least 5 years preceding their appointment to the Advisory
4 Board. One member shall be a public member who represents the
5 interests of consumers and who is not licensed under this Act
6 or the spouse of a person licensed under this Act or who has
7 any responsibility for management or formation of policy of or
8 any financial interest in the auctioneering profession or any
9 other connection with the profession. One member shall be
10 actively engaged in the real estate industry and licensed as a
11 broker or salesperson. The Advisory Board shall annually elect
12 one of its members to serve as Chairperson.

13 (b) Members shall be appointed for a term of 4 years,
14 except that of the initial appointments, 3 members shall be
15 appointed to serve a term of 3 years and 4 members shall be
16 appointed to serve a term of 4 years. The Secretary shall fill
17 a vacancy for the remainder of any unexpired term. Each member
18 shall serve on the Advisory Board until his or her successor is
19 appointed and qualified. No person shall be appointed to serve
20 more than 2 terms, including the unexpired portion of a term
21 due to vacancy. To the extent practicable, the Secretary shall
22 appoint members to insure that the various geographic regions
23 of the State are properly represented on the Advisory Board.

24 (c) Four ~~A majority of the Advisory~~ Board members ~~currently~~
25 ~~appointed~~ shall constitute a quorum. A quorum is required for
26 all Board decisions ~~A vacancy in the membership of the Advisory~~

1 ~~Board shall not impair the right of a quorum to exercise all of~~
2 ~~the rights and perform all the duties of the Board.~~

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

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

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

12 (g) The Advisory Board shall advise the Department on
13 matters of licensing and education and make recommendations to
14 the Department on those matters and shall hear and make
15 recommendations to the Secretary on disciplinary matters that
16 require a formal evidentiary hearing.

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

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

20 (225 ILCS 407/10-15 rep.)

21 (225 ILCS 407/10-25 rep.)

22 (225 ILCS 407/15-20 rep.)

23 (225 ILCS 407/20-45 rep.)

24 (225 ILCS 407/20-90 rep.)

25 (225 ILCS 407/30-15 rep.)

1 (225 ILCS 407/30-20 rep.)

2 (225 ILCS 407/30-25 rep.)

3 (225 ILCS 407/30-35 rep.)

4 (225 ILCS 407/30-40 rep.)

5 (225 ILCS 407/30-45 rep.)

6 Section 25. The Auction License Act is amended by repealing
7 Sections 10-15, 10-25, 15-20, 20-45, 20-90, 30-15, 30-20,
8 30-25, 30-35, 30-40 and 30-45.

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.