



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB3915

Introduced 12/12/2011, by Rep. Elizabeth Hernandez

#### SYNOPSIS AS INTRODUCED:

225 ILCS 441/15-10	
225 ILCS 458/15-10	
775 ILCS 5/2-101	from Ch. 68, par. 2-101
775 ILCS 5/2-104	from Ch. 68, par. 2-104
775 ILCS 5/3-103	from Ch. 68, par. 3-103

Amends the Home Inspector License Act, the Real Estate Appraiser Licensing Act of 2002, and the Illinois Human Rights Act. Deletes the word "handicap" and inserts the word "disability" in each Act. Effective immediately.

LRB097 14307 AJO 60587 b

1 AN ACT concerning human rights.

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

4 Section 5. The Home Inspector License Act is amended by  
5 changing Section 15-10 as follows:

6 (225 ILCS 441/15-10)

7 (Section scheduled to be repealed on January 1, 2022)

8 Sec. 15-10. Grounds for disciplinary action.

9 (a) The Department may refuse to issue or renew, or may  
10 revoke, suspend, place on probation, reprimand, or take other  
11 disciplinary or non-disciplinary action as the Department may  
12 deem appropriate, including imposing fines not to exceed  
13 \$25,000 for each violation, with regard to any license for any  
14 one or combination of the following:

15 (1) Fraud or misrepresentation in applying for, or  
16 procuring a license under this Act or in connection with  
17 applying for renewal of a license under this Act.

18 (2) Failing to meet the minimum qualifications for  
19 licensure as a home inspector established by this Act.

20 (3) Paying money, other than for the fees provided for  
21 by this Act, or anything of value to an employee of the  
22 Department to procure licensure under this Act.

23 (4) Conviction by plea of guilty or nolo contendere,

1 finding of guilt, jury verdict, or entry of judgment or by  
2 sentencing of any crime, including, but not limited to,  
3 convictions, preceding sentences of supervision,  
4 conditional discharge, or first offender probation, under  
5 the laws of any jurisdiction of the United States: (i) that  
6 is a felony; (ii) that is a misdemeanor, an essential  
7 element of which is dishonesty, or that is directly related  
8 to the practice of the profession; or (iii) that is a crime  
9 that subjects the licensee to compliance with the  
10 requirements of the Sex Offender Registration Act.

11 (5) Committing an act or omission involving  
12 dishonesty, fraud, or misrepresentation with the intent to  
13 substantially benefit the licensee or another person or  
14 with the intent to substantially injure another person.

15 (6) Violating a provision or standard for the  
16 development or communication of home inspections as  
17 provided in Section 10-5 of this Act or as defined in the  
18 rules.

19 (7) Failing or refusing to exercise reasonable  
20 diligence in the development, reporting, or communication  
21 of a home inspection report, as defined by this Act or the  
22 rules.

23 (8) Violating a provision of this Act or the rules.

24 (9) Having been disciplined by another state, the  
25 District of Columbia, a territory, a foreign nation, a  
26 governmental agency, or any other entity authorized to

1 impose discipline if at least one of the grounds for that  
2 discipline is the same as or substantially equivalent to  
3 one of the grounds for which a licensee may be disciplined  
4 under this Act.

5 (10) Engaging in dishonorable, unethical, or  
6 unprofessional conduct of a character likely to deceive,  
7 defraud, or harm the public.

8 (11) Accepting an inspection assignment when the  
9 employment itself is contingent upon the home inspector  
10 reporting a predetermined analysis or opinion, or when the  
11 fee to be paid is contingent upon the analysis, opinion, or  
12 conclusion reached or upon the consequences resulting from  
13 the home inspection assignment.

14 (12) Developing home inspection opinions or  
15 conclusions based on the race, color, religion, sex,  
16 national origin, ancestry, age, marital status, family  
17 status, physical or mental disability ~~handicap~~, or  
18 unfavorable military discharge, as defined under the  
19 Illinois Human Rights Act, of the prospective or present  
20 owners or occupants of the area or property under home  
21 inspection.

22 (13) Being adjudicated liable in a civil proceeding on  
23 grounds of fraud, misrepresentation, or deceit. In a  
24 disciplinary proceeding based upon a finding of civil  
25 liability, the home inspector shall be afforded an  
26 opportunity to present mitigating and extenuating

1           circumstances, but may not collaterally attack the civil  
2           adjudication.

3           (14) Being adjudicated liable in a civil proceeding for  
4           violation of a State or federal fair housing law.

5           (15) Engaging in misleading or untruthful advertising  
6           or using a trade name or insignia of membership in a home  
7           inspection organization of which the licensee is not a  
8           member.

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

11          (17) Failing to include within the home inspection  
12          report the home inspector's license number and the date of  
13          expiration of the license. All home inspectors providing  
14          significant contribution to the development and reporting  
15          of a home inspection must be disclosed in the home  
16          inspection report. It is a violation of this Act for a home  
17          inspector to sign a home inspection report knowing that a  
18          person providing a significant contribution to the report  
19          has not been disclosed in the home inspection report.

20          (18) Advising a client as to whether the client should  
21          or should not engage in a transaction regarding the  
22          residential real property that is the subject of the home  
23          inspection.

24          (19) Performing a home inspection in a manner that  
25          damages or alters the residential real property that is the  
26          subject of the home inspection without the consent of the

1 owner.

2 (20) Performing a home inspection when the home  
3 inspector is providing or may also provide other services  
4 in connection with the residential real property or  
5 transaction, or has an interest in the residential real  
6 property, without providing prior written notice of the  
7 potential or actual conflict and obtaining the prior  
8 consent of the client as provided by rule.

9 (21) Aiding or assisting another person in violating  
10 any provision of this Act or rules adopted under this Act.

11 (22) Inability to practice with reasonable judgment,  
12 skill, or safety as a result of habitual or excessive use  
13 or addiction to alcohol, narcotics, stimulants, or any  
14 other chemical agent or drug.

15 (23) A finding by the Department that the licensee,  
16 after having his or her license placed on probationary  
17 status, has violated the terms of probation.

18 (24) Willfully making or filing false records or  
19 reports in his or her practice, including, but not limited  
20 to, false records filed with State agencies or departments.

21 (25) Charging for professional services not rendered,  
22 including filing false statements for the collection of  
23 fees for which services are not rendered.

24 (26) Practicing under a false or, except as provided by  
25 law, an assumed name.

26 (27) Cheating on or attempting to subvert the licensing

1 examination administered under this Act.

2 (b) The Department may suspend, revoke, or refuse to issue  
3 or renew an education provider's license, may reprimand, place  
4 on probation, or otherwise discipline an education provider  
5 licensee, and may suspend or revoke the course approval of any  
6 course offered by an education provider, for any of the  
7 following:

8 (1) Procuring or attempting to procure licensure by  
9 knowingly making a false statement, submitting false  
10 information, making any form of fraud or  
11 misrepresentation, or refusing to provide complete  
12 information in response to a question in an application for  
13 licensure.

14 (2) Failing to comply with the covenants certified to  
15 on the application for licensure as an education provider.

16 (3) Committing an act or omission involving  
17 dishonesty, fraud, or misrepresentation or allowing any  
18 such act or omission by any employee or contractor under  
19 the control of the education provider.

20 (4) Engaging in misleading or untruthful advertising.

21 (5) Failing to retain competent instructors in  
22 accordance with rules adopted under this Act.

23 (6) Failing to meet the topic or time requirements for  
24 course approval as the provider of a pre-license curriculum  
25 course or a continuing education course.

26 (7) Failing to administer an approved course using the

1 course materials, syllabus, and examinations submitted as  
2 the basis of the course approval.

3 (8) Failing to provide an appropriate classroom  
4 environment for presentation of courses, with  
5 consideration for student comfort, acoustics, lighting,  
6 seating, workspace, and visual aid material.

7 (9) Failing to maintain student records in compliance  
8 with the rules adopted under this Act.

9 (10) Failing to provide a certificate, transcript, or  
10 other student record to the Department or to a student as  
11 may be required by rule.

12 (11) Failing to fully cooperate with a Department  
13 investigation by knowingly making a false statement,  
14 submitting false or misleading information, or refusing to  
15 provide complete information in response to written  
16 interrogatories or a written request for documentation  
17 within 30 days of the request.

18 (c) In appropriate cases, the Department may resolve a  
19 complaint against a licensee through the issuance of a Consent  
20 to Administrative Supervision order. A licensee subject to a  
21 Consent to Administrative Supervision order shall be  
22 considered by the Department as an active licensee in good  
23 standing. This order shall not be reported as or considered by  
24 the Department to be a discipline of the licensee. The records  
25 regarding an investigation and a Consent to Administrative  
26 Supervision order shall be considered confidential and shall



1 not be released by the Department except as mandated by law.  
2 The complainant shall be notified that his or her complaint has  
3 been resolved by a Consent to Administrative Supervision order.

4 (d) The Department may refuse to issue or may suspend  
5 without hearing, as provided for in the Code of Civil  
6 Procedure, the license of any person who fails to file a tax  
7 return, to pay the tax, penalty, or interest shown in a filed  
8 tax return, or to pay any final assessment of tax, penalty, or  
9 interest, as required by any tax Act administered by the  
10 Illinois Department of Revenue, until such time as the  
11 requirements of the tax Act are satisfied in accordance with  
12 subsection (g) of Section 2105-15 of the Civil Administrative  
13 Code of Illinois.

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

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

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

6 (g) The determination by a circuit court that a licensee is  
7 subject to involuntary admission or judicial admission, as  
8 provided in the Mental Health and Developmental Disabilities  
9 Code, operates as an automatic suspension. The suspension will  
10 end only upon a finding by a court that the patient is no  
11 longer subject to involuntary admission or judicial admission  
12 and the issuance of a court order so finding and discharging  
13 the patient.

14 (h) In enforcing this Act, the Department, upon a showing  
15 of a possible violation, may compel an individual licensed to  
16 practice under this Act, or who has applied for licensure under  
17 this Act, to submit to a mental or physical examination, or  
18 both, as required by and at the expense of the Department. The  
19 Department may order the examining physician to present  
20 testimony concerning the mental or physical examination of the  
21 licensee or applicant. No information shall be excluded by  
22 reason of any common law or statutory privilege relating to  
23 communications between the licensee or applicant and the  
24 examining physician. The examining physician shall be  
25 specifically designated by the Department. The individual to be  
26 examined may have, at his or her own expense, another physician

1 of his or her choice present during all aspects of this  
2 examination. The examination shall be performed by a physician  
3 licensed to practice medicine in all its branches. Failure of  
4 an individual to submit to a mental or physical examination,  
5 when directed, shall result in an automatic suspension without  
6 hearing.

7 A person holding a license under this Act or who has  
8 applied for a license under this Act, who, because of a  
9 physical or mental illness or disability, including, but not  
10 limited to, deterioration through the aging process or loss of  
11 motor skill, is unable to practice the profession with  
12 reasonable judgment, skill, or safety, may be required by the  
13 Department to submit to care, counseling, or treatment by  
14 physicians approved or designated by the Department as a  
15 condition, term, or restriction for continued, reinstated, or  
16 renewed licensure to practice. Submission to care, counseling,  
17 or treatment as required by the Department shall not be  
18 considered discipline of a license. If the licensee refuses to  
19 enter into a care, counseling, or treatment agreement or fails  
20 to abide by the terms of the agreement, the Department may file  
21 a complaint to revoke, suspend, or otherwise discipline the  
22 license of the individual. The Secretary may order the license  
23 suspended immediately, pending a hearing by the Department.  
24 Fines shall not be assessed in disciplinary actions involving  
25 physical or mental illness or impairment.

26 In instances in which the Secretary immediately suspends a

1 person's license under this Section, a hearing on that person's  
2 license must be convened by the Department within 15 days after  
3 the suspension and completed without appreciable delay. The  
4 Department shall have the authority to review the subject  
5 individual's record of treatment and counseling regarding the  
6 impairment to the extent permitted by applicable federal  
7 statutes and regulations safeguarding the confidentiality of  
8 medical records.

9 An individual licensed under this Act and affected under  
10 this Section shall be afforded an opportunity to demonstrate to  
11 the Department that he or she can resume practice in compliance  
12 with acceptable and prevailing standards under the provisions  
13 of his or her license.

14 (Source: P.A. 97-226, eff. 7-28-11.)

15 Section 10. The Real Estate Appraiser Licensing Act of 2002  
16 is amended by changing Section 15-10 as follows:

17 (225 ILCS 458/15-10)

18 (Section scheduled to be repealed on January 1, 2022)

19 Sec. 15-10. Grounds for disciplinary action.

20 (a) The Department may suspend, revoke, refuse to issue,  
21 renew, or restore a license and may reprimand place on  
22 probation or administrative supervision, or take any  
23 disciplinary or non-disciplinary action, including imposing  
24 conditions limiting the scope, nature, or extent of the real

1 estate appraisal practice of a licensee or reducing the  
2 appraisal rank of a licensee, and may impose an administrative  
3 fine not to exceed \$25,000 for each violation upon a licensee  
4 for any one or combination of the following:

5 (1) Procuring or attempting to procure a license by  
6 knowingly making a false statement, submitting false  
7 information, engaging in any form of fraud or  
8 misrepresentation, or refusing to provide complete  
9 information in response to a question in an application for  
10 licensure.

11 (2) Failing to meet the minimum qualifications for  
12 licensure as an appraiser established by this Act.

13 (3) Paying money, other than for the fees provided for  
14 by this Act, or anything of value to a member or employee  
15 of the Board or the Department to procure licensure under  
16 this Act.

17 (4) Conviction by plea of guilty or nolo contendere,  
18 finding of guilt, jury verdict, or entry of judgment or by  
19 sentencing of any crime, including, but not limited to,  
20 convictions, preceding sentences of supervision,  
21 conditional discharge, or first offender probation, under  
22 the laws of any jurisdiction of the United States: (i) that  
23 is a felony; or (ii) that is a misdemeanor, an essential  
24 element of which is dishonesty, or that is directly related  
25 to the practice of the profession.

26 (5) Committing an act or omission involving

1           dishonesty, fraud, or misrepresentation with the intent to  
2           substantially benefit the licensee or another person or  
3           with intent to substantially injure another person as  
4           defined by rule.

5           (6) Violating a provision or standard for the  
6           development or communication of real estate appraisals as  
7           provided in Section 10-10 of this Act or as defined by  
8           rule.

9           (7) Failing or refusing without good cause to exercise  
10          reasonable diligence in developing, reporting, or  
11          communicating an appraisal, as defined by this Act or by  
12          rule.

13          (8) Violating a provision of this Act or the rules  
14          adopted pursuant to this Act.

15          (9) Having been disciplined by another state, the  
16          District of Columbia, a territory, a foreign nation, a  
17          governmental agency, or any other entity authorized to  
18          impose discipline if at least one of the grounds for that  
19          discipline is the same as or the equivalent of one of the  
20          grounds for which a licensee may be disciplined under this  
21          Act.

22          (10) Engaging in dishonorable, unethical, or  
23          unprofessional conduct of a character likely to deceive,  
24          defraud, or harm the public.

25          (11) Accepting an appraisal assignment when the  
26          employment itself is contingent upon the appraiser

1 reporting a predetermined estimate, analysis, or opinion  
2 or when the fee to be paid is contingent upon the opinion,  
3 conclusion, or valuation reached or upon the consequences  
4 resulting from the appraisal assignment.

5 (12) Developing valuation conclusions based on the  
6 race, color, religion, sex, national origin, ancestry,  
7 age, marital status, family status, physical or mental  
8 disability ~~handicap~~, or unfavorable military discharge, as  
9 defined under the Illinois Human Rights Act, of the  
10 prospective or present owners or occupants of the area or  
11 property under appraisal.

12 (13) Violating the confidential nature of government  
13 records to which the licensee gained access through  
14 employment or engagement as an appraiser by a government  
15 agency.

16 (14) Being adjudicated liable in a civil proceeding on  
17 grounds of fraud, misrepresentation, or deceit. In a  
18 disciplinary proceeding based upon a finding of civil  
19 liability, the appraiser shall be afforded an opportunity  
20 to present mitigating and extenuating circumstances, but  
21 may not collaterally attack the civil adjudication.

22 (15) Being adjudicated liable in a civil proceeding for  
23 violation of a state or federal fair housing law.

24 (16) Engaging in misleading or untruthful advertising  
25 or using a trade name or insignia of membership in a real  
26 estate appraisal or real estate organization of which the

1 licensee is not a member.

2 (17) Failing to fully cooperate with a Department  
3 investigation by knowingly making a false statement,  
4 submitting false or misleading information, or refusing to  
5 provide complete information in response to written  
6 interrogatories or a written request for documentation  
7 within 30 days of the request.

8 (18) Failing to include within the certificate of  
9 appraisal for all written appraisal reports the  
10 appraiser's license number and licensure title. All  
11 appraisers providing significant contribution to the  
12 development and reporting of an appraisal must be disclosed  
13 in the appraisal report. It is a violation of this Act for  
14 an appraiser to sign a report, transmittal letter, or  
15 appraisal certification knowing that a person providing a  
16 significant contribution to the report has not been  
17 disclosed in the appraisal report.

18 (19) Violating the terms of a disciplinary order or  
19 consent to administrative supervision order.

20 (20) Habitual or excessive use or addiction to alcohol,  
21 narcotics, stimulants, or any other chemical agent or drug  
22 that results in a licensee's inability to practice with  
23 reasonable judgment, skill, or safety.

24 (21) A physical or mental illness or disability which  
25 results in the inability to practice under this Act with  
26 reasonable judgment, skill, or safety.



1           (22) Gross negligence in developing an appraisal or in  
2           communicating an appraisal or failing to observe one or  
3           more of the Uniform Standards of Professional Appraisal  
4           Practice.

5           (23) A pattern of practice or other behavior that  
6           demonstrates incapacity or incompetence to practice under  
7           this Act.

8           (24) Using or attempting to use the seal, certificate,  
9           or license of another as his or her own; falsely  
10          impersonating any duly licensed appraiser; using or  
11          attempting to use an inactive, expired, suspended, or  
12          revoked license; or aiding or abetting any of the  
13          foregoing.

14          (25) Solicitation of professional services by using  
15          false, misleading, or deceptive advertising.

16          (26) Making a material misstatement in furnishing  
17          information to the Department.

18          (27) Failure to furnish information to the Department  
19          upon written request.

20          (b) The Department may reprimand suspend, revoke, or refuse  
21          to issue or renew an education provider's license, may  
22          reprimand, place on probation, or otherwise discipline an  
23          education provider and may suspend or revoke the course  
24          approval of any course offered by an education provider and may  
25          impose an administrative fine not to exceed \$25,000 upon an  
26          education provider, for any of the following:

1           (1) Procuring or attempting to procure licensure by  
2           knowingly making a false statement, submitting false  
3           information, engaging in any form of fraud or  
4           misrepresentation, or refusing to provide complete  
5           information in response to a question in an application for  
6           licensure.

7           (2) Failing to comply with the covenants certified to  
8           on the application for licensure as an education provider.

9           (3) Committing an act or omission involving  
10          dishonesty, fraud, or misrepresentation or allowing any  
11          such act or omission by any employee or contractor under  
12          the control of the provider.

13          (4) Engaging in misleading or untruthful advertising.

14          (5) Failing to retain competent instructors in  
15          accordance with rules adopted under this Act.

16          (6) Failing to meet the topic or time requirements for  
17          course approval as the provider of a pre-license curriculum  
18          course or a continuing education course.

19          (7) Failing to administer an approved course using the  
20          course materials, syllabus, and examinations submitted as  
21          the basis of the course approval.

22          (8) Failing to provide an appropriate classroom  
23          environment for presentation of courses, with  
24          consideration for student comfort, acoustics, lighting,  
25          seating, workspace, and visual aid material.

26          (9) Failing to maintain student records in compliance

1 with the rules adopted under this Act.

2 (10) Failing to provide a certificate, transcript, or  
3 other student record to the Department or to a student as  
4 may be required by rule.

5 (11) Failing to fully cooperate with an investigation  
6 by the Department by knowingly making a false statement,  
7 submitting false or misleading information, or refusing to  
8 provide complete information in response to written  
9 interrogatories or a written request for documentation  
10 within 30 days of the request.

11 (c) In appropriate cases, the Department may resolve a  
12 complaint against a licensee through the issuance of a Consent  
13 to Administrative Supervision order. A licensee subject to a  
14 Consent to Administrative Supervision order shall be  
15 considered by the Department as an active licensee in good  
16 standing. This order shall not be reported or considered by the  
17 Department to be a discipline of the licensee. The records  
18 regarding an investigation and a Consent to Administrative  
19 Supervision order shall be considered confidential and shall  
20 not be released by the Department except as mandated by law. A  
21 complainant shall be notified if his or her complaint has been  
22 resolved by a Consent to Administrative Supervision order.

23 (Source: P.A. 96-844, eff. 12-23-09; 97-602, eff. 8-26-11.)

24 Section 15. The Illinois Human Rights Act is amended by  
25 changing Sections 2-101, 2-104, and 3-103 as follows:

1 (775 ILCS 5/2-101) (from Ch. 68, par. 2-101)  
2 Sec. 2-101. Definitions. The following definitions are  
3 applicable strictly in the context of this Article.

4 (A) Employee.

5 (1) "Employee" includes:

6 (a) Any individual performing services for  
7 remuneration within this State for an employer;

8 (b) An apprentice;

9 (c) An applicant for any apprenticeship.

10 (2) "Employee" does not include:

11 (a) Domestic servants in private homes;

12 (b) Individuals employed by persons who are not  
13 "employers" as defined by this Act;

14 (c) Elected public officials or the members of  
15 their immediate personal staffs;

16 (d) Principal administrative officers of the State  
17 or of any political subdivision, municipal corporation  
18 or other governmental unit or agency;

19 (e) A person in a vocational rehabilitation  
20 facility certified under federal law who has been  
21 designated an evaluatee, trainee, or work activity  
22 client.

23 (B) Employer.

24 (1) "Employer" includes:

25 (a) Any person employing 15 or more employees

1 within Illinois during 20 or more calendar weeks within  
2 the calendar year of or preceding the alleged  
3 violation;

4 (b) Any person employing one or more employees when  
5 a complainant alleges civil rights violation due to  
6 unlawful discrimination based upon his or her physical  
7 or mental disability ~~handicap~~ unrelated to ability or  
8 sexual harassment;

9 (c) The State and any political subdivision,  
10 municipal corporation or other governmental unit or  
11 agency, without regard to the number of employees;

12 (d) Any party to a public contract without regard  
13 to the number of employees;

14 (e) A joint apprenticeship or training committee  
15 without regard to the number of employees.

16 (2) "Employer" does not include any religious  
17 corporation, association, educational institution,  
18 society, or non-profit nursing institution conducted by  
19 and for those who rely upon treatment by prayer through  
20 spiritual means in accordance with the tenets of a  
21 recognized church or religious denomination with respect  
22 to the employment of individuals of a particular religion  
23 to perform work connected with the carrying on by such  
24 corporation, association, educational institution, society  
25 or non-profit nursing institution of its activities.

26 (C) Employment Agency. "Employment Agency" includes both

1 public and private employment agencies and any person, labor  
2 organization, or labor union having a hiring hall or hiring  
3 office regularly undertaking, with or without compensation, to  
4 procure opportunities to work, or to procure, recruit, refer or  
5 place employees.

6 (D) Labor Organization. "Labor Organization" includes any  
7 organization, labor union, craft union, or any voluntary  
8 unincorporated association designed to further the cause of the  
9 rights of union labor which is constituted for the purpose, in  
10 whole or in part, of collective bargaining or of dealing with  
11 employers concerning grievances, terms or conditions of  
12 employment, or apprenticeships or applications for  
13 apprenticeships, or of other mutual aid or protection in  
14 connection with employment, including apprenticeships or  
15 applications for apprenticeships.

16 (E) Sexual Harassment. "Sexual harassment" means any  
17 unwelcome sexual advances or requests for sexual favors or any  
18 conduct of a sexual nature when (1) submission to such conduct  
19 is made either explicitly or implicitly a term or condition of  
20 an individual's employment, (2) submission to or rejection of  
21 such conduct by an individual is used as the basis for  
22 employment decisions affecting such individual, or (3) such  
23 conduct has the purpose or effect of substantially interfering  
24 with an individual's work performance or creating an  
25 intimidating, hostile or offensive working environment.

26 (F) Religion. "Religion" with respect to employers

1 includes all aspects of religious observance and practice, as  
2 well as belief, unless an employer demonstrates that he is  
3 unable to reasonably accommodate an employee's or prospective  
4 employee's religious observance or practice without undue  
5 hardship on the conduct of the employer's business.

6 (G) Public Employer. "Public employer" means the State, an  
7 agency or department thereof, unit of local government, school  
8 district, instrumentality or political subdivision.

9 (H) Public Employee. "Public employee" means an employee of  
10 the State, agency or department thereof, unit of local  
11 government, school district, instrumentality or political  
12 subdivision. "Public employee" does not include public  
13 officers or employees of the General Assembly or agencies  
14 thereof.

15 (I) Public Officer. "Public officer" means a person who is  
16 elected to office pursuant to the Constitution or a statute or  
17 ordinance, or who is appointed to an office which is  
18 established, and the qualifications and duties of which are  
19 prescribed, by the Constitution or a statute or ordinance, to  
20 discharge a public duty for the State, agency or department  
21 thereof, unit of local government, school district,  
22 instrumentality or political subdivision.

23 (J) Eligible Bidder. "Eligible bidder" means a person who,  
24 prior to a bid opening, has filed with the Department a  
25 properly completed, sworn and currently valid employer report  
26 form, pursuant to the Department's regulations. The provisions

1 of this Article relating to eligible bidders apply only to bids  
2 on contracts with the State and its departments, agencies,  
3 boards, and commissions, and the provisions do not apply to  
4 bids on contracts with units of local government or school  
5 districts.

6 (K) Citizenship Status. "Citizenship status" means the  
7 status of being:

8 (1) a born U.S. citizen;

9 (2) a naturalized U.S. citizen;

10 (3) a U.S. national; or

11 (4) a person born outside the United States and not a  
12 U.S. citizen who is not an unauthorized alien and who is  
13 protected from discrimination under the provisions of  
14 Section 1324b of Title 8 of the United States Code, as now  
15 or hereafter amended.

16 (Source: P.A. 86-1343; 87-579; 87-666; 87-895.)

17 (775 ILCS 5/2-104) (from Ch. 68, par. 2-104)

18 Sec. 2-104. Exemptions.

19 (A) Nothing contained in this Act shall prohibit an  
20 employer, employment agency or labor organization from:

21 (1) Bona Fide Qualification. Hiring or selecting  
22 between persons for bona fide occupational qualifications  
23 or any reason except those civil-rights violations  
24 specifically identified in this Article.

25 (2) Veterans. Giving preferential treatment to



1 veterans and their relatives as required by the laws or  
2 regulations of the United States or this State or a unit of  
3 local government.

4 (3) Unfavorable Discharge From Military Service. Using  
5 unfavorable discharge from military service as a valid  
6 employment criterion when authorized by federal law or  
7 regulation or when a position of employment involves the  
8 exercise of fiduciary responsibilities as defined by rules  
9 and regulations which the Department shall adopt.

10 (4) Ability Tests. Giving or acting upon the results of  
11 any professionally developed ability test provided that  
12 such test, its administration, or action upon the results,  
13 is not used as a subterfuge for or does not have the effect  
14 of unlawful discrimination.

15 (5) Merit and Retirement Systems.

16 (a) Applying different standards of compensation,  
17 or different terms, conditions or privileges of  
18 employment pursuant to a merit or retirement system  
19 provided that such system or its administration is not  
20 used as a subterfuge for or does not have the effect of  
21 unlawful discrimination.

22 (b) Effecting compulsory retirement of any  
23 employee who has attained 65 years of age and who, for  
24 the 2-year period immediately preceding retirement, is  
25 employed in a bona fide executive or a high  
26 policymaking position, if such employee is entitled to

1 an immediate nonforfeitable annual retirement benefit  
2 from a pension, profit-sharing, savings, or deferred  
3 compensation plan, or any combination of such plans of  
4 the employer of such employee, which equals, in the  
5 aggregate, at least \$44,000. If any such retirement  
6 benefit is in a form other than a straight life annuity  
7 (with no ancillary benefits) or if the employees  
8 contribute to any such plan or make rollover  
9 contributions, the retirement benefit shall be  
10 adjusted in accordance with regulations prescribed by  
11 the Department, so that the benefit is the equivalent  
12 of a straight life annuity (with no ancillary benefits)  
13 under a plan to which employees do not contribute and  
14 under which no rollover contributions are made.

15 (c) Until January 1, 1994, effecting compulsory  
16 retirement of any employee who has attained 70 years of  
17 age, and who is serving under a contract of unlimited  
18 tenure (or similar arrangement providing for unlimited  
19 tenure) at an institution of higher education as  
20 defined by Section 1201(a) of the Higher Education Act  
21 of 1965.

22 (6) Training and Apprenticeship programs. Establishing  
23 an educational requirement as a prerequisite to selection  
24 for a training or apprenticeship program, provided such  
25 requirement does not operate to discriminate on the basis  
26 of any prohibited classification except age.

1           (7) Police and Firefighter/Paramedic Retirement.  
2           Imposing a mandatory retirement age for  
3           firefighters/paramedics or law enforcement officers and  
4           discharging or retiring such individuals pursuant to the  
5           mandatory retirement age if such action is taken pursuant  
6           to a bona fide retirement plan provided that the law  
7           enforcement officer or firefighter/paramedic has attained:

8                   (a) the age of retirement in effect under  
9                   applicable State or local law on March 3, 1983; or

10                   (b) if the applicable State or local law was  
11                   enacted after the date of enactment of the federal Age  
12                   Discrimination in Employment Act Amendments of 1996  
13                   (P.L. 104-208), the age of retirement in effect on the  
14                   date of such discharge under such law.

15           This paragraph (7) shall not apply with respect to any  
16           cause of action arising under the Illinois Human Rights Act  
17           as in effect prior to the effective date of this amendatory  
18           Act of 1997.

19           (8) Police and Firefighter/Paramedic Appointment.  
20           Failing or refusing to hire any individual because of such  
21           individual's age if such action is taken with respect to  
22           the employment of an individual as a firefighter/paramedic  
23           or as a law enforcement officer and the individual has  
24           attained:

25                   (a) the age of hiring or appointment in effect  
26                   under applicable State or local law on March 3, 1983;

1 or

2 (b) the age of hiring in effect on the date of such  
3 failure or refusal to hire under applicable State or  
4 local law enacted after the date of enactment of the  
5 federal Age Discrimination in Employment Act  
6 Amendments of 1996 (P.L. 104-208).

7 As used in paragraph (7) or (8):

8 "Firefighter/paramedic" means an employee, the duties  
9 of whose position are primarily to perform work directly  
10 connected with the control and extinguishment of fires or  
11 the maintenance and use of firefighting apparatus and  
12 equipment, or to provide emergency medical services,  
13 including an employee engaged in this activity who is  
14 transferred to a supervisory or administrative position.

15 "Law enforcement officer" means an employee, the  
16 duties of whose position are primarily the investigation,  
17 apprehension, or detention of individuals suspected or  
18 convicted of criminal offenses, including an employee  
19 engaged in this activity who is transferred to a  
20 supervisory or administrative position.

21 (9) Citizenship Status. Making legitimate distinctions  
22 based on citizenship status if specifically authorized or  
23 required by State or federal law.

24 (B) With respect to any employee who is subject to a  
25 collective bargaining agreement:

26 (a) which is in effect on June 30, 1986,

1 (b) which terminates after January 1, 1987,  
2 (c) any provision of which was entered into by a labor  
3 organization as defined by Section 6(d)(4) of the Fair  
4 Labor Standards Act of 1938 (29 U.S.C. 206(d)(4)), and  
5 (d) which contains any provision that would be  
6 superseded by this amendatory Act of 1987 (Public Act  
7 85-748),  
8 such amendatory Act of 1987 shall not apply until the  
9 termination of such collective bargaining agreement or January  
10 1, 1990, whichever occurs first.

11 (C)(1) For purposes of this Act, the term "disability"  
12 ~~"handicap"~~ shall not include any employee or applicant who is  
13 currently engaging in the illegal use of drugs, when an  
14 employer acts on the basis of such use.

15 (2) Paragraph (1) shall not apply where an employee or  
16 applicant for employment:

17 (a) has successfully completed a supervised drug  
18 rehabilitation program and is no longer engaging in the  
19 illegal use of drugs, or has otherwise been rehabilitated  
20 successfully and is no longer engaging in such use;

21 (b) is participating in a supervised rehabilitation  
22 program and is no longer engaging in such use; or

23 (c) is erroneously regarded as engaging in such use,  
24 but is not engaging in such use.

25 It shall not be a violation of this Act for an employer to  
26 adopt or administer reasonable policies or procedures,

1 including but not limited to drug testing, designed to ensure  
2 that an individual described in subparagraph (a) or (b) is no  
3 longer engaging in the illegal use of drugs.

4 (3) An employer:

5 (a) may prohibit the illegal use of drugs and the use  
6 of alcohol at the workplace by all employees;

7 (b) may require that employees shall not be under the  
8 influence of alcohol or be engaging in the illegal use of  
9 drugs at the workplace;

10 (c) may require that employees behave in conformance  
11 with the requirements established under the federal  
12 Drug-Free Workplace Act of 1988 (41 U.S.C. 701 et seq.) and  
13 the Drug Free Workplace Act;

14 (d) may hold an employee who engages in the illegal use  
15 of drugs or who is an alcoholic to the same qualification  
16 standards for employment or job performance and behavior  
17 that such employer holds other employees, even if any  
18 unsatisfactory performance or behavior is related to the  
19 drug use or alcoholism of such employee; and

20 (e) may, with respect to federal regulations regarding  
21 alcohol and the illegal use of drugs, require that:

22 (i) employees comply with the standards  
23 established in such regulations of the United States  
24 Department of Defense, if the employees of the employer  
25 are employed in an industry subject to such  
26 regulations, including complying with regulations (if

1 any) that apply to employment in sensitive positions in  
2 such an industry, in the case of employees of the  
3 employer who are employed in such positions (as defined  
4 in the regulations of the Department of Defense);

5 (ii) employees comply with the standards  
6 established in such regulations of the Nuclear  
7 Regulatory Commission, if the employees of the  
8 employer are employed in an industry subject to such  
9 regulations, including complying with regulations (if  
10 any) that apply to employment in sensitive positions in  
11 such an industry, in the case of employees of the  
12 employer who are employed in such positions (as defined  
13 in the regulations of the Nuclear Regulatory  
14 Commission); and

15 (iii) employees comply with the standards  
16 established in such regulations of the United States  
17 Department of Transportation, if the employees of the  
18 employer are employed in a transportation industry  
19 subject to such regulations, including complying with  
20 such regulations (if any) that apply to employment in  
21 sensitive positions in such an industry, in the case of  
22 employees of the employer who are employed in such  
23 positions (as defined in the regulations of the United  
24 States Department of Transportation).

25 (4) For purposes of this Act, a test to determine the  
26 illegal use of drugs shall not be considered a medical

1 examination. Nothing in this Act shall be construed to  
2 encourage, prohibit, or authorize the conducting of drug  
3 testing for the illegal use of drugs by job applicants or  
4 employees or making employment decisions based on such test  
5 results.

6 (5) Nothing in this Act shall be construed to encourage,  
7 prohibit, restrict, or authorize the otherwise lawful exercise  
8 by an employer subject to the jurisdiction of the United States  
9 Department of Transportation of authority to:

10 (a) test employees of such employer in, and applicants  
11 for, positions involving safety-sensitive duties for the  
12 illegal use of drugs and for on-duty impairment by alcohol;  
13 and

14 (b) remove such persons who test positive for illegal  
15 use of drugs and on-duty impairment by alcohol pursuant to  
16 subparagraph (a) from safety-sensitive duties in  
17 implementing paragraph (3).

18 (Source: P.A. 95-331, eff. 8-21-07.)

19 (775 ILCS 5/3-103) (from Ch. 68, par. 3-103)

20 Sec. 3-103. Blockbusting. It is a civil rights violation  
21 for any person to:

22 (A) Solicitation. Solicit for sale, lease, listing or  
23 purchase any residential real estate within this State, on the  
24 grounds of loss of value due to the present or prospective  
25 entry into the vicinity of the property involved of any person



1 or persons of any particular race, color, religion, national  
2 origin, ancestry, age, sex, sexual orientation, marital  
3 status, familial status or disability ~~handicap~~.

4 (B) Statements. Distribute or cause to be distributed,  
5 written material or statements designed to induce any owner of  
6 residential real estate in this State to sell or lease his or  
7 her property because of any present or prospective changes in  
8 the race, color, religion, national origin, ancestry, age, sex,  
9 sexual orientation, marital status, familial status or  
10 disability ~~handicap~~ of residents in the vicinity of the  
11 property involved.

12 (C) Creating Alarm. Intentionally create alarm, among  
13 residents of any community, by transmitting communications in  
14 any manner, including a telephone call whether or not  
15 conversation thereby ensues, with a design to induce any owner  
16 of residential real estate in this state to sell or lease his  
17 or her property because of any present or prospective entry  
18 into the vicinity of the property involved of any person or  
19 persons of any particular race, color, religion, national  
20 origin, ancestry, age, sex, sexual orientation, marital  
21 status, familial status or disability ~~handicap~~.

22 (Source: P.A. 93-1078, eff. 1-1-06.)

23 Section 99. Effective date. This Act takes effect upon  
24 becoming law.