



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4959

Introduced 2/5/2016, by Rep. Mark Batinick

#### SYNOPSIS AS INTRODUCED:

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

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

LRB099 15976 MLM 40293 b

1 AN ACT concerning regulation.

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

4 Section 5. The Community Association Manager Licensing and  
5 Disciplinary Act is amended by changing Sections 15, 45, 50,  
6 60, and 85 as follows:

7 (225 ILCS 427/15)

8 (Section scheduled to be repealed on January 1, 2020)

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

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

20 (225 ILCS 427/45)

21 (Section scheduled to be repealed on January 1, 2020)

22 Sec. 45. Examinations.

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

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

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

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

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

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

22 (225 ILCS 427/50)

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

24 Sec. 50. Community association management firm.

25 (a) No corporation, partnership, limited liability

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

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

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

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

23 (225 ILCS 427/60)

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

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

1 military service.

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

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

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

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

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

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

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

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

1 be subject to the disciplinary provisions of this Act.

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

3 (225 ILCS 427/85)

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

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

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

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

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

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

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

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

8           (5) Professional incompetence.

9           (6) Gross negligence.

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

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

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

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

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



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

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

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

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

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

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

1 judgment, skill, or safety.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (225 ILCS 454/10-20)

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

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

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

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

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

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

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

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

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

15 (225 ILCS 454/20-20)

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

17 Sec. 20-20. Grounds for discipline.

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



1 one or any combination of the following causes:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (B) deemed abandoned and transferred to the Office

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

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

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

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

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

1 the Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 agreement with the seller provides otherwise.

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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