

1 AN ACT concerning the regulation of professions.

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

4 Section 5. The State Finance Act is amended by adding
5 Section 5.545 as follows:

6 (30 ILCS 105/5.545 new)

7 Sec. 5.545. The Real Estate Audit Fund.

8 Section 10. The Real Estate License Act of 2000 is
9 amended by changing Sections 1-10, 5-20, 10-10, 20-60, and
10 20-70 and by adding Sections 25-14 and 25-37 as follows:

11 (225 ILCS 454/1-10)

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

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

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

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

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

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

1 include the franchise affiliation as well as the name of the
2 individual firm.

3 "Board" means the Real Estate Administration and
4 Disciplinary Board of OBRE.

5 "Branch office" means a sponsoring broker's office other
6 than the sponsoring broker's principal office.

7 "Broker" means an individual, partnership, limited
8 liability company, corporation, or registered limited
9 liability partnership other than a real estate salesperson or
10 leasing agent who for another and for compensation, or with
11 the intention or expectation of receiving compensation,
12 either directly or indirectly:

13 (1) Sells, exchanges, purchases, rents, or leases
14 real estate.

15 (2) Offers to sell, exchange, purchase, rent, or
16 lease real estate.

17 (3) Negotiates, offers, attempts, or agrees to
18 negotiate the sale, exchange, purchase, rental, or
19 leasing of real estate.

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

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

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

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

30 (8) Assists or directs in procuring or referring of
31 prospects, intended to result in the sale, exchange,
32 lease, or rental of real estate.

33 (9) Assists or directs in the negotiation of any
34 transaction intended to result in the sale, exchange,

1 lease, or rental of real estate.

2 (10) Opens real estate to the public for marketing
3 purposes.

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

6 "Brokerage agreement" means a written or oral agreement
7 between a sponsoring broker and a consumer for licensed
8 activities to be provided to a consumer in return for
9 compensation or the right to receive compensation from
10 another. Brokerage agreements may constitute either a
11 bilateral or a unilateral agreement between the broker and
12 the broker's client depending upon the content of the
13 brokerage agreement. All exclusive brokerage agreements
14 shall be in writing.

15 "Client" means a person who is being represented by a
16 licensee.

17 "Commissioner" means the Commissioner of Banks and Real
18 Estate or a person authorized by the Commissioner, the Office
19 of Banks and Real Estate Act, or this Act to act in the
20 Commissioner's stead.

21 "Compensation" means the valuable consideration given by
22 one person or entity to another person or entity in exchange
23 for the performance of some activity or service.
24 Compensation shall include the transfer of valuable
25 consideration, including without limitation the following:

- 26 (1) commissions;
- 27 (2) referral fees;
- 28 (3) bonuses;
- 29 (4) prizes;
- 30 (5) merchandise;
- 31 (6) finder fees;
- 32 (7) performance of services;
- 33 (8) coupons or gift certificates;
- 34 (9) discounts;

1 (10) rebates;

2 (11) a chance to win a raffle, drawing, lottery, or
3 similar game of chance not prohibited by any other law or
4 statute;

5 (12) retainer fee; or

6 (13) salary.

7 "Confidential information" means information obtained by
8 a licensee from a client during the term of a brokerage
9 agreement that (i) was made confidential by the written
10 request or written instruction of the client, (ii) deals with
11 the negotiating position of the client, or (iii) is
12 information the disclosure of which could materially harm the
13 negotiating position of the client, unless at any time:

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

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

17 (3) the information becomes public from a source
18 other than the licensee.

19 "Confidential information" shall not be considered to
20 include material information about the physical condition of
21 the property.

22 "Consumer" means a person or entity seeking or receiving
23 licensed activities.

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

27 "Credit hour" means 50 minutes of classroom instruction
28 in course work that meets the requirements set forth in rules
29 adopted by OBRE.

30 "Customer" means a consumer who is not being represented
31 by the licensee but for whom the licensee is performing
32 ministerial acts.

33 "Designated agency" means a contractual relationship
34 between a sponsoring broker and a client under Section 15-50

1 of this Act in which one or more licensees associated with or
2 employed by the broker are designated as agent of the client.

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

6 "Director" means the Director of the Real Estate
7 Division, OBRE.

8 "Dual agency" means an agency relationship in which a
9 licensee is representing both buyer and seller or both
10 landlord and tenant in the same transaction. When the agency
11 relationship is a designated agency, the question of whether
12 there is a dual agency shall be determined by the agency
13 relationships of the designated agent of the parties and not
14 of the sponsoring broker.

15 "Employee" or other derivative of the word "employee",
16 when used to refer to, describe, or delineate the
17 relationship between a real estate broker and a real estate
18 salesperson, another real estate broker, or a leasing agent,
19 shall be construed to include an independent contractor
20 relationship, provided that a written agreement exists that
21 clearly establishes and states the relationship. All
22 responsibilities of a broker shall remain.

23 "Escrow moneys" means all moneys, promissory notes or any
24 other type or manner of legal tender or financial
25 consideration deposited with any person for the benefit of
26 the parties to the transaction. A transaction exists once an
27 agreement has been reached and an accepted real estate
28 contract signed or lease agreed to by the parties. Escrow
29 moneys includes without limitation earnest moneys and
30 security deposits, except those security deposits in which
31 the person holding the security deposit is also the sole
32 owner of the property being leased and for which the security
33 deposit is being held.

34 "Inoperative" means a status of licensure where the

1 licensee holds a current license under this Act, but the
2 licensee is prohibited from engaging in licensed activities
3 because the licensee is unsponsored or the license of the
4 sponsoring broker with whom the licensee is associated or by
5 whom he or she is employed is currently expired, revoked,
6 suspended, or otherwise rendered invalid under this Act.

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

11 "License" means the document issued by OBRE certifying
12 that the person named thereon has fulfilled all requirements
13 prerequisite to licensure under this Act.

14 "Licensed activities" means those activities listed in
15 the definition of "broker" under this Section.

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

19 "Listing presentation" means a communication between a
20 real estate broker or salesperson and a consumer in which the
21 licensee is attempting to secure a brokerage agreement with
22 the consumer to market the consumer's real estate for sale or
23 lease.

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

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

31 "Ministerial acts" means those acts that a licensee may
32 perform for a consumer that are informative or clerical in
33 nature and do not rise to the level of active representation
34 on behalf of a consumer. Examples of these acts include

1 without limitation (i) responding to phone inquiries by
2 consumers as to the availability and pricing of brokerage
3 services, (ii) responding to phone inquiries from a consumer
4 concerning the price or location of property, (iii) attending
5 an open house and responding to questions about the property
6 from a consumer, (iv) setting an appointment to view
7 property, (v) responding to questions of consumers walking
8 into a licensee's office concerning brokerage services
9 offered or particular properties, (vi) accompanying an
10 appraiser, inspector, contractor, or similar third party on a
11 visit to a property, (vii) describing a property or the
12 property's condition in response to a consumer's inquiry,
13 (viii) completing business or factual information for a
14 consumer on an offer or contract to purchase on behalf of a
15 client, (ix) showing a client through a property being sold
16 by an owner on his or her own behalf, or (x) referral to
17 another broker or service provider.

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

19 "Office" means a real estate broker's place of business
20 where the general public is invited to transact business and
21 where records may be maintained and licenses displayed,
22 whether or not it is the broker's principal place of
23 business.

24 "Person" means and includes individuals, entities,
25 corporations, limited liability companies, registered limited
26 liability partnerships, and partnerships, foreign or
27 domestic, except that when the context otherwise requires,
28 the term may refer to a single individual or other described
29 entity.

30 "Personal assistant" means a licensed or unlicensed
31 person who has been hired for the purpose of aiding or
32 assisting a sponsored licensee in the performance of the
33 sponsored licensee's job.

34 "Pocket card" means the card issued by OBRE to signify

1 that the person named on the card is currently licensed under
2 this Act.

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

7 "Pre-renewal period" means the period between the date of
8 issue of a currently valid license and the license's
9 expiration date.

10 "Real estate" means and includes leaseholds as well as
11 any other interest or estate in land, whether corporeal,
12 incorporeal, freehold, or non-freehold, including timeshare
13 interests, and whether the real estate is situated in this
14 State or elsewhere.

15 "Real Estate Administration and Disciplinary Board" or
16 "Board" means the Real Estate Administration and Disciplinary
17 Board created by Section 25-10 of this Act.

18 "Salesperson" means any individual, other than a real
19 estate broker or leasing agent, who is employed by a real
20 estate broker or is associated by written agreement with a
21 real estate broker as an independent contractor and
22 participates in any activity described in the definition of
23 "broker" under this Section.

24 "Sponsoring broker" means the broker who has issued a
25 sponsor card to a licensed salesperson, another licensed
26 broker, or a leasing agent.

27 "Sponsor card" means the temporary permit issued by the
28 sponsoring real estate broker certifying that the real estate
29 broker, real estate salesperson, or leasing agent named
30 thereon is employed by or associated by written agreement
31 with the sponsoring real estate broker, as provided for in
32 Section 5-40 of this Act.

33 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;
34 91-603, eff. 1-1-00; 91-702, eff. 5-12-00.)

1 (225 ILCS 454/5-20)

2 Sec. 5-20. Exemptions from broker, salesperson, or
3 leasing agent license requirement. The requirement for
4 holding a license under this Article 5 shall not apply to:

5 (1) Any person, partnership, or corporation that as
6 owner or lessor performs any of the acts described in the
7 definition of "broker" under Section 1-10 of this Act with
8 reference to property owned or leased by it, or to the
9 regular employees thereof with respect to the property so
10 owned or leased, where such acts are performed in the regular
11 course of or as an incident to the management, sale, or other
12 disposition of such property and the investment therein,
13 provided that such regular employees do not perform any of
14 the acts described in the definition of "broker" under
15 Section 1-10 of this Act in connection with a vocation of
16 selling or leasing any real estate or the improvements
17 thereon not so owned or leased.

18 (2) An attorney in fact acting under a duly executed and
19 recorded power of attorney to convey real estate from the
20 owner or lessor or the services rendered by an attorney at
21 law in the performance of the attorney's duty as an attorney
22 at law.

23 (3) Any person acting as receiver, trustee in
24 bankruptcy, administrator, executor, or guardian or while
25 acting under a court order or under the authority of a will
26 or testamentary trust.

27 (4) Any person acting as a resident manager for the
28 owner or any employee acting as the resident manager for a
29 broker managing an apartment building, duplex, or apartment
30 complex, when the resident manager resides on the premises,
31 the premises is his or her primary residence, and the
32 resident manager is engaged in the leasing of the property of
33 which he or she is the resident manager.

34 (5) Any officer or employee of a federal agency in the

1 conduct of official duties.

2 (6) Any officer or employee of the State government or
3 any political subdivision thereof performing official duties.

4 (7) Any multiple listing service or other information
5 exchange that is engaged in the collection and dissemination
6 of information concerning real estate available for sale,
7 purchase, lease, or exchange along with which no other
8 licensed activities are provided.

9 (8) Railroads and other public utilities regulated by
10 the State of Illinois, or the officers or full time employees
11 thereof, unless the performance of any licensed activities is
12 in connection with the sale, purchase, lease, or other
13 disposition of real estate or investment therein not needing
14 the approval of the appropriate State regulatory authority.

15 (9) Any medium of advertising in the routine course of
16 selling or publishing advertising along with which no other
17 licensed activities are provided.

18 (10) Any resident lessee of a residential dwelling unit
19 who refers for compensation to the owner of the dwelling
20 unit, or to the owner's agent, prospective lessees of
21 dwelling units in the same building or complex as the
22 resident lessee's unit, but only if the resident lessee (i)
23 refers no more than 3 prospective lessees in any 12-month
24 period, (ii) receives compensation of no more than \$1,000 or
25 the equivalent of one month's rent, whichever is less, in any
26 12-month period, and (iii) limits his or her activities to
27 referring prospective lessees to the owner, or the owner's
28 agent, and does not show a residential dwelling unit to a
29 prospective lessee, discuss terms or conditions of leasing a
30 dwelling unit with a prospective lessee, or otherwise
31 participate in the negotiation of the leasing of a dwelling
32 unit.

33 (11) An exchange company registered under the Real
34 Estate Timeshare Act of 1999 and the regular employees of

1 that registered exchange company but only when conducting an
2 exchange program as defined in that Act.

3 (12) An existing timeshare owner who, for compensation,
4 refers prospective purchasers, but only if the existing
5 timeshare owner (i) refers no more than 20 prospective
6 purchasers in any calendar year, (ii) receives no more than
7 \$1,000, or its equivalent, for referrals in any calendar year
8 and (iii) limits his or her activities to referring
9 prospective purchasers of timeshare interests to the
10 developer or the developer's employees or agents, and does
11 not show, discuss terms or conditions of purchase or
12 otherwise participate in negotiations with regard to
13 timeshare interests.

14 (13) ~~(11)~~ Any person who is licensed without examination
15 under Section 10-25 of the Auction License Act is exempt from
16 holding a broker's or salesperson's license under this Act
17 for the limited purpose of selling or leasing real estate at
18 auction, so long as:

19 (A) that person has made application for said
20 exemption by July 1, 2000;

21 (B) that person verifies to OBRE that he or
22 she has sold real estate at auction for a period of
23 5 years prior to licensure as an auctioneer;

24 (C) the person has had no lapse in his or her
25 license as an auctioneer; and

26 (D) the license issued under the Auction
27 License Act has not been disciplined for violation
28 of those provisions of Article 20 of the Auction
29 License Act dealing with or related to the sale or
30 lease of real estate at auction.

31 (14) A hotel operator who is registered with the
32 Illinois Department of Revenue and pays taxes under the Hotel
33 Operators' Occupation Tax Act and rents a room or rooms in a
34 hotel as defined in the Hotel Operators' Occupation Tax Act

1 for a period of not more than 30 consecutive days and not
2 more than 60 days in a calendar year.

3 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;
4 91-603, eff. 1-1-00; revised 10-27-99.)

5 (225 ILCS 454/10-10)

6 Sec. 10-10. Disclosure of compensation.

7 (a) A licensee must disclose to a client the sponsoring
8 broker's compensation and policy with regard to cooperating
9 with brokers who represent other parties in a transaction.

10 (b) A licensee must disclose to a client all sources of
11 compensation related to the transaction received by the
12 licensee from a third party.

13 (c) If a licensee refers a client to a third party in
14 which the licensee has greater than a 1% ownership interest
15 or from which the licensee receives or may receive dividends
16 or other profit sharing distributions, other than a publicly
17 held or traded company, for the purpose of the client
18 obtaining services related to the transaction, then the
19 licensee shall disclose that fact to the client at the time
20 of making the referral.

21 (d) If in any one transaction a sponsoring broker
22 receives compensation from both the buyer and seller or
23 lessee and lessor of real estate, the sponsoring broker shall
24 disclose in writing to a client the fact that the
25 compensation is being paid by both buyer and seller or lessee
26 and lessor.

27 (e) Nothing in the Act shall prohibit the cooperation
28 with or a payment of compensation to a person not domiciled
29 in this State or country who is licensed as a real estate
30 broker in his or her state or country of domicile or to a
31 resident of a country that does not require a person to be
32 licensed to act as a real estate broker if the person
33 complies with the laws of the country in which that person

1 resides and practices there as a real estate broker.

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

3 (225 ILCS 454/20-60)

4 Sec. 20-60. Hearing; investigation; notice; disciplinary
5 consent order.

6 (a) OBRE may conduct hearings through the Board or a
7 duly appointed hearing officer on proceedings to suspend,
8 revoke, or to refuse to issue or renew licenses of persons
9 applying for licensure or licensed under this Act or to
10 censure, reprimand, or impose a civil fine not to exceed
11 \$25,000 upon any licensee hereunder and may revoke, suspend,
12 or refuse to issue or renew these licenses or censure,
13 reprimand, or impose a civil fine not to exceed \$25,000 upon
14 any licensee hereunder.

15 (b) Upon the motion of either OBRE or the Board or upon
16 the verified complaint in writing of any persons setting
17 forth facts that if proven would constitute grounds for
18 suspension or revocation under this Act, OBRE, the Board, or
19 its subcommittee shall cause to be investigated the actions
20 of any person so accused who holds a license or is holding
21 himself or herself out to be a licensee. This person is
22 hereinafter called the accused.

23 (c) Prior to initiating any formal disciplinary
24 proceedings resulting from an investigation conducted
25 pursuant to subsection (b) of this Section, that matter shall
26 be reviewed by a subcommittee of the Board according to
27 procedures established by rule. The subcommittee shall make a
28 recommendation to the full Board as to the validity of the
29 complaint and may recommend that the Board not proceed with
30 formal disciplinary proceedings if the complaint is
31 determined to be frivolous or without merit.

32 (d) Except as provided for in Section 20-65 of this Act,
33 OBRE shall, before suspending, revoking, placing on

1 probationary status, or taking any other disciplinary action
2 as OBRE may deem proper with regard to any license:

3 (1) notify the accused in writing at least 30 days
4 prior to the date set for the hearing of any charges made
5 and the time and place for the hearing of the charges to
6 be heard before the Board under oath; and

7 (2) inform the accused that upon failure to file an
8 answer and request a hearing before the date originally
9 set for the hearing, default will be taken against the
10 accused and his or her license may be suspended, revoked,
11 or placed on probationary status, or other disciplinary
12 action, including limiting the scope, nature, or extent
13 of the accused's practice, as OBRE may deem proper, may
14 be taken with regard thereto.

15 In case the person fails to file an answer after
16 receiving notice, his or her license may, in the discretion
17 of OBRE, be suspended, revoked, or placed on probationary
18 status, or OBRE may take whatever disciplinary action deemed
19 proper, including limiting the scope, nature, or extent of
20 the person's practice or the imposition of a fine, without a
21 hearing, if the act or acts charged constitute sufficient
22 grounds for such action under this Act.

23 (e) At the time and place fixed in the notice, the Board
24 shall proceed to hearing of the charges and both the accused
25 person and the complainant shall be accorded ample
26 opportunity to present in person or by counsel such
27 statements, testimony, evidence and argument as may be
28 pertinent to the charges or to any defense thereto. The
29 Board or its hearing officer may continue a hearing date upon
30 its own motion or upon an accused's motion for one period not
31 to exceed 30 days. The Board or its hearing officer may
32 grant further continuances for periods not to exceed 30 days
33 only upon good cause being shown by the moving party. The
34 non-moving party shall have the opportunity to object to a

1 continuance on the record at a hearing upon the motion to
2 continue. All motions for continuances and any denial or
3 grant thereof shall be in writing. All motions shall be
4 submitted not later than 48 hours before the scheduled
5 hearing unless made upon an emergency basis. In determining
6 whether good cause for a continuance is shown, the Board or
7 its hearing officer shall consider such factors as the volume
8 of cases pending, the nature and complexity of legal issues
9 raised, the diligence of the party making the request, the
10 availability of party's legal representative or witnesses,
11 and the number of previous requests for continuance.

12 (f) Any unlawful act or violation of any of the
13 provisions of this Act upon the part of any licensees
14 employed by a real estate broker or associated by written
15 agreement with the real estate broker, or unlicensed employee
16 of a licensed broker, shall not be cause for the revocation
17 of the license of any such broker, partial or otherwise,
18 unless it appears to the satisfaction of OBRE that the broker
19 had knowledge thereof.

20 (g) OBRE or the Board has power to subpoena any persons
21 or documents for the purpose of investigation or hearing with
22 the same fees and mileage and in the same manner as
23 prescribed by law for judicial procedure in civil cases in
24 courts of this State. The Commissioner, the Director, any
25 member of the Board, a certified court reporter, or a hearing
26 officer shall each have power to administer oaths to
27 witnesses at any hearing which OBRE is authorized under this
28 Act to conduct.

29 (h) Any circuit court or any judge thereof, upon the
30 application of the accused person, complainant, OBRE, or the
31 Board, may, by order entered, require the attendance of
32 witnesses and the production of relevant books and papers
33 before the Board in any hearing relative to the application
34 for or refusal, recall, suspension, or revocation of a

1 license, and the court or judge may compel obedience to the
2 court's or the judge's order by proceedings for contempt.

3 (i) OBRE, at its expense, shall preserve a record of all
4 proceedings at the formal hearing of any case involving the
5 refusal to issue or the revocation, suspension, or other
6 discipline of a licensee. The notice of hearing, complaint
7 and all other documents in the nature of pleadings and
8 written motions filed in the proceedings, the transcript of
9 testimony, the report of the Board, and the orders of OBRE
10 shall be the record of the proceeding. At all hearings or
11 pre-hearing conferences, OBRE and the accused shall be
12 entitled to have a court reporter in attendance for purposes
13 of transcribing the proceeding or pre-hearing conference at
14 the expense of the party requesting the court reporter's
15 attendance. A copy of the transcribed proceeding shall be
16 available to the other party for the cost of a copy of the
17 transcript.

18 (j) The Board shall present to the Commissioner its
19 written report of its findings and recommendations. A copy
20 of the report shall be served upon the accused, either
21 personally or by certified mail as provided in this Act for
22 the service of the citation. Within 20 days after the
23 service, the accused may present to the Commissioner a motion
24 in writing for a rehearing that shall specify the particular
25 grounds therefor. If the accused shall order and pay for a
26 transcript of the record as provided in this Act, the time
27 elapsing thereafter and before the transcript is ready for
28 delivery to the accused shall not be counted as part of the
29 20 days. Whenever the Commissioner is satisfied that
30 substantial justice has not been done, the Commissioner may
31 order a rehearing by the Board or other special committee
32 appointed by the Commissioner or may remand the matter to the
33 Board for their reconsideration of the matter based on the
34 pleadings and evidence presented to the Board. In all

1 instances, under this Act, in which the Board has rendered a
2 recommendation to the Commissioner with respect to a
3 particular licensee or applicant, the Commissioner shall, in
4 the event that he or she disagrees with or takes action
5 contrary to the recommendation of the Board, file with the
6 Board and the Secretary of State his specific written reasons
7 of disagreement with the Board. The reasons shall be filed
8 within 60 days of the Board's recommendation to the
9 Commissioner and prior to any contrary action. At the
10 expiration of the time specified for filing a motion for a
11 rehearing, the Commissioner shall have the right to take the
12 action recommended by the Board. Upon the suspension or
13 revocation of a license, the licensee shall be required to
14 surrender his or her license to OBRE, and upon failure or
15 refusal to do so, OBRE shall have the right to seize the
16 license.

17 (k) At any time after the suspension, temporary
18 suspension, or revocation of any license, OBRE may restore it
19 to the accused without examination, upon the written
20 recommendation of the Board.

21 (l) An order of revocation or suspension or a certified
22 copy thereof, over the seal of OBRE and purporting to be
23 signed by the Commissioner, shall be prima facie proof that:

24 (1) The signature is the genuine signature of the
25 Commissioner.

26 (2) The Commissioner is duly appointed and
27 qualified.

28 (3) The Board and the members thereof are
29 qualified.

30 Such proof may be rebutted.

31 (m) Notwithstanding any provisions concerning the
32 conduct of hearings and recommendations for disciplinary
33 actions, OBRE as directed by the Commissioner has the
34 authority to negotiate agreements with licensees and

1 applicants resulting in disciplinary consent orders. These
 2 consent orders may provide for any of the forms of discipline
 3 provided in this Act. These consent orders shall provide
 4 that they were not entered into as a result of any coercion
 5 by OBRE. Any such consent order shall be filed with the
 6 Commissioner along with the Board's recommendation and
 7 accepted or rejected by the Commissioner within 60 days of
 8 the Board's recommendation.

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

10 (225 ILCS 454/25-14 new)

11 Sec. 25-14. Reliance on advisory letters. Licensees or
 12 their representatives may seek an advisory letter from OBRE
 13 as to matters arising under this Act or the rules promulgated
 14 pursuant to this Act. OBRE shall promulgate rules as to the
 15 process of seeking and obtaining an advisory letter and
 16 topics and areas on which advisory rules will be issued by
 17 OBRE. A licensee is entitled to rely upon an advisory letter
 18 from OBRE and will not be disciplined by OBRE for actions
 19 taken in reliance on the advisory letter.

20 (225 ILCS 454/20-70 rep.)

21 Section 15. The Real Estate License Act of 2000 is
 22 amended by repealing Section 20-70.

23 (225 ILCS 454/25-37 new)

24 Sec. 25-37. Real Estate Audit Fund; audit of special
 25 accounts; audit of fund.

26 (a) A special fund to be known as the Real Estate Audit
 27 Fund is created in the State Treasury. The State Treasurer
 28 shall cause a transfer of \$200,000 from the Real Estate
 29 License Administration Fund to the Real Estate Audit Fund on
 30 January 1, 2002. If, at any time, the balance in the Real
 31 Estate Audit Fund is less than \$25,000, the State Treasurer

1 shall cause a transfer of \$200,000 from the Real Estate
2 License Administration Fund to the Real Estate Audit Fund.
3 The moneys held in the Real Estate Audit Fund shall be used
4 exclusively by OBRE to conduct audits of special accounts of
5 moneys belonging to others held by a broker.

6 (b) Upon receipt of a complaint or evidence by OBRE
7 sufficient to cause OBRE to reasonably believe that funds
8 required to be maintained in a special account by a broker
9 have been misappropriated, the broker shall, within 30 days
10 of written notice, submit to an audit of all special
11 accounts. Such audit shall be performed by a licensed
12 certified public accountant, shall result in a written report
13 by the accountant, and shall specifically refer to the escrow
14 and record-keeping requirements of this Act and the rules
15 adopted under this Act. If it is found, pursuant to an order
16 issued by the Commissioner, that moneys required to be
17 maintained in a special account by a broker were
18 misappropriated, as further defined by rule, the broker shall
19 reimburse OBRE, in addition to any other discipline or civil
20 penalty imposed, for the cost of the audit performed pursuant
21 to this Section. OBRE may file in circuit court for a
22 judgment to enforce the collection of the reimbursement of
23 the cost of such audit. Any reimbursement collected by OBRE
24 shall be deposited into the Real Estate Audit Fund.

25 (c) Moneys in the Real Estate Audit Fund may be invested
26 and reinvested in the same manner as funds in the Real Estate
27 Recovery Fund. All earnings received from such investment
28 shall be deposited in the Real Estate Audit Fund and may be
29 used for the same purpose as other moneys deposited in the
30 Real Estate Audit Fund. Upon completion of any audit of
31 OBRE, prescribed by the Illinois State Auditing Act, which
32 includes an audit of the Real Estate Audit Fund, OBRE shall
33 make the audit open to inspection by any interested person.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.