

AN ACT concerning regulation.

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

Section 5. The Real Estate License Act of 2000 is amended by changing Sections 5-70, 10-30, 20-20, 20-85, 20-90, 20-95, and 20-115 and by adding Section 20-78 as follows:

(225 ILCS 454/5-70)

(Section scheduled to be repealed on January 1, 2020)

Sec. 5-70. Continuing education requirement; managing broker, broker, or salesperson.

(a) The requirements of this Section apply to all managing brokers, brokers, and salespersons.

(b) Except as otherwise provided in this Section, each person who applies for renewal of his or her license as a managing broker, real estate broker, or real estate salesperson must successfully complete 6 hours of real estate continuing education courses approved by the Advisory Council for each year of the pre-renewal period. Broker licensees must successfully complete a 6-hour broker management continuing education course approved by the Department for the pre-renewal period ending April 30, 2010. In addition, beginning with the pre-renewal period for managing broker licensees that begins after the effective date of this Act, those licensees renewing

or obtaining a managing broker's license must successfully complete a 12-hour broker management continuing education course approved by the Department each pre-renewal period. The broker management continuing education course must be completed in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students. Successful completion of the course shall include achieving a passing score as provided by rule on a test developed and administered in accordance with rules adopted by the Department. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the Secretary with the recommendation of the Advisory Council. The requirements of this Article are applicable to all managing brokers, brokers, and salespersons except those brokers and salespersons who, during the pre-renewal period:

- (1) serve in the armed services of the United States;
- (2) serve as an elected State or federal official;
- (3) serve as a full-time employee of the Department; or
- (4) are admitted to practice law pursuant to Illinois

Supreme Court rule.

(c) A person licensed as a salesperson as of April 30, 2011 shall not be required to complete the 18 hours of continuing education for the pre-renewal period ending April 30, 2012 if that person takes the 30-hour post-licensing course to obtain a

broker's license. A person licensed as a broker as of April 30, 2011 shall not be required to complete the 12 hours of broker management continuing education for the pre-renewal period ending April 30, 2012, unless that person passes the proficiency exam provided for in Section 5-47 of this Act to qualify for a managing broker's license.

(d) A person receiving an initial license during the 90 days before the renewal date shall not be required to complete the continuing education courses provided for in subsection (b) of this Section as a condition of initial license renewal.

(e) The continuing education requirement for salespersons, brokers and managing brokers shall consist of a core curriculum and an elective curriculum, to be established by the Advisory Council. In meeting the continuing education requirements of this Act, at least 3 hours per year or their equivalent, 6 hours for each two-year pre-renewal period, shall be required to be completed in the core curriculum. In establishing the core curriculum, the Advisory Council shall consider subjects that will educate licensees on recent changes in applicable laws and new laws and refresh the licensee on areas of the license law and the Department policy that the Advisory Council deems appropriate, and any other areas that the Advisory Council deems timely and applicable in order to prevent violations of this Act and to protect the public. In establishing the elective curriculum, the Advisory Council shall consider subjects that cover the various aspects of the

practice of real estate that are covered under the scope of this Act. However, the elective curriculum shall not include any offerings referred to in Section 5-85 of this Act.

(f) The subject areas of continuing education courses approved by the Advisory Council may include without limitation the following:

- (1) license law and escrow;
- (2) antitrust;
- (3) fair housing;
- (4) agency;
- (5) appraisal;
- (6) property management;
- (7) residential brokerage;
- (8) farm property management;
- (9) rights and duties of sellers, buyers, and brokers;
- (10) commercial brokerage and leasing; and
- (11) real estate financing.

(g) In lieu of credit for those courses listed in subsection (f) of this Section, credit may be earned for serving as a licensed instructor in an approved course of continuing education. The amount of credit earned for teaching a course shall be the amount of continuing education credit for which the course is approved for licensees taking the course.

(h) Credit hours may be earned for self-study programs approved by the Advisory Council.

(i) A broker or salesperson may earn credit for a specific

continuing education course only once during the prerenewal period.

(j) No more than 6 hours of continuing education credit may be taken or earned in one calendar day.

(k) To promote the offering of a uniform and consistent course content, the Department may provide for the development of a single broker management course to be offered by all continuing education providers who choose to offer the broker management continuing education course. The Department may contract for the development of the 12-hour ~~6-hour~~ broker management continuing education course with an outside vendor or consultant and, if the course is developed in this manner, the Department or the outside consultant shall license the use of that course to all approved continuing education providers who wish to provide the course.

(l) Except as specifically provided in this Act, continuing education credit hours may not be earned for completion of pre or post-license courses. The approved 30-hour post-license course for broker licensees shall satisfy the continuing education requirement for the pre-renewal period in which the course is taken. The approved 45-hour brokerage administration and management course shall satisfy the 12-hour broker management continuing education requirement for the pre-renewal period in which the course is taken.

(Source: P.A. 96-856, eff. 12-31-09.)

(225 ILCS 454/10-30)

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

Sec. 10-30. Advertising.

(a) No advertising, whether in print, via the Internet, or through any other media, shall be fraudulent, deceptive, inherently misleading, or proven to be misleading in practice. Advertising shall be considered misleading or untruthful if, when taken as a whole, there is a distinct and reasonable possibility that it will be misunderstood or will deceive the ordinary purchaser, seller, lessee, lessor, or owner. Advertising shall contain all information necessary to communicate the information contained therein to the public in an accurate, direct, and readily comprehensible manner.

(b) No blind advertisements may be used by any licensee, in any media, except as provided for in this Section.

(c) A licensee shall disclose, in writing, to all parties in a transaction his or her status as a licensee and any and all interest the licensee has or may have in the real estate constituting the subject matter thereof, directly or indirectly, according to the following guidelines:

(1) On broker yard signs or in broker advertisements, no disclosure of ownership is necessary. However, the ownership shall be indicated on any property data form and disclosed to persons responding to any advertisement or any sign. The term "broker owned" or "agent owned" is sufficient disclosure.

(2) A sponsored or inoperative licensee selling or leasing property, owned solely by the sponsored or inoperative licensee, without utilizing brokerage services of their sponsoring broker or any other licensee, may advertise "By Owner". For purposes of this Section, property is "solely owned" by a sponsored or inoperative licensee if he or she (i) has a 100% ownership interest alone, (ii) has ownership as a joint tenant or tenant by the entirety, or (iii) holds a 100% beneficial interest in a land trust. Sponsored or inoperative licensees selling or leasing "By Owner" shall comply with the following if advertising by owner:

(A) On "By Owner" yard signs, the sponsored or inoperative licensee shall indicate "broker owned" or "agent owned." "By Owner" advertisements used in any medium of advertising shall include the term "broker owned" or "agent owned."

(B) If a sponsored or inoperative licensee runs advertisements, for the purpose of purchasing or leasing real estate, he or she shall disclose in the advertisements his or her status as a licensee.

(C) A sponsored or inoperative licensee shall not use the sponsoring broker's name or the sponsoring broker's company name in connection with the sale, lease, or advertisement of the property nor utilize the sponsoring broker's or company's name in connection

with the sale, lease, or advertising of the property in a manner likely to create confusion among the public as to whether or not the services of a real estate company are being utilized or whether or not a real estate company has an ownership interest in the property.

(d) A sponsored licensee may not advertise under his or her own name. Advertising in any media shall be under the direct supervision of the sponsoring or managing broker and in the sponsoring broker's business name, which in the case of a franchise shall include the franchise affiliation as well as the name of the individual firm. This provision does not apply under the following circumstances:

(1) When a licensee enters into a brokerage agreement relating to his or her own real estate, or real estate in which he or she has an ownership interest, with another licensed broker; or

(2) When a licensee is selling or leasing his or her own real estate or buying or leasing real estate for himself or herself, after providing the appropriate written disclosure of his or her ownership interest as required in paragraph (2) of subsection (c) of this Section.

(e) No licensee shall list his or her name under the heading or title "Real Estate" in the telephone directory or otherwise advertise in his or her own name to the general public through any medium of advertising as being in the real



estate business without listing his or her sponsoring broker's business name.

(f) The sponsoring broker's business name and the name of the licensee must appear in all advertisements, including business cards. Nothing in this Act shall be construed to require specific print size as between the broker's business name and the name of the licensee.

(g) Those individuals licensed as a managing broker and designated with the Department as a managing broker by their sponsoring broker shall identify themselves to the public in advertising, except on "For Sale" or similar signs, as a managing broker. No other individuals holding a managing broker's license may hold themselves out to the public or other licensees as a managing broker.

(Source: P.A. 96-856, eff. 12-31-09.)

(225 ILCS 454/20-20)

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

Sec. 20-20. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, reprimand, or take any other disciplinary or non-disciplinary action as the Department may deem proper and ~~or~~ impose a fine not to exceed \$25,000 upon any licensee or applicant under this Act or any person who holds himself or herself out as an applicant or licensee or against a licensee in handling his or

her own property, whether held by deed, option, or otherwise, for any one or any combination of the following causes:

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

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

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

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

(5) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, or a governmental agency authorized to impose discipline ~~Disciplinary action of another state or jurisdiction against the license or other authorization to practice as a managing broker, broker, salesperson, or leasing agent~~ if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under ~~discipline set forth in~~ this Act. A certified copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof.

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

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

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

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

(10) Making any substantial misrepresentation or untruthful advertising.

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

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

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

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

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

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

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

(A) disbursed prior to the consummation or termination (i) in accordance with the written direction of the principals to the transaction or their

duly authorized agents, (ii) in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents, or (iii) pursuant to an order of a court of competent jurisdiction; or

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

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

(18) Failure to make available to the Department all escrow records and related documents maintained in

connection with the practice of real estate within 24 hours of a request for those documents by Department personnel.

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

(20) Failure of a sponsoring broker to timely provide information, sponsor cards, or termination of licenses to the Department.

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

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

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

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

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

(26) Displaying a "for rent" or "for sale" sign on any property without the written consent of an owner or his or

her duly authorized agent or advertising by any means that any property is for sale or for rent without the written consent of the owner or his or her authorized agent.

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

(28) Advertising by means of a blind advertisement, except as otherwise permitted in Section 10-30 of this Act.

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

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

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

(C) A licensee offering a guaranteed sales plan shall provide to the party to whom the plan is offered

evidence of sufficient financial resources to satisfy the commitment to purchase undertaken by the broker in the plan.

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

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

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

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



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

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

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

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

(35) Advertising or offering merchandise or services as free if any conditions or obligations necessary for receiving the merchandise or services are not disclosed in the same advertisement or offer. These conditions or obligations include without limitation the requirement that the recipient attend a promotional activity or visit a real estate site. As used in this subdivision (35), "free" includes terms such as "award", "prize", "no charge", "free

of charge", "without charge", and similar words or phrases that reasonably lead a person to believe that he or she may receive or has been selected to receive something of value, without any conditions or obligations on the part of the recipient.

(36) Disregarding or violating any provision of the Land Sales Registration Act of 1989, the Illinois Real Estate Time-Share Act, or the published rules promulgated by the Department to enforce those Acts.

(37) Violating the terms of a disciplinary order issued by the Department.

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

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

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

(41) Failing to provide the minimum services required

by Section 15-75 of this Act when acting under an exclusive brokerage agreement.

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

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

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

(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has

subsequently certified the delinquency to the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) In enforcing this Section, the Department or Board upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for suspension of his or her license until the individual submits to the examination if the Department finds, after notice and hearing, that the refusal to

submit to the examination was without reasonable cause.

If the Department or Board finds an individual unable to practice because of the reasons set forth in this Section, the Department or Board may require that individual to submit to care, counseling, or treatment by physicians approved or designated by the Department or Board, as a condition, term, or restriction for continued, reinstated, or renewed licensure to practice; or, in lieu of care, counseling, or treatment, the Department may file, or the Board may recommend to the Department to file, a complaint to immediately suspend, revoke, or otherwise discipline the license of the individual. An individual whose license was granted, continued, reinstated, renewed, disciplined or supervised subject to such terms, conditions, or restrictions, and who fails to comply with such terms, conditions, or restrictions, shall be referred to the Secretary for a determination as to whether the individual shall have his or her license suspended immediately, pending a hearing by the Department.

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

confidentiality of medical records.

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

(Source: P.A. 95-851, eff. 1-1-09; 96-856, eff. 12-31-09; revised 11-18-11.)

(225 ILCS 454/20-78 new)

Sec. 20-78. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee or applicant or any person who holds himself or herself out as a licensee or applicant filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the

Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

(225 ILCS 454/20-85)

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

Sec. 20-85. Recovery from Real Estate Recovery Fund. The Department shall maintain a Real Estate Recovery Fund from which any person aggrieved by an act, representation, transaction, or conduct of a licensee or unlicensed employee of a licensee that is in violation of this Act or the rules promulgated pursuant thereto, constitutes embezzlement of money or property, or results in money or property being unlawfully obtained from any person by false pretenses, artifice, trickery, or forgery or by reason of any fraud, misrepresentation, discrimination, or deceit by or on the part of any such licensee or the unlicensed employee of a licensee and that results in a loss of actual cash money, as opposed to losses in market value, may recover. The aggrieved person may recover, by a post-judgment order of the circuit court of the county where the violation occurred in a proceeding described in Section 20-90 of this Act, an amount of not more than \$25,000 from the Fund for damages sustained by the act, representation, transaction, or conduct, together with costs of suit and attorney's fees incurred in connection therewith of not to exceed 15% of the amount of the recovery ordered paid

from the Fund. However, no licensee may recover from the Fund unless the court finds that the person suffered a loss resulting from intentional misconduct. The post-judgment ~~court~~ order shall not include interest on the judgment. The maximum liability against the Fund arising out of any one act shall be as provided in this Section, and the post-judgment ~~judgment~~ order shall spread the award equitably among all co-owners or otherwise aggrieved persons, if any. The maximum liability against the Fund arising out of the activities of any one licensee or one unlicensed employee of a licensee, since January 1, 1974, shall be \$100,000. Nothing in this Section shall be construed to authorize recovery from the Fund unless the loss of the aggrieved person results from an act or omission of a licensee under this Act who was at the time of the act or omission acting in such capacity or was apparently acting in such capacity or their unlicensed employee and unless the aggrieved person has obtained a valid judgment and post-judgment order of the court as provided for in Section 20-90 of this Act. No person aggrieved by an act, representation, or transaction that is in violation of the Illinois Real Estate Time-Share Act or the Land Sales Registration Act of 1989 may recover from the Fund.

(Source: P.A. 96-856, eff. 12-31-09.)

(225 ILCS 454/20-90)

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



Sec. 20-90. Collection from Real Estate Recovery Fund; procedure.

(a) No action for a judgment that subsequently results in a post-judgment ~~an~~ order for collection from the Real Estate Recovery Fund shall be started later than 2 years after the date on which the aggrieved person knew, or through the use of reasonable diligence should have known, of the acts or omissions giving rise to a right of recovery from the Real Estate Recovery Fund.

(b) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must name as parties defendant to that action any and all ~~individual~~ licensees, ~~or~~ their employees, or independent contractors who allegedly committed or are responsible for acts or omissions giving rise to a right of recovery from the Real Estate Recovery Fund. Failure to name as parties defendant such licensees, ~~or~~ their employees, or independent contractors shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. ~~These~~ ~~The aggrieved party~~ ~~may also name as additional~~ parties defendant shall also include any corporations, limited liability companies, partnerships, registered limited liability partnership, or other business associations licensed under this Act that may be responsible for acts giving rise to a right of recovery from the Real Estate Recovery Fund.

~~(c) (Blank). When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must notify the Department in writing to this effect within 7 days of the commencement of the action. Failure to so notify the Department shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. After receiving notice of the commencement of such an action, the Department upon timely application shall be permitted to intervene as a party defendant to that action.~~

(d) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, and the aggrieved person is unable to obtain legal and proper service upon the parties defendant licensed under this Act under the provisions of Illinois law concerning service of process in civil actions, the aggrieved person may petition the court where the action to obtain judgment was begun for an order to allow service of legal process on the Secretary. Service of process on the Secretary shall be taken and held in that court to be as valid and binding as if due service had been made upon the parties defendant licensed under this Act. In case any process mentioned in this Section is served upon the Secretary, the Secretary shall forward a copy of the process by certified mail to the licensee's last address on record with the Department. Any judgment obtained after service of process on the Secretary under this Act shall apply

to and be enforceable against the Real Estate Recovery Fund only. The Department ~~OBRE~~ may intervene in and defend any such action.

(e) (Blank). ~~When an aggrieved party commences action for a judgment that may result in collection from the Real Estate Recovery Fund, and the court before which that action is commenced enters judgment by default against the defendant and in favor of the aggrieved party, the court shall upon motion of the Department set aside that judgment by default. After such a judgment by default has been set aside, the Department shall appear as party defendant to that action, and thereafter the court shall require proof of the allegations in the pleadings upon which relief is sought.~~

(f) The aggrieved person shall give written notice to the Department within 30 days of the entry of any judgment that may result in collection from the Real Estate Recovery Fund. The aggrieved person shall provide the Department with ~~OBRE~~ within 20 days prior written notice of all supplementary proceedings so as to allow the Department to intervene and participate in all efforts to collect on the judgment in the same manner as any party.

(g) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee or an unlicensed employee of any licensee broker, upon the grounds of fraud, misrepresentation, discrimination, or deceit, the aggrieved person may, upon the termination of all proceedings,

including review and appeals in connection with the judgment, file a verified claim in the court in which the judgment was entered and, upon 30 days' written notice to the Department, and to the person against whom the judgment was obtained, may apply to the court for a post-judgment ~~an~~ order directing payment out of the Real Estate Recovery Fund of the amount unpaid upon the judgment, not including interest on the judgment, and subject to the limitations stated in Section 20-85 of this Act. The aggrieved person must set out in that verified claim and prove at an evidentiary hearing to be held by the court upon the application that the claim meets all requirements of Section 20-85 and this Section to be eligible for payment from the Real Estate Recovery Fund and the aggrieved party shall be required to show that the aggrieved person:

(1) Is not a spouse of the debtor or debtors or the personal representative of such spouse.

(2) Has complied with all the requirements of this Section.

(3) Has obtained a judgment stating the amount thereof and the amount owing thereon, not including interest thereon, at the date of the application.

(4) Has made all reasonable searches and inquiries to ascertain whether the judgment debtor or debtors is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the

judgment.

(5) By such search has discovered no personal or real property or other assets liable to be sold or applied, or has discovered certain of them, describing them as owned by the judgment debtor or debtors and liable to be so applied and has taken all necessary action and proceedings for the realization thereof, and the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.

(6) Has diligently pursued all remedies against all the judgment debtors and all other persons liable to the aggrieved person in the transaction for which recovery is sought from the Real Estate Recovery Fund, including the filing of an adversary action to have the debts declared non-dischargeable in any bankruptcy petition matter filed by any judgment debtor or person liable to the aggrieved person.

The aggrieved person shall also be required to prove the amount of attorney's fees sought to be recovered and the reasonableness of those fees up to the maximum allowed pursuant to Section 20-85 of this Act.

(h) After conducting the evidentiary hearing required under this Section, the ~~The~~ court, in a post-judgment ~~shall~~ ~~make an~~ order directed to the Department, shall indicate whether requiring payment from the Real Estate Recovery Fund is

appropriate and, if so, the amount ~~of whatever sum~~ it finds to be payable upon the claim, pursuant to and in accordance with the limitations contained in Section 20-85 of this Act, if the court is satisfied, based upon the hearing, of the truth of all matters required to be shown by the aggrieved person under subsection (g) of this Section and that the aggrieved person has fully pursued and exhausted all remedies available for recovering the amount awarded by the judgment of the court.

(i) Should the Department pay from the Real Estate Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against any licensee ~~a licensed broker or salesperson~~ or an unlicensed employee of a licensee broker, the licensee's license shall be automatically revoked ~~terminated~~ upon the issuance of a post-judgment ~~court~~ order authorizing payment from the Real Estate Recovery Fund. No petition for restoration of a license shall be heard until repayment has been made in full, plus interest at the rate prescribed in Section 12-109 of the Code of Civil Procedure of the amount paid from the Real Estate Recovery Fund on their account, notwithstanding any provision to the contrary in Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. A discharge in bankruptcy shall not relieve a person from the penalties and disabilities provided in this subsection (i).

(j) If, at any time, the money deposited in the Real Estate Recovery Fund is insufficient to satisfy any duly authorized

claim or portion thereof, the Department shall, when sufficient money has been deposited in the Real Estate Recovery Fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate prescribed in Section 12-109 of the Code of Civil Procedure.

(Source: P.A. 96-856, eff. 12-31-09.)

(225 ILCS 454/20-95)

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

Sec. 20-95. Power of the Department to defend. When the Department receives any process, notice, order, or other document provided for or required under Section 20-90 of this Act, it may enter an appearance, file an answer, appear at the court hearing, defend the action, or take whatever other action it deems appropriate on behalf and in the name of the parties defendant licensed under this Act or the Department and take recourse through any appropriate method of review on behalf of and in the name of the parties defendant licensed under this Act or the Department.

(Source: P.A. 96-856, eff. 12-31-09.)

(225 ILCS 454/20-115)

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

Sec. 20-115. Time limit on action. No action may be taken by the Department against any person for violation of the terms

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of this Act or its rules unless the action is commenced within 5 years after the occurrence of the alleged violation. This limitation shall not apply where it is alleged that an initial application for licensure under this Act contains false or misleading information.

(Source: P.A. 96-856, eff. 12-31-09.)

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