



# **SENATE JOURNAL**

**STATE OF ILLINOIS**

**NINETY-SIXTH GENERAL ASSEMBLY**

**66TH LEGISLATIVE DAY**

**THURSDAY, OCTOBER 15, 2009**

**10:26 O'CLOCK A.M.**

**SENATE**  
**Daily Journal Index**  
**66th Legislative Day**

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The Senate met pursuant to adjournment.  
Senator James F. Clayborne, Belleville, Illinois, presiding.  
Prayer by Pastor Shaun Lewis, Capitol Ministries, Springfield, Illinois.  
Senator Jacobs led the Senate in the Pledge of Allegiance.

Senator Silverstein moved that reading and approval of the Journal of Wednesday, October 14, 2009, be postponed, pending arrival of the printed Journal.  
The motion prevailed.

### INTRODUCTION OF BILLS

**SENATE BILL NO. 2480.** Introduced by Senator Martinez, a bill for AN ACT concerning financial regulation.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2481.** Introduced by Senator Raoul, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2482.** Introduced by Senator Frerichs, a bill for AN ACT concerning renewable energy.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

### PRESENTATION OF RESOLUTIONS

#### SENATE RESOLUTION NO. 436

Offered by Senator Bond and all Senators:  
Mourns the death of Donald W. Bloom of Antioch.

#### SENATE RESOLUTION NO. 437

Offered by Senator Bond and all Senators:  
Mourns the death of Ronald Charles Novak of Grayslake.

#### SENATE RESOLUTION NO. 438

Offered by Senator Bond and all Senators:  
Mourns the death of Howard Breckenfeld of Winthrop Harbor.

#### SENATE RESOLUTION NO. 439

Offered by Senator Bond and all Senators:  
Mourns the death of Steve Hervoy of Beach Park.

#### SENATE RESOLUTION NO. 440

Offered by Senator Bond and all Senators:  
Mourns the death of Donald J. Lahey of Round Lake.

#### SENATE RESOLUTION NO. 441

Offered by Senator Bond and all Senators:  
Mourns the death of Richard A. Walls of Gurnee.

#### SENATE RESOLUTION NO. 442

Offered by Senator Bond and all Senators:  
Mourns the death of Rudolph W. Alderin of Gurnee.

#### SENATE RESOLUTION NO. 443

Offered by Senator Bond and all Senators:

Mourns the death of William J. Carey, formerly of Grayslake.

**SENATE RESOLUTION NO. 444**

Offered by Senator Bond and all Senators:  
Mourns the death of Casimer J. Siwula of Wadsworth.

**SENATE RESOLUTION NO. 445**

Offered by Senator Link and all Senators:  
Mourns the death of Larry A. Guthrie of Libertyville.

**SENATE RESOLUTION NO. 446**

Offered by Senator Link and all Senators:  
Mourns the death of Dean "Dino" Granger of Waukegan.

**SENATE RESOLUTION NO. 447**

Offered by Senator Link and all Senators:  
Mourns the death of Allen G. Tiegs of Lake Bluff.

**SENATE RESOLUTION NO. 448**

Offered by Senator Link and all Senators:  
Mourns the death of Fred C. Hlousek of Venice, Florida, formerly of Waukegan.

**SENATE RESOLUTION NO. 449**

Offered by Senator Frerichs and all Senators:  
Mourns the death of Lester Pritchard of Urbana.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

**MOTION IN WRITING**

Senator Demuzio submitted the following Motion in Writing:

SB1682AVM001

**MOTION**

I move to accept the specific recommendations of the Governor as to Senate Bill 1682 in manner and form as follows:

**AMENDMENT TO SENATE BILL 1682**

**IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS**

Amend Senate Bill 1682 on page 49, immediately below line 19, by inserting the following:

"Section 99. Effective date. This Act takes effect on January 31, 2010."

Date: 10/15, 2009                      s/Deanna Demuzio

The foregoing Motion in Writing was filed with the Secretary and referred to the Committee on Assignments.

**READING CONSTITUTIONAL AMENDMENT A THIRD TIME**

On motion of Senator Noland, **House Joint Resolution Constitutional Amendment No. 31** having been printed, was taken up, read in full a third time.

Senator Noland moved that **House Joint Resolution Constitutional Amendment No. 31** be adopted.

And on that motion, a call of the roll was had resulting as follows:

[October 15, 2009]

YEAS 56; NAY 1.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Harmon	McCarter	Steans
Burzynski	Hendon	Meeks	Sullivan
Clayborne	Holmes	Millner	Syverson
Collins	Hultgren	Muñoz	Trotter
Cronin	Hutchinson	Murphy	Viverito
Crotty	Jones, E.	Noland	Wilhelmi
Dahl	Jones, J.	Pankau	Mr. President
DeLeo	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	
Duffy	Lightford	Risinger	

The following voted in the negative:

Jacobs

The motion prevailed.

And the resolution was adopted by a three-fifths vote.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 11:30 o'clock a.m., the Chair announced the Senate stand at ease.

#### AT EASE

At the hour of 11:47 o'clock a.m., the Senate resumed consideration of business.

Senator Clayborne, presiding.

#### REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Energy: **HOUSE BILL 4182.**

Public Health: **HOUSE BILL 342.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

State Government and Veterans Affairs: **Motion to Accept Specific Recommendations for Change to SENATE BILL 1682.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, to which was referred **Senate Bill No. 760** on August 15, 2009, pursuant to Rule 3-9(b),

[October 15, 2009]

reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 760** was returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, to which was referred **Senate Bill No. 2188** on August 15, 2009, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 2188** was returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, to which was referred **House Bill No. 2652** on August 15, 2009, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 2652** was returned to the order of second reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported that the following Legislative Measure has been approved for consideration:

**HJR 51**

The foregoing resolution was placed on the Secretary's Desk.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Senate Resolutions have been assigned to the indicated Standing Committees of the Senate:

Commerce: **Senate Joint Resolutions Numbered 74 and 75; Senate Resolution No. 432.**

Education: **Senate Joint Resolution No. 76.**

Higher Education: **Senate Resolution No. 434.**

Public Health: **Senate Resolution No. 433.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following House Resolutions have been assigned to the indicated Standing Committees of the Senate:

Higher Education: **House Joint Resolution No. 54.**

Transportation: **House Joint Resolution No. 30.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **Floor Amendment No. 1 to Senate Bill 748; Floor Amendment No. 1 to Senate Bill 2188.**

[October 15, 2009]

Human Services: **Floor Amendment No. 1 to Senate Bill 760.**

Insurance: **Floor Amendment No. 2 to House Bill 2652.**

**COMMITTEE MEETING ANNOUNCEMENTS**

The Chair announced the following committees to meet:

Human Services in Room 212 at 12:45 o'clock p.m.

Executive in Room 212 at 1:00 o'clock p.m.

Insurance in Room 400 at 1:15 o'clock p.m.

State Government and Veterans Affairs in Room 409 at 1:15 o'clock p.m.

**MESSAGES FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

October 15, 2009

Ms. Jillayne Rock  
Secretary of the Senate  
Room 401 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to Rule 3-2(c), I hereby appoint Senator Kwame Raoul to temporarily replace Senator Mattie Hunter and Senator James Meeks to temporarily replace Senator William Delgado as members of the Senate Human Services Committee. This appointment is effective immediately and will automatically expire upon adjournment of the Senate Human Services Committee.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Minority Leader Christine Radogno

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

October 15, 2009

Ms. Jillayne Rock  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

Dear Madam Secretary:

[October 15, 2009]

Pursuant to the provisions of Senate Rule 2-10, I hereby establish December 31, 2009 as the 3<sup>rd</sup> Reading deadline for the following Bills:

Senate Bills:  
SB 760, SB 2188

House Bills:  
HB 342, HB 2652, HB 4182

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Republican Leader Christine Radogno

Senator Muñoz asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

Senator Syverson asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

#### **MOTIONS IN WRITING**

Senator Schoenberg submitted the following Motion in Writing:

I move that Senate Bill 51 do pass, notwithstanding the specific recommendations of the Governor.

10.15.09  
DATE

s/Jeff Schoenberg  
SENATOR

Senator Clayborne submitted the following Motion in Writing:

I move that Senate Bill 1391 do pass, notwithstanding the specific recommendations of the Governor.

10/14/09  
DATE

s/James F. Clayborne  
SENATOR

The foregoing Motions in Writing were filed with the Secretary and ordered placed on the Senate Calendar.

At the hour of 11:52 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

#### **AFTER RECESS**

At the hour of 1:01 o'clock p.m., the Senate resumed consideration of business.  
Senator Muñoz, presiding.

#### **LEGISLATIVE MEASURES FILED**

The following Floor amendments to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Assignments:

[October 15, 2009]

Senate Floor Amendment No. 1 to Senate Bill 760  
Senate Floor Amendment No. 1 to Senate Bill 2188

The following Committee amendment to the House Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to House Bill 342

**MESSAGE FROM THE HOUSE**

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1180

A bill for AN ACT concerning appropriations.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1180

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1180**

AMENDMENT NO. 1. Amend Senate Bill 1180, by deleting everything after the enacting clause and inserting the following:

“Section 5. “AN ACT concerning appropriations”, Public Act 96-0042, approved July 15, 2009, is amended by changing Section 25 of Article 72 as follows:

(P.A. 96-0042, Art. 72, Sec. 25)

Sec. 25. In addition to other amounts appropriated, the amount of ~~\$220,031,100~~ \$425,031,100, or so much thereof as may be necessary, is appropriated from the General Revenue Fund to the Illinois Student Assistance Commission for operational expenses, awards, grants, and permanent improvements for the fiscal year ending June 30, 2010.

Section 999. Effective date. This Act takes effect immediately upon becoming law.”.

Under the rules, the foregoing **Senate Bill No. 1180**, with House Amendment No. 1, was referred to the Secretary’s Desk.

**JOINT ACTION MOTION FILED**

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendment 1 to Senate Bill 1180

**REPORT FROM COMMITTEE ON ASSIGNMENTS**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Appropriations II: **Motion to Concur in House Amendment 1 to Senate Bill 1180**

[October 15, 2009]

### **COMMITTEE MEETING ANNOUNCEMENTS**

The Chair announced the following committees to meet:

Human Services in Room 212 at 1:15 o'clock p.m.  
Executive in Room 212 at 1:30 o'clock p.m.  
State Government and Veterans Affairs in Room 409 at 1:45 o'clock p.m.  
Appropriations II in Room 212 at 2:15 o'clock p.m.  
Insurance Committee has been canceled.

At the hour of 1:14 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

### **AFTER RECESS**

At the hour of 2:58 o'clock p.m., the Senate resumed consideration of business.  
Senator DeLeo, presiding.

### **REPORTS FROM STANDING COMMITTEES**

Senator Demuzio, Chairperson of the Committee on State Government and Veterans Affairs, to which was referred the following Motion in Writing, reported that the Committee recommends do adopt:

Motion to Accept Specific Recommendations for Change to Senate Bill 1682

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Demuzio, Vice-Chairperson of the Committee on Human Services, to which was referred the following Senate floor amendment, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 760

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 1 to Senate Bill 748  
Senate Amendment No. 1 to Senate Bill 2188

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Sullivan, Chairperson of the Committee on Appropriations II, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1180

Under the rules, the foregoing motion is eligible for consideration by the Senate.

### **MESSAGES FROM THE HOUSE**

A message from the House by

[October 15, 2009]

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 227

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 227

House Amendment No. 2 to SENATE BILL NO. 227

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 227**

AMENDMENT NO. 1. Amend Senate Bill 227 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-74.4-3.5 as follows:  
(65 ILCS 5/11-74.4-3.5)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

~~(b.5) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.~~

(c) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

- (1) if the ordinance was adopted before January 15, 1981;
- (2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;
- (3) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport;
- (4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;
- (5) if the municipality is subject to the Local Government Financial Planning and

[October 15, 2009]

Supervision Act or the Financially Distressed City Law;

- (6) if the ordinance was adopted in December 1984 by the Village of Rosemont;
- (7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997;
- (8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;
- (9) if the ordinance was adopted on November 12, 1991 by the Village of Sauget;
- (10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;
- (11) if the ordinance was adopted before December 18, 1986 by the City of Moline;
- (12) if the ordinance was adopted in September 1988 by Sauk Village;
- (13) if the ordinance was adopted in October 1993 by Sauk Village;
- (14) if the ordinance was adopted on December 29, 1986 by the City of Galva;
- (15) if the ordinance was adopted in March 1991 by the City of Centreville;
- (16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;
- (17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;
- (18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;
- (19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;
- (20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;
- (21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;
- (22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;
- (23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;
- (24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;
- (25) if the ordinance was adopted on September 14, 1994 by the City of Alton;
- (26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;
- (27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;
- (28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;
- (29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;
- (30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;
- (31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;
- (32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;
- (33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;
- (34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;
- (35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;
- (36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;
- (37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;
- (38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;
- (39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;
- (40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;
- (41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;
- (42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;
- (43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;
- (44) if the ordinance was adopted on July 28, 1987 by the City of Marion;
- (45) if the ordinance was adopted on April 23, 1990 by the City of Marion;
- (46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
- (47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
- (48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
- (49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;
- (50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
- (51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
- (52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
- (53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
- (54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
- (55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
- (56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;

[October 15, 2009]

- (57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
- (58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
- (59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
- (60) if the ordinance was adopted in 1999 by the City of Villa Grove;
- (61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
- (62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
- (63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
- (64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
- (65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;
- (66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb;
- (67) if the ordinance was adopted on December 2, 1986 by the City of Aurora;
- (68) if the ordinance was adopted on December 31, 1986 by the Village of Milan;
- (69) if the ordinance was adopted on September 8, 1994 by the City of West Frankfort;
- (70) if the ordinance was adopted on December 23, 1986 by the Village of Libertyville; ~~or~~
- (71) if the ordinance was adopted on December 22, 1986 by the Village of Hoffman

Estates; ~~or~~

(72) ~~(71)~~ if the ordinance was adopted on September 17, 1986 by the Village of Sherman ; -

~~(73) (71)~~ if the ordinance was adopted on December 16, 1986 by the City of Macomb ; -

~~(74) (72)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the West Washington Street TIF; ~~or~~

~~(75) (73)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the Camp Street TIF; -

~~(76) (72)~~ if the ordinance was adopted on August 7, 2000 by the City of Des Plaines ; -

~~(77) (72)~~ if the ordinance was adopted on December 22, 1986 by the City of Washington to create the Washington Square TIF #2; -

~~(78) (71) (72)~~ if the ordinance was adopted on December 29, 1986 by the City of Morris ; -

~~(79) (71)~~ if the ordinance was adopted on July 6, 1998 by the Village of Steeleville ; -

~~(80) (72)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF I (the Main St TIF); ~~or~~

~~(81) (73)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF II (the Interstate TIF); -

~~(82) (71) (72)~~ if the ordinance was adopted on November 6, 2002 by the City of Chicago to create

the

Madden/Wells TIF District;

~~(83) (72) (73)~~ if the ordinance was adopted on November 4, 1998 by the City of Chicago to create

the

Roosevelt/Racine TIF District;

~~(84) (73) (74)~~ if the ordinance was adopted on June 10, 1998 by the City of Chicago to create the Stony Island Commercial/Burnside Industrial Corridors TIF District; ~~or~~

~~(85) (74) (75)~~ if the ordinance was adopted on November 29, 1989 by the City of Chicago to create the Englewood Mall TIF District; -

~~(86) if the ordinance was adopted on December 27, 1986 by the City of Mendota; or~~

~~(87) if the ordinance was adopted on December 31, 1986 by the Village of Cahokia.~~

(d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section

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11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the General Assembly to make any substantive change in the law, except for the extension of the completion dates for the City of Aurora, the Village of Milan, the City of West Frankfort, the Village of Libertyville, and the Village of Hoffman Estates set forth under items (67), (68), (69), (70), and (71) of subsection (c) of this Section.

(Source: P.A. 95-932, eff. 8-26-08; 95-964, eff. 9-23-08; incorporates P.A. 95-777, eff. 9-22-08, and 95-1028, eff. 8-25-09 (see Section 5 of P.A. 96-717 for the effective date of changes made by P.A. 95-1028); 96-127, eff. 8-4-09; 96-182, eff. 8-10-09; 96-208, eff. 8-10-09; 96-209, eff. 1-1-10; 96-213, eff. 8-10-09; 96-264, eff. 8-11-09; 96-328, eff. 8-11-09; 96-439, eff. 8-14-09; 96-454, eff. 8-14-09; 96-722, eff. 8-25-09; 96-773, eff. 8-28-09; revised 9-25-09.)

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

#### **AMENDMENT NO. 2 TO SENATE BILL 227**

AMENDMENT NO. 2. Amend Senate Bill 227 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-74.4-3.5 as follows:

(65 ILCS 5/11-74.4-3.5)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

~~(b-5) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.~~

(c) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

(1) if the ordinance was adopted before January 15, 1981;

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- (2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;
- (3) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport;
- (4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;
- (5) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law;
- (6) if the ordinance was adopted in December 1984 by the Village of Rosemont;
- (7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997;
- (8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;
- (9) if the ordinance was adopted on November 12, 1991 by the Village of Sauget;
- (10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;
- (11) if the ordinance was adopted before December 18, 1986 by the City of Moline;
- (12) if the ordinance was adopted in September 1988 by Sauk Village;
- (13) if the ordinance was adopted in October 1993 by Sauk Village;
- (14) if the ordinance was adopted on December 29, 1986 by the City of Galva;
- (15) if the ordinance was adopted in March 1991 by the City of Centreville;
- (16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;
- (17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;
- (18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;
- (19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;
- (20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;
- (21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;
- (22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;
- (23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;
- (24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;
- (25) if the ordinance was adopted on September 14, 1994 by the City of Alton;
- (26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;
- (27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;
- (28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;
- (29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;
- (30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;
- (31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;
- (32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;
- (33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;
- (34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;
- (35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;
- (36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;
- (37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;
- (38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;
- (39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;
- (40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;
- (41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;
- (42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;
- (43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;
- (44) if the ordinance was adopted on July 28, 1987 by the City of Marion;
- (45) if the ordinance was adopted on April 23, 1990 by the City of Marion;
- (46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
- (47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
- (48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
- (49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;

- (50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
- (51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
- (52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
- (53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
- (54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
- (55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
- (56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;
- (57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
- (58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
- (59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
- (60) if the ordinance was adopted in 1999 by the City of Villa Grove;
- (61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
- (62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
- (63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
- (64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
- (65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;
- (66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb;
- (67) if the ordinance was adopted on December 2, 1986 by the City of Aurora;
- (68) if the ordinance was adopted on December 31, 1986 by the Village of Milan;
- (69) if the ordinance was adopted on September 8, 1994 by the City of West Frankfort;
- (70) if the ordinance was adopted on December 23, 1986 by the Village of Libertyville; ~~or~~
- (71) if the ordinance was adopted on December 22, 1986 by the Village of Hoffman Estates; ~~or~~
- (72) ~~(71)~~ if the ordinance was adopted on September 17, 1986 by the Village of Sherman ; -
- ~~(73) (71)~~ if the ordinance was adopted on December 16, 1986 by the City of Macomb ; -
- ~~(74) (72)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the West Washington Street TIF; ~~or~~
- ~~(75) (73)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the Camp Street TIF; -
- ~~(76) (72)~~ if the ordinance was adopted on August 7, 2000 by the City of Des Plaines ; -
- ~~(77) (72)~~ if the ordinance was adopted on December 22, 1986 by the City of Washington to create the Washington Square TIF #2; -
- ~~(78) (71) (72)~~ if the ordinance was adopted on December 29, 1986 by the City of Morris ; -
- ~~(79) (71)~~ if the ordinance was adopted on July 6, 1998 by the Village of Steelville ; -
- ~~(80) (72)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF I (the Main St TIF); ~~or~~
- ~~(81) (73)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF II (the Interstate TIF); -
- ~~(82) (71) (72)~~ if the ordinance was adopted on November 6, 2002 by the City of Chicago to create the Madden/Wells TIF District;
- ~~(83) (72) (73)~~ if the ordinance was adopted on November 4, 1998 by the City of Chicago to create the Roosevelt/Racine TIF District;
- ~~(84) (73) (74)~~ if the ordinance was adopted on June 10, 1998 by the City of Chicago to create the Stony Island Commercial/Burnside Industrial Corridors TIF District; ~~or~~
- ~~(85) (74) (75)~~ if the ordinance was adopted on November 29, 1989 by the City of Chicago to create the Englewood Mall TIF District; -
- ~~(86) if the ordinance was adopted on December 27, 1986 by the City of Mendota;~~
- ~~(87) if the ordinance was adopted on December 31, 1986 by the Village of Cahokia; or~~
- ~~(88) if the ordinance was adopted on September 20, 1999 by the City of Belleville.~~
- (d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

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(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the General Assembly to make any substantive change in the law, except for the extension of the completion dates for the City of Aurora, the Village of Milan, the City of West Frankfort, the Village of Libertyville, and the Village of Hoffman Estates set forth under items (67), (68), (69), (70), and (71) of subsection (c) of this Section.

(Source: P.A. 95-932, eff. 8-26-08; 95-964, eff. 9-23-08; incorporates P.A. 95-777, eff. 9-22-08, and 95-1028, eff. 8-25-09 (see Section 5 of P.A. 96-717 for the effective date of changes made by P.A. 95-1028); 96-127, eff. 8-4-09; 96-182, eff. 8-10-09; 96-208, eff. 8-10-09; 96-209, eff. 1-1-10; 96-213, eff. 8-10-09; 96-264, eff. 8-11-09; 96-328, eff. 8-11-09; 96-439, eff. 8-14-09; 96-454, eff. 8-14-09; 96-722, eff. 8-25-09; 96-773, eff. 8-28-09; revised 9-25-09.)

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

Under the rules, the foregoing **Senate Bill No. 227**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1894

A bill for AN ACT concerning professional regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1894

House Amendment No. 2 to SENATE BILL NO. 1894

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 1894**

AMENDMENT NO. 1. Amend Senate Bill 1894 by replacing everything after the enacting clause with the following:

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

(5 ILCS 80/4.20)

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

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

The Auction License Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

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The Land Sales Registration Act of 1999.  
 The Orthotics, Prosthetics, and Pedorthics Practice Act.  
 The Perfusionist Practice Act.  
 The Professional Engineering Practice Act of 1989.  
~~The Real Estate License Act of 2000.~~  
 The Structural Engineering Practice Act of 1989.

(b) The following Act is repealed on December 31, 2010:  
 The Medical Practice Act of 1987.

(Source: P.A. 95-1018, eff. 12-18-08.)  
 (5 ILCS 80/4.30 new)

Sec. 4.30. Act repealed on January 1, 2020. The following Act is repealed on January 1, 2020:  
 The Real Estate License Act of 2000.

Section 10. The Illinois Municipal Code is amended by changing Sections 11-20-7, 11-20-8, 11-20-12, and 11-20-13 and by adding Sections 11-20-15, 11-20-15.1, and 11-31-1.01 as follows:

(65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

Sec. 11-20-7. Cutting and removal of neglected weeds, grass, trees, and bushes.

(a) The corporate authorities of each municipality may provide for the removal of nuisance greenery from any parcel of private property within the municipality if the owners of that parcel, after reasonable notice, refuse or neglect to remove the nuisance greenery. The municipality may collect, from the owners of that parcel, the reasonable removal cost.

(b) The municipality's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 11-20-15.

(c) For the purpose of this Section:

"Removal of nuisance greenery" or "removal activities" means the cutting of weeds or grass, the trimming of trees or bushes, and the removal of nuisance bushes or trees.

"Removal cost" means the total cost of the removal activity.

(d) In the case of an abandoned residential property as defined in Section 11-20-15.1, the municipality may elect to obtain a lien for the removal cost pursuant to Section 11-20-15.1, in which case the provisions of Section 11-20-15.1 shall be the exclusive remedy for the removal cost.

The provisions of this subsection (d), other than this sentence, are inoperative upon certification by the Secretary of the Illinois Department of Financial and Professional Regulation, after consultation with the United States Department of Housing and Urban Development, that the Mortgage Electronic Registration System program is effectively registering substantially all mortgaged residential properties located in the State of Illinois, is available for access by all municipalities located in the State of Illinois without charge to them, and such registration includes the telephone number for the mortgage servicer.

(Source: P.A. 95-183, eff. 8-14-07; 96-462, eff. 8-14-09.)

(65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

Sec. 11-20-8. Pest extermination; liens.

(a) The corporate authorities of each municipality may provide pest-control activities on any parcel of private property in the municipality if, after reasonable notice, the owners of that parcel refuse or neglect to prevent the ingress of pests to their property or to exterminate pests on their property. The municipality may collect, from the owners of the underlying parcel, the reasonable removal cost.

(b) The municipality's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 11-20-15.

(c) For the purpose of this Section:

"Pests" ~~means~~ ~~mean~~ undesirable arthropods (including certain insects, spiders, mites, ticks, and related organisms), wood infesting organisms, rats, mice, and other obnoxious undesirable animals, but does not include a feral cat, a "companion animal" as that term is defined in the Humane Care for Animals Act (510 ILCS 70/), "animals" as that term is defined in the Illinois Diseased Animals Act (510 ILCS 50/), or animals protected by the Wildlife Code (520 ILCS 5/).

"Pest-control activity" means the extermination of pests or the prevention of the ingress of pests.

"Removal cost" means the total cost of the pest-control activity.

(Source: P.A. 96-462, eff. 8-14-09.)

(65 ILCS 5/11-20-12) (from Ch. 24, par. 11-20-12)

Sec. 11-20-12. Removal of infected trees.

(a) The corporate authorities of each municipality may provide for the removal of elm trees infected with Dutch elm disease or ash trees infected with the emerald ash borer (*Agrilus planipennis* Fairmaire)

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from any parcel of private property within the municipality if the owners of that parcel, after reasonable notice, refuse or neglect to remove the infected trees. The municipality may collect, from the owners of the parcel, the reasonable removal cost.

(b) The municipality's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 11-20-15.

(c) For the purpose of this Section, "removal cost" means the total cost of the removal of the infected trees.

(d) In the case of an abandoned residential property as defined in Section 11-20-15.1, the municipality may elect to obtain a lien for the removal cost pursuant to Section 11-20-15.1, in which case the provisions of Section 11-20-15.1 shall be the exclusive remedy for the removal cost.

The provisions of this subsection (d), other than this sentence, are inoperative upon certification by the Secretary of the Illinois Department of Financial and Professional Regulation, after consultation with the United States Department of Housing and Urban Development, that the Mortgage Electronic Registration System program is effectively registering substantially all mortgaged residential properties located in the State of Illinois, is available for access by all municipalities located in the State of Illinois without charge to them, and such registration includes the telephone number for the mortgage servicer.

(Source: P.A. 95-183, eff. 8-14-07; 96-462, eff. 8-14-09.)

(65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

Sec. 11-20-13. Removal of garbage, debris, and graffiti.

(a) The corporate authorities of each municipality may provide for the removal of garbage, debris, and graffiti from any parcel of private property within the municipality if the owner of that parcel, after reasonable notice, refuses or neglects to remove the garbage, debris, and graffiti. The municipality may collect, from the owner of the parcel, the reasonable removal cost.

(b) The municipality's removal cost under this Section is a lien upon the underlying parcel in accordance with Section 11-20-15.

(c) This amendatory Act of 1973 does not apply to any municipality which is a home rule unit.

(d) For the purpose of this Section, "removal cost" means the total cost of the removal of garbage and debris. The term "removal cost" does not include any cost associated with the removal of graffiti.

(e) In the case of an abandoned residential property as defined in Section 11-20-15.1, the municipality may elect to obtain a lien for the removal cost pursuant to Section 11-20-15.1, in which case the provisions of Section 11-20-15.1 shall be the exclusive remedy for the removal cost.

The provisions of this subsection (e), other than this sentence, are inoperative upon certification by the Secretary of the Illinois Department of Financial and Professional Regulation, after consultation with the United States Department of Housing and Urban Development, that the Mortgage Electronic Registration System program is effectively registering substantially all mortgaged residential properties located in the State of Illinois, is available for access by all municipalities located in the State of Illinois without charge to them, and such registration includes the telephone number for the mortgage servicer.

(Source: P.A. 96-462, eff. 8-14-09.)

(65 ILCS 5/11-20-15)

Sec. 11-20-15. Lien for removal costs.

(a) If the municipality incurs a removal cost under Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any underlying parcel, then that cost is a lien upon that underlying parcel. This lien is superior to all other liens and encumbrances, except tax liens and as otherwise provided in subsection (c) of this Section.

(b) To perfect a lien under this Section, the municipality must, within one year after the removal cost is incurred, file notice of lien in the office of the recorder in the county in which the underlying parcel is located or, if the underlying parcel is registered under the Torrens system, in the office of the Registrar of Titles of that county. The notice must consist of a sworn statement setting out:

- (1) a description of the underlying parcel that sufficiently identifies the parcel;
- (2) the amount of the removal cost; and
- (3) the date or dates when the removal cost was incurred by the municipality.

If, for any one parcel, the municipality engaged in any removal activity on more than one occasion during the course of one year, then the municipality may combine any or all of the costs of each of those activities into a single notice of lien.

(c) A lien under this Section is not valid as to: (i) any purchaser whose rights in and to the underlying parcel arose after the removal activity but before the filing of the notice of lien; or (ii) any mortgagee, judgment creditor, or other lienor whose rights in and to the underlying parcel arose before the filing of the notice of lien.

(d) The removal cost is not a lien on the underlying parcel unless a notice is personally

served on, or sent by certified mail to, the person to whom was sent the tax bill for the general taxes on the property for the taxable year immediately preceding the removal activities. The notice must be delivered or sent after the removal activities have been performed, and it must: (i) state the substance of this Section and the substance of any ordinance of the municipality implementing this Section; (ii) identify the underlying parcel, by common description; and (iii) describe the removal activity.

(e) A lien under this Section may be enforced by proceedings to foreclose as in case of mortgages or mechanics' liens. An action to foreclose a lien under this Section must be commenced within 2 years after the date of filing notice of lien.

(f) Any person who performs a removal activity by the authority of the municipality may, in his or her own name, file a lien and foreclose on that lien in the same manner as a municipality under this Section.

(g) A failure to file a foreclosure action does not, in any way, affect the validity of the lien against the underlying parcel.

(h) Upon payment of the lien cost by the owner of the underlying parcel after notice of lien has been filed, the municipality (or its agent under subsection (f)) shall release the lien, and the release may be filed of record by the owner at his or her sole expense as in the case of filing notice of lien.

(i) For the purposes of this Section:

"Lien cost" means the removal cost and the filing costs for any notice of lien under subsection (b).

"Removal activity" means any activity for which a removal cost was incurred.

"Removal cost" means a removal cost as defined under Section 11-20-7, 11-20-8, 11-20-12, or 11-20-13.

"Underlying parcel" means a parcel of private property upon which a removal activity was performed.

"Year" means a 365-day period.

(j) This Section applies only to liens filed after August 14, 1009 (the effective date of Public Act 96-462) ~~this amendatory Act of the 96th General Assembly.~~

(k) This Section shall not apply to a lien filed pursuant to Section 11-20-15.1.

(Source: P.A. 96-462, eff. 8-14-09; revised 10-7-09.)

(65 ILCS 5/11-20-15.1 new)

Sec. 11-20-15.1. Lien for costs of removal, securing, and enclosing on abandoned residential property.

(a) If the municipality elects to incur a removal cost pursuant to subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, or subsection (e) of Section 11-20-13, or a securing or enclosing cost pursuant to Section 11-31-1.01 with respect to an abandoned residential property, then that cost is a lien upon the underlying parcel of that abandoned residential property. This lien is superior to all other liens and encumbrances, except tax liens and as otherwise provided in this Section.

(b) To perfect a lien under this Section, the municipality must, within one year after the cost is incurred for the activity, file notice of the lien in the office of the recorder in the county in which the abandoned residential property is located or, if the abandoned residential property is registered under the Torrens system, in the office of the Registrar of Titles of that county, a sworn statement setting out:

(1) a description of the abandoned residential property that sufficiently identifies the parcel;

(2) the amount of the cost of the activity;

(3) the date or dates when the cost for the activity was incurred by the municipality; and

(4) a statement that the lien has been filed pursuant to subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or 11-31-1.01, as applicable.

If, for abandoned residential property, the municipality engaged in any activity on more than one occasion during the course of one year, then the municipality may combine any or all of the costs of each of those activities into a single notice of lien.

(c) To enforce a lien pursuant to this Section, the municipality must maintain contemporaneous records that include, at a minimum: (i) a dated statement of finding by the municipality that the property for which the work is to be performed has become abandoned residential property, which shall include (1) the date when the property was first known or observed to be unoccupied by any lawful occupant or occupants, (2) a description of the actions taken by the municipality to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, including the dates such actions were taken, and (3) a statement that no contacts were made with the legal owner or owners or their agents as a result of such actions, (ii) a dated certification by an authorized official of the municipality of the necessity and specific nature of the work to be performed,

(iii) a copy of the agreement with the person or entity performing the work that includes the legal name of the person or entity, the rate or rates to be charged for performing the work, and an estimate of the total cost of the work to be performed, (iv) detailed invoices and payment vouchers for all payments made by the municipality for such work, and (v) a statement as to whether the work was engaged through a competitive bidding process, and if so, a copy of all proposals submitted by the bidders for such work.

(d) A lien under this Section shall be enforceable exclusively at the hearing for confirmation of sale of the abandoned residential property that is held pursuant to subsection (b) of Section 15-1508 of the Code of Civil Procedure and shall be limited to a claim of interest in the proceeds of the sale and subject to the requirements of this Section. Any mortgagee who holds a mortgage on the property, or any beneficiary or trustee who holds a deed of trust on the property, may contest the lien or the amount of the lien at any time during the foreclosure proceeding upon motion and notice in accordance with court rules applicable to motions generally. Grounds for forfeiture of the lien or the superior status of the lien granted by subsection (a) of this Section shall include, but not be limited to, a finding by the court that: (i) the municipality has not complied with subsection (b) or (c) of this Section, (ii) the scope of the work was not reasonable under the circumstances, (iii) the work exceeded the authorization for the work to be performed under subsection (a) of Section 11-20-7, subsection (a) of Section 11-20-8, subsection (a) of Section 11-20-12, subsection (a) of Section 11-20-13, or subsection (a) of Section 11-31-1.01, as applicable, or (iv) the cost of the services rendered or materials provided was not commercially reasonable. Forfeiture of the superior status of the lien otherwise granted by this Section shall not constitute a forfeiture of the lien as a subordinate lien.

(e) Upon payment of the amount of a lien filed under this Section by the mortgagee, servicer, owner, or any other person, the municipality shall release the lien, and the release may be filed of record by the person making such payment at the person's sole expense as in the case of filing notice of lien.

(f) Notwithstanding any other provision of this Section, a municipality may not file a lien pursuant to this Section for activities performed pursuant to Section 11-20-7, Section 11-20-8, Section 11-20-12, Section 11-20-13, or Section 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned residential property has provided notice to the municipality that the mortgagee or servicer has performed or will perform the remedial actions specified in the notice that the municipality otherwise might perform pursuant to subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or Section 11-31-1.01, provided that the remedial actions specified in the notice have been performed or are performed or initiated in good faith within 30 days of such notice; or (ii) the municipality has provided notice to the mortgagee or servicer of a problem with the property requiring the remedial actions specified in the notice that the municipality otherwise would perform pursuant to subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer has performed or performs or initiates in good faith the remedial actions specified in the notice within 30 days of such notice.

(g) This Section and subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or Section 11-31-1.01 shall apply only to activities performed, costs incurred, and liens filed after the effective date of this amendatory Act of the 96th General Assembly.

(h) For the purposes of this Section and subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or Section 11-31-1.01:

"Abandoned residential property" means any type of permanent residential dwelling unit, including detached single family structures, and townhouses, condominium units and multifamily rental apartments covering the entire property, and manufactured homes treated under Illinois law as real estate and not as personal property, that has been unoccupied by any lawful occupant or occupants for at least 90 days, and for which after such 90 day period, the municipality has made good faith efforts to contact the legal owner or owners of the property identified on the recorded mortgage, or, if known, any agent of the owner or owners, and no contact has been made. A property for which the municipality has been given notice of the order of confirmation of sale pursuant to subsection (b-10) of Section 15-1508 of the Code of Civil Procedure shall not be deemed to be an abandoned residential property for the purposes of subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, and Section 11-31-1.01 of this Code.

"MERS program" means the nationwide Mortgage Electronic Registration System approved by Fannie Mae, Freddie Mac, and Ginnie Mae that has been created by the mortgage banking industry with the mission of registering every mortgage loan in the United States to lawfully make information concerning each residential mortgage loan and the property securing it available by internet access to

mortgage originators, servicers, warehouse lenders, wholesale lenders, retail lenders, document custodians, settlement agents, title companies, insurers, investors, county recorders, units of local government, and consumers.

(i) Any entity or person who performs a removal, securing, or enclosing activity pursuant to the authority of a municipality under subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of Section 11-20-13, or Section 11-31-1.01, may, in its, his, or her own name, file a lien pursuant to subsection (b) of this Section and appear in a foreclosure action on that lien pursuant to subsection (d) of this Section in the place of the municipality, provided that the municipality shall remain subject to subsection (c) of this Section, and such party shall be subject to all of the provisions in this Section as if such party were the municipality.

(j) If prior to subsection (d) of Section 11-20-7, subsection (d) of Section 11-20-8, subsection (d) of Section 11-20-12, and subsection (e) of Section 11-20-13 becoming inoperative a lien is filed pursuant to any of those subsections, then the lien shall remain in full force and effect after the subsections have become inoperative, subject to all of the provisions of this Section. If prior to the repeal of Section 11-31-1.01 a lien is filed pursuant to Section 11-31-1.01, then the lien shall remain in full force and effect after the repeal of Section 11-31-1.01, subject to all of the provisions of this Section.

(65 ILCS 5/11-31-1.01 new)

Sec. 11-31-1.01. Securing or enclosing abandoned residential property.

(a) In the case of securing or enclosing an abandoned residential property as defined in Section 11-20-15.1, the municipality may elect to secure or enclose the exterior of a building or the underlying parcel on which it is located under this Section without application to the circuit court, in which case the provisions of Section 11-20-15.1 shall be the exclusive remedy for the recovery of the costs of such activity.

(b) For the purposes of this Section:

(1) "Secure" or "securing" means boarding up, closing off, or locking windows or entrances or otherwise making the interior of a building inaccessible to the general public; and

(2) "Enclose" or "enclosing" means surrounding part or all of the abandoned residential property's underlying parcel with a fence or wall or otherwise making part or all of the abandoned residential property's underlying parcel inaccessible to the general public.

(c) This Section is repealed upon certification by the Secretary of the Illinois Department of Financial and Professional Regulation, after consultation with the United States Department of Housing and Urban Development, that the Mortgage Electronic Registration System program is effectively registering substantially all mortgaged residential properties located in the State of Illinois, is available for access by all municipalities located in the State of Illinois without charge to them, and such registration includes the telephone number for the mortgage servicer.

Section 15. The Illinois Banking Act is amended by changing Section 5c as follows:

(205 ILCS 5/5c) (from Ch. 17, par. 312.2)

Sec. 5c. Ownership of a bankers' bank. A bank may acquire shares of stock of a bank or holding company which owns or controls such bank if the stock of such bank or company is owned exclusively (except to the extent directors' qualifying shares are required by law) by depository institutions or depository institution holding companies and such bank or company and all subsidiaries thereof are engaged exclusively in providing services to or for other financial institutions, their holding companies, and the officers, directors, and employees of such institutions and companies, and in providing services at the request of other financial institutions or their holding companies (also referred to as a "bankers' bank"). The bank may also provide products and services to its officers, directors, and employees. In no event shall the total amount of such stock held by a bank in such bank or holding company exceed 10 percent of its capital and surplus (including undivided profits) and in no event shall a bank acquire more than 15 ~~5~~ percent of any class of voting securities of such bank or company.

(Source: P.A. 95-924, eff. 8-26-08.)

Section 20. The Real Estate License Act of 2000 is amended by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-25, 5-35, 5-40, 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-15, 10-30, 15-15, 15-35, 15-45, 15-65, 20-5, 20-10, 20-20, 20-25, 20-50, 20-55, 20-60, 20-65, 20-75, 20-85, 20-90, 20-95, 20-100, 20-110, 20-115, 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25, 25-30, 25-35, 25-37, 30-5, 30-10, 30-15, 30-20, and 30-25 and by adding Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 5-46, 5-47, 10-35, 10-40, 20-21, 20-22, 20-62, 20-63, 20-64, 20-66, 20-67, 20-68, 20-69, 20-72, 20-73, 20-82, and 25-21 as follows:

(225 ILCS 454/1-10)

[October 15, 2009]

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

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

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

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file as maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and those changes must be made either through the Department's website or by contacting the Department.

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

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

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

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

"Board" means the Real Estate Administration and Disciplinary Board of the Department as created by Section 25-10 of this Act ~~OBRE~~.

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

"Broker" means an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who, whether in person or through any media or technology, for another and for compensation, or with the intention or expectation of receiving compensation, either directly or indirectly:

- (1) Sells, exchanges, purchases, rents, or leases real estate.
- (2) Offers to sell, exchange, purchase, rent, or lease real estate.
- (3) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate.
- (4) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange.
- (5) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements thereon.
- (6) Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate.
- (7) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate.
- (8) Assists or directs in procuring or referring of leads or prospects, intended to result in the sale, exchange, lease, or rental of real estate.
- (9) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate.
- (10) Opens real estate to the public for marketing purposes.
- (11) Sells, leases, or offers for sale or lease real estate at auction.

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

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

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

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

- (1) commissions;
- (2) referral fees;
- (3) bonuses;
- (4) prizes;
- (5) merchandise;

- (6) finder fees;
- (7) performance of services;
- (8) coupons or gift certificates;
- (9) discounts;
- (10) rebates;
- (11) a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;
- (12) retainer fee; or
- (13) salary.

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

- (1) the client permits the disclosure of information given by that client by word or conduct;
- (2) the disclosure is required by law; or
- (3) the information becomes public from a source other than the licensee.

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

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

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

"Coordinator" means the Coordinator of Real Estate created in Section 25-15 of this Act.

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

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

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

"Designated agency" means a contractual relationship between a sponsoring broker and a client under Section 15-50 of this Act in which one or more licensees associated with or employed by the broker are designated as agent of the client.

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

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

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

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

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

"Exclusive brokerage agreement" means a written brokerage agreement that provides that the sponsoring broker has the sole right, through one or more sponsored licensees, to act as the exclusive designated agent or representative of the client and that meets the requirements of Section 15-75 of this Act.

"Inoperative" means a status of licensure where the licensee holds a current license under this Act, but the licensee is prohibited from engaging in licensed activities because the licensee is unsponsored or the license of the sponsoring broker with whom the licensee is associated or by whom he or she is employed is currently expired, revoked, suspended, or otherwise rendered invalid under this Act.

"Leads" means the name or names of a potential buyer, seller, lessor, lessee, or client of a licensee.

"Leasing Agent" means a person who is employed by a real estate broker to engage in licensed

activities limited to leasing residential real estate who has obtained a license as provided for in Section 5-5 of this Act.

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

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

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

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

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

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

"Ministerial acts" means those acts that a licensee may perform for a consumer that are informative or clerical in nature and do not rise to the level of active representation on behalf of a consumer. Examples of these acts include without limitation (i) responding to phone inquiries by consumers as to the availability and pricing of brokerage services, (ii) responding to phone inquiries from a consumer concerning the price or location of property, (iii) attending an open house and responding to questions about the property from a consumer, (iv) setting an appointment to view property, (v) responding to questions of consumers walking into a licensee's office concerning brokerage services offered or particular properties, (vi) accompanying an appraiser, inspector, contractor, or similar third party on a visit to a property, (vii) describing a property or the property's condition in response to a consumer's inquiry, (viii) completing business or factual information for a consumer on an offer or contract to purchase on behalf of a client, (ix) showing a client through a property being sold by an owner on his or her own behalf, or (x) referral to another broker or service provider.

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

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

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

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

"Pocket card" means the card issued by ~~the Department~~ ~~OBRE~~ to signify that the person named on the card is currently licensed under this Act.

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

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

"Proctor" means any person, including, but not limited to, an instructor, who has a written agreement to administer examinations fairly and impartially with a licensed pre-license school or a licensed continuing education school.

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

"Regular employee" means a person working an average of 20 hours per week for a person or entity who would be considered as an employee under the Internal Revenue Service eleven main tests in three categories being behavioral control, financial control and the type of relationship of the parties, formerly the twenty factor test.

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

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

"Secretary" means the Secretary of the Department of Financial and Professional Regulation, or a

person authorized by the Secretary to act in the Secretary's stead.

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

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

(Source: P.A. 92-217, eff. 8-2-01; 93-957, eff. 8-19-04.)

(225 ILCS 454/5-5)

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

Sec. 5-5. Leasing agent license.

(a) The purpose of this Section is to provide for a limited scope license to enable persons who wish to engage in activities limited to the leasing of residential real property for which a license is required under this Act, and only those activities, to do so by obtaining the license provided for under this Section.

(b) Notwithstanding the other provisions of this Act, there is hereby created a leasing agent license that shall enable the licensee to engage only in residential leasing activities for which a license is required under this Act. Such activities include without limitation leasing or renting residential real property, or attempting, offering, or negotiating to lease or rent residential real property, or supervising the collection, offer, attempt, or agreement to collect rent for the use of residential real property. Nothing in this Section shall be construed to require a licensed real estate broker or salesperson to obtain a leasing agent license in order to perform leasing activities for which a license is required under this Act. Licensed leasing agents must be sponsored and employed by a sponsoring broker.

(c) ~~The Department OBRE, by rule, with the advice of the Board,~~ shall provide for the licensing of leasing agents, including the issuance, renewal, and administration of licenses.

(d) Notwithstanding any other provisions of this Act to the contrary, a person may engage in residential leasing activities for which a license is required under this Act, for a period of 120 consecutive days without being licensed, so long as the person is acting under the supervision of a licensed real estate broker and the broker has notified ~~the Department OBRE~~ that the person is pursuing licensure under this Section. During the 120 day period all requirements of Sections 5-10 and 5-65 of this Act with respect to education, successful completion of an examination, and the payment of all required fees must be satisfied. ~~The Department OBRE~~ may adopt rules to ensure that the provisions of this subsection are not used in a manner that enables an unlicensed person to repeatedly or continually engage in activities for which a license is required under this Act.

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

(225 ILCS 454/5-6 new)

Sec. 5-6. Social Security Number or Tax Identification Number on license application. In addition to any other information required to be contained in the application, every application for an original or renewal license under this Act shall include the applicant's Social Security Number or Tax Identification Number.

(225 ILCS 454/5-7 new)

Sec. 5-7. Application for leasing agent license. Every person who desires to obtain a leasing agent license shall apply to the Department in writing on forms provided by the Department which application shall be accompanied by the required non-refundable fee. Any such application shall require such information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for licensure.

(225 ILCS 454/5-10)

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

Sec. 5-10. Requirements for license as leasing agent. Application for leasing agent license.

(a) Every applicant for licensure as a leasing agent must meet the following qualifications:

~~(1) Every person who desires to obtain a leasing agent license shall apply to OBRE in writing on forms provided by OBRE. In addition to any other information required to be contained in the application, every application for an original or renewed leasing agent license shall include the applicant's Social Security number. All application or license fees must accompany the application. Each applicant must be at least 18 years of age ;~~

~~(2) must be of good moral character ; - shall have~~

~~(3) successfully complete completed a 4-year course of study in a high school or secondary school or an~~

~~equivalent course of study approved by the Illinois State Board of Education; - and shall successfully~~

[October 15, 2009]

~~complete~~

(4) ~~personally take and pass~~ a written examination authorized by ~~the Department~~ ~~OBRE~~ sufficient to demonstrate the applicant's

knowledge of the provisions of this Act relating to leasing agents and the applicant's competence to engage in the activities of a licensed leasing agent; ~~Applicants must successfully complete~~

(5) ~~provide satisfactory evidence of having completed~~ 15 hours of instruction in an approved course of study relating to the leasing of

residential real property. The course of study shall, among other topics, cover the provisions of this Act applicable to leasing agents; fair housing issues relating to residential leasing; advertising and marketing issues; leases, applications, and credit reports; owner-tenant relationships and owner-tenant laws; the handling of funds; and environmental issues relating to residential real property; -

~~(6) complete any other requirements as set forth by rule; and~~

~~(7) present a valid application for issuance of an initial license accompanied by a sponsor card and the fees specified by rule.~~

~~(b) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days after the date of issuance unless extended for good cause as provided by rule.~~

~~(c) Successfully completed course work, completed pursuant to the requirements of this Section, may be applied to the course work requirements to obtain a real estate broker's or salesperson's license as provided by rule. The Advisory Council may shall recommend through the Board to the Department~~ ~~OBRE~~ ~~and the Department may~~ ~~OBRE shall~~ adopt requirements for approved courses, course content, and the approval of courses, instructors, and schools, as well as school and instructor fees. ~~The Department~~ ~~OBRE~~ may establish continuing education requirements for licensed leasing agents, by rule, with the advice of the Advisory Council and Board.

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

(225 ILCS 454/5-15)

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

Sec. 5-15. Necessity of managing broker, broker, salesperson, or leasing agent license or sponsor card; ownership restrictions.

(a) It is unlawful for any person, corporation, limited liability company, registered limited liability partnership, or partnership to act as a managing broker, real estate broker, real estate salesperson, or leasing agent or to advertise or assume to act as such broker, salesperson, or leasing agent without a properly issued sponsor card or a license issued under this Act by the Department ~~OBRE~~, either directly or through its authorized designee.

(b) No corporation shall be granted a license or engage in the business or capacity, either directly or indirectly, of a real estate broker, unless every officer of the corporation who actively participates in the real estate activities of the corporation holds a license as a managing broker or real estate broker and unless every employee who acts as a salesperson, or leasing agent for the corporation holds a license as a ~~real estate~~ broker, salesperson, or leasing agent.

(c) No partnership shall be granted a license or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker, unless every general partner in the partnership holds a license as a managing broker or real estate broker and unless every employee who acts as a salesperson or leasing agent for the partnership holds a license as a real estate broker, salesperson, or leasing agent. In the case of a registered limited liability partnership (LLP), every partner in the LLP must hold a license as a managing broker or real estate broker and every employee who acts as a salesperson or leasing agent must hold a license as a real estate broker, salesperson, or leasing agent.

(d) No limited liability company shall be granted a license or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker unless every manager in the limited liability company or every member in a member managed limited liability company holds a license as a managing broker or real estate broker and unless every other member and employee who acts as a salesperson or leasing agent for the limited liability company holds a license as a real estate broker, salesperson, or leasing agent.

(e) No partnership, limited liability company, or corporation shall be licensed to conduct a brokerage business where an individual salesperson or leasing agent, or group of salespersons or leasing agents, owns or directly or indirectly controls more than 49% of the shares of stock or other ownership in the partnership, limited liability company, or corporation.

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

(225 ILCS 454/5-20)

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

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

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

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

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

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

(5) Any officer or employee of a federal agency in the conduct of official duties.

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

(7) Any multiple listing service or other similar information exchange that is engaged in the collection and dissemination of information concerning real estate available for sale, purchase, lease, or exchange for the purpose of providing licensees with a system by which licensees may cooperatively share information along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

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

(9) Any medium of advertising in the routine course of selling or publishing advertising along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

(10) Any resident lessee of a residential dwelling unit who refers for compensation to the owner of the dwelling unit, or to the owner's agent, prospective lessees of dwelling units in the same building or complex as the resident lessee's unit, but only if the resident lessee (i) refers no more than 3 prospective lessees in any 12-month period, (ii) receives compensation of no more than ~~\$1,500~~ \$1,000 or the equivalent of one month's rent, whichever is less, in any 12-month period, and (iii) limits his or her activities to referring prospective lessees to the owner, or the owner's agent, and does not show a residential dwelling unit to a prospective lessee, discuss terms or conditions of leasing a dwelling unit with a prospective lessee, or otherwise participate in the negotiation of the leasing of a dwelling unit.

(11) An exchange company registered under the Real Estate Timeshare Act of 1999 and the regular employees of that registered exchange company but only when conducting an exchange program as defined in that Act.

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

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

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

(B) that person verifies to the Department ~~CBRE~~ that he or she has sold real estate at auction for

a

period of 5 years prior to licensure as an auctioneer;

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

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

(14) A hotel operator who is registered with the Illinois Department of Revenue and pays taxes under the Hotel Operators' Occupation Tax Act and rents a room or rooms in a hotel as defined in the Hotel Operators' Occupation Tax Act for a period of not more than 30 consecutive days and not more than 60 days in a calendar year.

(Source: P.A. 96-328, eff. 8-11-09.)

(225 ILCS 454/5-25)

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

Sec. 5-25. Good moral character. Application for and issuance of broker or salesperson license.

~~(a) Every person who desires to obtain a license shall make application to OBRE in writing upon forms prepared and furnished by OBRE. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. Each applicant shall be at least 21 years of age, be of good moral character, and have successfully completed a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education and shall be verified under oath by the applicant. The minimum age of 21 years shall be waived for any person seeking a license as a real estate salesperson who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by OBRE.~~

~~(b) When an applicant has had his or her license revoked on a prior occasion or when an applicant is found to have committed any of the practices enumerated in Section 20-20 of this Act or when an applicant has been convicted of or enters a plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony involving moral turpitude in any court of competent jurisdiction in this or any other state, district, or territory of the United States or of a foreign country, the Board may consider the prior revocation, conduct, or conviction in its determination of the applicant's moral character and whether to grant the applicant a license. In its consideration of the prior revocation, conduct, or conviction, the Board shall take into account the nature of the conduct, any aggravating or extenuating circumstances, the time elapsed since the revocation, conduct, or conviction, the rehabilitation or restitution performed by the applicant, and any other factors that the Board deems relevant. When an applicant has made a false statement of material fact on his or her application, the false statement may in itself be sufficient grounds to revoke or refuse to issue a license.~~

~~(c) Every valid application for issuance of an initial license shall be accompanied by a sponsor card and the fees specified by rule.~~

~~(d) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days from the date of issuance unless extended for good cause as provided by rule.~~

~~(e) OBRE shall issue to each applicant entitled thereto a license in such form and size as shall be prescribed by OBRE. The procedure for terminating a license shall be printed on the reverse side of the license. Each license shall bear the name of the person so qualified, shall specify whether the person is qualified to act in a broker or salesperson capacity, and shall contain such other information as shall be recommended by the Board and approved by OBRE. Each person licensed under this Act shall display his or her license conspicuously in his or her place of business.~~

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

(225 ILCS 454/5-26 new)

Sec. 5-26. Requirements for license as a salesperson.

(a) Every applicant for licensure as a salesperson must meet the following qualifications:

(1) Be at least 21 years of age. The minimum age of 21 years shall be waived for any person seeking a license as a real estate salesperson who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department;

(2) Be of good moral character;

(3) Successfully complete a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education, which shall be verified under oath by the applicant;

(4) Provide satisfactory evidence of having completed at least 45 hours of instruction in real estate courses approved by the Advisory Council, except applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing;

(5) Shall personally take and pass a written examination authorized by the Department; and

(6) Present a valid application for issuance of a license accompanied by a sponsor card and the fees specified by rule.

(b) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to the applicant. The sponsor card shall be valid for a maximum period of 45 days after the date of issuance unless extended for good cause as provided by rule.

(c) All licenses should be readily available to the public at their sponsoring place of business.

(d) No new salesperson licenses shall be issued after April 30, 2011 and all existing salesperson licenses shall terminate on May 1, 2012.

(225 ILCS 454/5-27 new)

Sec. 5-27. Requirements for licensure as a broker.

(a) Every applicant for licensure as a broker must meet the following qualifications:

(1) Be at least 21 years of age. After April 30, 2011, the minimum age of 21 years shall be waived for any person seeking a license as a broker who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department;

(2) Be of good moral character;

(3) Successfully complete a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education which shall be verified under oath by the applicant;

(4) Prior to May 1, 2011, provide (i) satisfactory evidence of having completed at least 120 classroom hours, 45 of which shall be those hours required to obtain a salesperson's license plus 15 hours in brokerage administration courses, in real estate courses approved by the Advisory Council or (ii) for applicants who currently hold a valid real estate salesperson's license, give satisfactory evidence of having completed at least 75 hours in real estate courses, not including the courses that are required to obtain a salesperson's license, approved by the Advisory Council;

(5) After April 30, 2011, provide satisfactory evidence of having completed 90 hours of instruction in real estate courses approved by the Advisory Council, 15 hours of which must consist of situational and case studies presented in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students;

(6) Personally take and pass a written examination authorized by the Department;

(7) Present a valid application for issuance of a license accompanied by a sponsor card and the fees specified by rule.

(b) The requirements specified in items (4) and (5) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

(c) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days after the date of issuance unless extended for good cause as provided by rule.

(d) All licenses should be readily available to the public at their place of business.

(225 ILCS 454/5-28 new)

Sec. 5-28. Requirements for licensure as a managing broker.

(a) Effective May 1, 2012, every applicant for licensure as a managing broker must meet the following qualifications:

(1) be at least 21 years of age;

(2) be of good moral character;

(3) have been licensed at least 2 out of the preceding 3 years as a real estate broker or salesperson;

(4) successfully complete a 4-year course of study in high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education, which shall be verified under oath by the applicant;

(5) provide satisfactory evidence of having completed at least 165 hours, 120 of which shall be those hours required pre and post-licensure to obtain a broker's license, and 45 additional hours completed within the year immediately preceding the filing of an application for a managing broker's license, which hours shall focus on brokerage administration and management and include at least 15 hours in the classroom or by other interactive delivery method presenting instructional and real time

discussion between the instructor and the students:

(6) personally take and pass a written examination authorized by the Department; and

(7) present a valid application for issuance of a license accompanied by a sponsor card, an appointment as a managing broker, and the fees specified by rule.

(b) The requirements specified in item (5) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

(c) No applicant shall act as a managing broker for more than 90 days after an appointment as a managing broker has been filed with the Department without obtaining a managing broker's license.

(225 ILCS 454/5-35)

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

Sec. 5-35. Examination; managing broker, broker, or salesperson, ~~or salesperson~~, or leasing agent.

(a) The Department shall authorize every person who makes application for an original license as a broker or salesperson shall personally take and pass a written examination authorized by OBRE and answer any questions that may be required to determine the good moral character of the applicant and the applicant's competency to transact the business of broker or salesperson, as the case may be, in such a manner as to safeguard the interests of the public. In determining this competency, OBRE shall require proof that the applicant has a good understanding and the knowledge to conduct real estate brokerage and of the provisions of this Act. The examination shall be prepared by an independent testing service designated by OBRE, subject to the approval of the examinations by the Board. The designated independent testing service shall conduct the examinations at such times and places as it may designate. The examination shall be of a character to give a fair test of the qualifications of the applicant to practice as a managing broker, broker, salesperson, or leasing agent. Applicants for examination as a managing broker, broker, salesperson, or leasing agent shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee. OBRE shall approve. In addition, every person who desires to take the written examination shall make application to do so to OBRE or to the designated independent testing service in writing upon forms approved by OBRE. An applicant shall be eligible to take the examination only after successfully completing the education requirements, set forth in Section 5-30 of this Act, and attaining the minimum age provided for specified in Article 5 of this Act. Each applicant shall be required to establish compliance with the eligibility requirements in the manner provided by the rules promulgated for the administration of this Act.

(b) If a person who has received a passing score on the written examination described in this Section fails to file an application and meet all requirements for a license under this Act within one year after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

(c) If an applicant has failed an examination 4 ~~3~~ times, the applicant must repeat the pre-license education required to sit for the examination. For the purposes of this Section, the fifth ~~fourth~~ attempt shall be the same as the first. Approved education, as prescribed by this Act for licensure as a salesperson or broker, shall be valid for 4 ~~3~~ years after the date of satisfactory completion of the education.

(d) The Department may employ consultants for the purposes of preparing and conducting examinations.

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

(225 ILCS 454/5-40)

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

Sec. 5-40. Sponsor card; termination indicated by license endorsement; association with new broker.

(a) The sponsoring broker shall prepare upon forms provided by the Department OBRE and deliver to each licensee employed by or associated with the sponsoring broker a sponsor card certifying that the person whose name appears thereon is in fact employed by or associated with the sponsoring broker. The sponsoring broker shall send, by certified mail, return receipt requested, or other delivery service requiring a signature upon delivery, a duplicate of each sponsor card, along with a valid license or other authorization as provided by rule and the appropriate fee, to the Department OBRE within 24 hours of issuance of the sponsor card. It is a violation of this Act for any broker to issue a sponsor card to any licensee or applicant unless the licensee or applicant presents in hand a valid license or other authorization as provided by rule.

(b) When a licensee terminates his or her employment or association with a sponsoring broker or the

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employment is terminated by the sponsoring broker, the licensee shall obtain from the sponsoring broker his or her license endorsed by the sponsoring broker indicating the termination. The sponsoring broker shall surrender to ~~the Department~~ ~~OBRE~~ a copy of the license of the licensee within 2 days of the termination or shall notify ~~the Department~~ ~~OBRE~~ in writing of the termination and explain why a copy of the license is not surrendered. Failure of the sponsoring broker to surrender the license shall subject the sponsoring broker to discipline under Section 20-20 of this Act. The license of any licensee whose association with a sponsoring broker is terminated shall automatically become inoperative immediately upon the termination unless the licensee accepts employment or becomes associated with a new sponsoring broker pursuant to subsection (c) of this Section.

(c) When a licensee accepts employment or association with a new sponsoring broker, the new sponsoring broker shall send to the Department ~~by certified mail, return receipt requested, or other delivery service requiring a signature upon delivery, to~~ ~~OBRE~~ a duplicate sponsor card, along with the licensee's endorsed license or an affidavit of the licensee of why the endorsed license is not surrendered, and shall pay the appropriate fee prescribed by rule to cover administrative expenses attendant to the changes in the registration of the licensee.

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

(225 ILCS 454/5-41 new)

Sec. 5-41. Change of address. A licensee shall notify the Department of the address or addresses, and of every change of address, where the licensee practices as a leasing agent, salesperson, broker or managing broker.

(225 ILCS 454/5-45)

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

Sec. 5-45. Offices.

(a) If a sponsoring broker maintains more than one office within the State, the sponsoring broker shall apply for a branch office license for each office other than the sponsoring broker's principal place of business. The branch office license shall be displayed conspicuously in each branch office. The name of each branch office shall be the same as that of the sponsoring broker's principal office or shall clearly delineate the branch office's relationship with the principal office.

(b) The sponsoring broker shall name a managing broker for each branch office and the sponsoring broker shall be responsible for supervising all managing brokers. The sponsoring broker shall notify ~~the Department~~ ~~OBRE~~ in writing of the name of all managing brokers of the sponsoring broker and the office or offices they manage. Any person initially named as a managing broker after April 30, 2011 must either (i) be licensed as a managing broker or (ii) meet all the requirements to be licensed as a managing broker except the required education and examination and secure the managing broker's license within 90 days of being named as a managing broker. Any changes in managing brokers shall be reported to ~~the Department~~ ~~OBRE~~ in writing within 15 days of the change. Failure to do so shall subject the sponsoring broker to discipline under Section 20-20 of this Act.

(c) The sponsoring broker shall immediately notify ~~the Department~~ ~~OBRE~~ in writing of any opening, closing, or change in location of any principal or branch office.

(d) Except as provided in this Section, each sponsoring broker shall maintain a definite office, or place of business within this State for the transaction of real estate business, shall conspicuously display an identification sign on the outside of his or her office of adequate size and visibility, ~~and shall conspicuously display his or her license in his or her office or place of business and also the licenses of all persons associated with or employed by the sponsoring broker who primarily work at that location.~~ The office or place of business shall not be located in any retail or financial business establishment unless it is separated from the other business by a separate and distinct area within the establishment. A broker who is licensed in this State by examination or pursuant to the provisions of Section 5-60 of this Act shall not be required to maintain a definite office or place of business in this State provided all of the following conditions are met:

(1) the broker maintains an active broker's license in the broker's state of domicile;

(2) the broker maintains an office in the broker's state of domicile; and

(3) the broker has filed with ~~the Department~~ ~~OBRE~~ written statements appointing the Secretary ~~Commissioner~~ to act as the

broker's agent upon whom all judicial and other process or legal notices directed to the licensee may be served and agreeing to abide by all of the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submitting to the jurisdiction of the ~~Department~~ ~~OBRE~~.

The statements under subdivision (3) of this Section shall be in form and substance the same as those statements required under Section 5-60 of this Act and shall operate to the same extent.

(e) Upon the loss of a managing broker who is not replaced by the sponsoring broker or in the event of

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the death or adjudicated disability of the sole proprietor of an office, a written request for authorization allowing the continued operation of the office may be submitted to the Department ~~OBRE~~ within 15 days of the loss. The Department ~~OBRE~~ may issue a written authorization allowing the continued operation, provided that a licensed broker, or in the case of the death or adjudicated disability of a sole proprietor, the representative of the estate, assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operation of the office. No such written authorization shall be valid for more than 60 days unless extended by the Department ~~OBRE~~ for good cause shown and upon written request by the broker or representative.

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

(225 ILCS 454/5-46 new)

Sec. 5-46. Transition from salesperson's license to broker's license.

(a) No new salesperson licenses shall be issued by the Department after April 30, 2011 and existing salesperson licenses shall end as of 11:59 p.m. on April 30, 2012. The following transition rules shall apply to individuals holding a salesperson's license as of April 30, 2011 and seeking to obtain a broker's license:

(1) provide evidence of having completed 30 hours of post-license education in courses approved by the Advisory Council and having passed a written examination approved by the Department and administered by a licensed pre-license school; or

(2) provide evidence of passing a Department-approved proficiency examination administered by a licensed pre-license school, which proficiency examination may only be taken one time by any one individual salesperson; and

(3) present a valid application for a broker's license no later than April 30, 2012 accompanied by a sponsor card and the fees specified by rule.

(b) The education requirements specified in clause (1) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

(c) No applicant may engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days after the date of issuance unless extended for good cause as provided by rule.

(225 ILCS 454/5-47 new)

Sec. 5-47. Transition to managing broker's license.

(a) A new license for managing brokers is created effective May 1, 2011. The following transition rules shall apply for those brokers listed as managing brokers with the Department as of April 30, 2011. Those individuals licensed as brokers and listed as managing brokers with the Department as of April 30, 2011 must meet the following qualifications to obtain a managing broker's license:

(1) provide evidence of having completed the 45 hours of broker management education approved by the Advisory Council and having passed a written examination approved by the Department and administered by a licensed pre-license school; or

(2) provide evidence of passing a Department-approved proficiency examination administered by a licensed pre-license school, which proficiency examination may only be taken one time by any one individual broker; and

(3) present a valid application for a managing broker's license no later than April 30, 2012 accompanied by a sponsor card and the fees specified by rule.

(b) The education requirements specified in item (1) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

(225 ILCS 454/5-50)

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

Sec. 5-50. Expiration ~~date~~ and renewal ~~period~~ of managing broker, broker, salesperson, or leasing agent license; sponsoring broker; register of licensees; pocket card.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule, except that the first renewal period ending after the effective date of this Act for those licensed as a salesperson shall be extended through April 30, 2012. Except as otherwise provided in ~~this Section 5-55 of this Act~~, the holder of a license may renew the license within 90 days preceding the expiration date thereof by completing the continuing education required by this Act and paying the fees specified by rule. Upon written request from the sponsoring broker, OBRE shall prepare and mail to the sponsoring broker a listing of licensees under this Act who, according to the records of OBRE, are sponsored by that broker. Every licensee associated with or employed by a broker whose license is revoked, suspended, terminated, or expired shall be considered as inoperative until such time as the sponsoring broker's

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license is reinstated or renewed, or the licensee changes employment as set forth in subsection (c) of Section 5-40 of this Act.

(b) An individual whose first license is that of a broker received after April 30, 2011, must provide evidence of having completed 30 hours of post-license education in courses approved by the Advisory Council, 15 hours of which must consist of situational and case studies presented in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students, and personally take and pass an examination approved by the Department prior to the first renewal of their broker's license. OBRE shall establish and maintain a register of all persons currently licensed by the State and shall issue and prescribe a form of pocket card. Upon payment by a licensee of the appropriate fee as prescribed by rule for engagement in the activity for which the licensee is qualified and holds a license for the current period, OBRE shall issue a pocket card to the licensee. The pocket card shall be verification that the required fee for the current period has been paid and shall indicate that the person named thereon is licensed for the current renewal period as a broker, salesperson, or leasing agent as the case may be. The pocket card shall further indicate that the person named thereon is authorized by OBRE to engage in the licensed activity appropriate for his or her status (broker, salesperson, or leasing agent). Each licensee shall carry on his or her person his or her pocket card or, if such pocket card has not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

(c) Any managing broker, broker, salesperson or leasing agent whose license under this Act has expired shall be eligible to renew the license during the 2-year period following the expiration date, provided the managing broker, broker, salesperson or leasing agent pays the fees as prescribed by rule and completes continuing education and other requirements provided for by the Act or by rule. A managing broker, broker, salesperson or leasing agent whose license has been expired for more than 2 years shall be required to meet the requirements for a new license. Any person licensed as a broker shall be entitled at any renewal date to change his or her license status from broker to salesperson.

(d) Notwithstanding any other provisions of this Act to the contrary, any managing broker, broker, salesperson or leasing agent whose license expired while he or she was (i) on active duty with the Armed Forces of the United States or called into service or training by the state militia, (ii) engaged in training or education under the supervision of the United States preliminary to induction into military service, or (iii) serving as the Coordinator of Real Estate in the State of Illinois or as an employee of the Department may have his or her license renewed, reinstated or restored without paying any lapsed renewal fees if within 2 years after the termination of the service, training or education by furnishing the Department with satisfactory evidence of service, training, or education and it has been terminated under honorable conditions.

(e) The Department shall establish and maintain a register of all persons currently licensed by the State and shall issue and prescribe a form of pocket card. Upon payment by a licensee of the appropriate fee as prescribed by rule for engagement in the activity for which the licensee is qualified and holds a license for the current period, the Department shall issue a pocket card to the licensee. The pocket card shall be verification that the required fee for the current period has been paid and shall indicate that the person named thereon is licensed for the current renewal period as a managing broker, broker, salesperson, or leasing agent as the case may be. The pocket card shall further indicate that the person named thereon is authorized by the Department to engage in the licensed activity appropriate for his or her status (managing broker, broker, salesperson, or leasing agent). Each licensee shall carry on his or her person his or her pocket card or, if such pocket card has not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

(f) The Department shall provide to the sponsoring broker a notice of renewal for all sponsored licensees by mailing the notice to the sponsoring broker's address of record, or, at the Department's discretion, by an electronic means as provided for by rule.

(g) Upon request from the sponsoring broker, the Department shall make available to the sponsoring broker, either by mail or by an electronic means at the discretion of the Department, a listing of licensees under this Act who, according to the records of the Department, are sponsored by that broker. Every licensee associated with or employed by a broker whose license is revoked, suspended, terminated, or expired shall be considered as inoperative until such time as the sponsoring broker's license is reinstated or renewed, or the licensee changes employment as set forth in subsection (c) of Section 5-40 of this Act. (Source: P.A. 93-957, eff. 8-19-04.)

(225 ILCS 454/5-60)

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

Sec. 5-60. Managing broker ~~Broker~~ licensed in another state; broker licensed in another state; nonresident salesperson licensed in another state; reciprocal agreements; agent for service of process.

[October 15, 2009]

(a) Effective May 1, 2011, a managing broker's license may be issued by the Department to a managing broker or its equivalent licensed under the laws of another state of the United States, under the following conditions:

(1) the managing broker holds a managing broker's license in a state that has entered into a reciprocal agreement with the Department;

(2) the standards for that state for licensing as a managing broker are substantially equal to or greater than the minimum standards in the State of Illinois;

(3) the managing broker has been actively practicing as a managing broker in the managing broker's state of licensure for a period of not less than 2 years, immediately prior to the date of application;

(4) the managing broker furnishes the Department with a statement under seal of the proper licensing authority of the state in which the managing broker is licensed showing that the managing broker has an active managing broker's license, that the managing broker is in good standing, and that no complaints are pending against the managing broker in that state;

(5) the managing broker passes a test on Illinois specific real estate brokerage laws; and

(6) the managing broker was licensed by an examination in the state that has entered into a reciprocal agreement with the Department.

(b) A broker's license may be issued by the Department ~~OBRE~~ to a broker or its equivalent licensed under the laws of another state of the United States, under the following conditions:

(1) the broker holds a broker's license in a state that has entered into a reciprocal agreement with the Department ~~his or her state of domicile~~;

(2) the standards for that state for licensing as a broker are substantially equivalent to or greater than the minimum standards in the State of Illinois;

(3) if the application is made prior to May 1, 2012, then the broker has been actively practicing as a broker in the broker's state of ~~licensure domicile~~ for a period of not less than 2 years, immediately prior to the date of application;

(4) the broker furnishes the Department ~~OBRE~~ with a statement under seal of the proper licensing authority of the state in which the broker is licensed showing that the broker has an active broker's license, that the broker is in good standing, and that no complaints are pending against the broker in that state;

(5) the broker ~~completes a course of education and~~ passes a test on Illinois specific real estate brokerage laws; and

(6) the broker was licensed by an examination in a state that has entered into ~~OBRE~~ has a reciprocal agreement with the Department ~~that state that includes the provisions of this Section.~~

(c) ~~(b)~~ Prior to May 1, 2011, a salesperson A nonresident salesperson employed by or associated with a nonresident broker holding a broker's license in this State pursuant to this Section may, in the discretion of the Department ~~OBRE~~, be issued a nonresident salesperson's license under the nonresident broker provided all of the following conditions are met:

(1) the salesperson maintains an active license in the state ~~that has entered into a reciprocal agreement with the Department in which he or she is domiciled~~;

(2) the salesperson passes a test on Illinois specific real estate brokerage laws; and ~~is domiciled in the same state as the broker with whom he or she is associated~~;

(3) the salesperson was licensed by an examination in the state that has entered into a reciprocal agreement with the Department, ~~completes a course of education and passes a test on Illinois specific real estate brokerage laws; and~~

(4) ~~OBRE has a reciprocal agreement with that state that includes the provisions of this Section.~~

The ~~nonresident~~ broker with whom the salesperson is associated shall comply with the provisions of this Act and issue the salesperson a sponsor card upon the form provided by the Department ~~OBRE~~.

(d) ~~(e)~~ As a condition precedent to the issuance of a license to a managing broker, ~~nonresident~~ broker, or salesperson pursuant to this Section, the managing broker or salesperson shall agree in writing to abide by all the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submit to the jurisdiction of the Department ~~OBRE~~ as provided in this Act. The agreement shall be filed with the Department ~~OBRE~~ and shall remain in force for so long as the managing broker, ~~nonresident~~ broker or salesperson is licensed by this State and thereafter with respect to acts or omissions committed while licensed as a broker or salesperson in this State.

(e) ~~(d)~~ Prior to the issuance of any license to any managing broker, broker, or salesperson licensed pursuant to this Section ~~nonresident~~, verification of active licensure issued for the conduct of such business in any other state must be filed with the Department ~~OBRE~~ by the managing broker, broker, or salesperson ~~nonresident~~, and the same fees must be paid as provided in this Act for the obtaining of a managing broker's, broker's or salesperson's license in this State.

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(f) ~~(e)~~ Licenses previously granted under reciprocal agreements with other states shall remain in force so long as the Department ~~OBRE~~ has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by the Department ~~OBRE~~ for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license.

(g) ~~(f)~~ Prior to the issuance of a license to a nonresident managing broker, broker or salesperson, the managing broker, broker or salesperson shall file with the Department ~~OBRE~~ a designation in writing that appoints the Secretary Commissioner to act as his or her agent upon whom all judicial and other process or legal notices directed to the managing broker, broker or salesperson may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of the appointment, certified by the Secretary Commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In the written designation, the managing broker, broker or salesperson shall agree that any lawful process against the licensee that is served upon the agent shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this State. Upon the receipt of any process or notice, the Secretary Commissioner shall forthwith mail a copy of the same by certified mail to the last known business address of the licensee.

(h) ~~(g)~~ Any person holding a valid license under this Section shall be eligible to obtain a resident managing broker's license, a broker's license, or, prior to May 1, 2011, a salesperson's license without examination should that person change their state of domicile to Illinois and that person otherwise meets the qualifications for ~~or~~ licensure under this Act.

(Source: P.A. 91-245, eff. 12-31-99; 91-702, eff. 5-12-00.)

(225 ILCS 454/5-65)

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

Sec. 5-65. Fees. The Department ~~OBRE~~ shall provide by rule for fees to be paid by applicants and licensees to cover the reasonable costs of the Department ~~OBRE~~ in administering and enforcing the provisions of this Act. The Department ~~OBRE~~ may also provide by rule for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

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

(225 ILCS 454/5-70)

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

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 licensees.

(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 at the rate of 6 hours per year or its equivalent. 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 ~~amendatory Act of the 93rd General Assembly, to renew a real estate broker's license, the licensee~~ must successfully complete a 12-hour 6-hour broker management continuing education course approved by 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 ~~OBRE~~. 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 ~~OBRE~~. Beginning on the first day of the pre-renewal period for broker licensees that begins after the effective date of this amendatory Act of the 93rd General Assembly, the 6-hour broker management continuing education course must be completed by all persons receiving their initial broker's license within 180 days after the date of initial licensure as a broker. 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 Commissioner 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;

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(3) serve as a full-time employee of the Department ~~OBRE~~; 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 who is issued an initial license as a real estate salesperson less than one year prior to the expiration date of that license 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 continuing education as a condition of license renewal. A person who is issued an initial license as a real estate broker less than one year prior to the expiration date of that license and who has not been licensed as a real estate salesperson during the pre-renewal period shall not be required to complete continuing education as a condition of license renewal.~~

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

(e) ~~(d)~~ 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 ~~OBRE~~ 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) ~~(e)~~ 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) ~~(f)~~ In lieu of credit for those courses listed in subsection (f) ~~(e)~~ 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) ~~(g)~~ Credit hours may be earned for self-study programs approved by the Advisory Council.

(i) ~~(h)~~ A broker or salesperson may earn credit for a specific continuing education course only once during the pre-renewal period.

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

(k) ~~(j)~~ To promote the offering of a uniform and consistent course content, the Department ~~OBRE~~ 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 ~~OBRE~~ may contract for the development of the 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 ~~OBRE~~ 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. 93-957, eff. 8-19-04.)

(225 ILCS 454/5-80)

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

Sec. 5-80. Evidence of compliance with continuing education requirements.

(a) Each renewal applicant shall certify, on his or her renewal application, full compliance with continuing education requirements set forth in Section 5-70. The continuing education school shall retain and submit to the Department ~~OBRE~~ after the completion of each course evidence of those successfully completing the course as provided by rule.

(b) The Department ~~OBRE~~ may require additional evidence demonstrating compliance with the continuing education requirements. The renewal applicant shall retain and produce the evidence of compliance upon request of the Department ~~OBRE~~.

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

(225 ILCS 454/5-85)

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

Sec. 5-85. Offerings not meeting continuing education requirements. The following offerings do not meet the continuing education requirements:

- (1) Examination preparation offerings, except as provided in Section 5-70 of this Act.
- (2) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, advertising, or psychology of sales.
- (3) Sales promotion or other meetings held in conjunction with the general business of the attendee or his or her employer.
- (4) Meetings that are a normal part of in-house staff or employee training.

The offerings listed in this Section do not limit the Advisory Council's authority to disapprove any course that fails to meet the standards of this Article 5 or rules adopted by the Department ~~OBRE~~.

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

(225 ILCS 454/10-15)

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

Sec. 10-15. No compensation to persons in violation of Act; compensation to unlicensed persons; consumer.

(a) No compensation may be paid to any unlicensed person in exchange for the person performing licensed activities in violation of this Act.

(b) No action or suit shall be instituted, nor recovery therein be had, in any court of this State by any person, partnership, registered limited liability partnership, limited liability company, or corporation for compensation for any act done or service performed, the doing or performing of which is prohibited by this Act to other than licensed managing brokers, brokers, salespersons, or leasing agents unless the person, partnership, registered limited liability partnership, limited liability company, or corporation was duly licensed hereunder as a managing broker, broker, salesperson, or leasing agent under this Act at the time that any such act was done or service performed that would give rise to a cause of action for compensation.

(c) A licensee may offer compensation, including prizes, merchandise, services, rebates, discounts, or other consideration to an unlicensed person who is a party to a contract to buy or sell real estate or is a party to a contract for the lease of real estate, so long as the offer complies with the provisions of subdivision ~~(35) (26)~~ of subsection ~~(a) (4)~~ of Section 20-20 of this Act.

(d) A licensee may offer cash, gifts, prizes, awards, coupons, merchandise, rebates or chances to win a game of chance, if not prohibited by any other law or statute, to a consumer as an inducement to that consumer to use the services of the licensee even if the licensee and consumer do not ultimately enter into a broker-client relationship so long as the offer complies with the provisions of subdivision ~~(35) (26)~~ of subsection ~~(a) (4)~~ of Section 20-20 of this Act.

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

(225 ILCS 454/10-30)

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

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 ~~4~~ 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, a 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 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. 91-245, eff. 12-31-99.)

(225 ILCS 454/10-35 new)

Sec. 10-35. Internet and related advertising.

(a) Licensees intending to sell or share consumer information gathered from or through the Internet or other electronic communication media shall disclose that intention to consumers in a timely and readily apparent manner.

(b) A licensee using Internet or other similar electronic advertising media must not:

(1) use a URL or domain name that is deceptive or misleading;

(2) deceptively or without authorization frame another real estate brokerage or multiple listing

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service website; or

(3) engage in the deceptive use of metatags, keywords or other devices and methods to direct, drive or divert Internet traffic or otherwise mislead consumers.

(225 ILCS 454/10-40 new)

Sec. 10-40. Company policy. Every brokerage company or entity, other than a sole proprietorship with no other sponsored licensees, shall adopt a company or office policy dealing with topics such as:

- (1) the agency policy of the entity;
- (2) fair housing, nondiscrimination and harassment;
- (3) confidentiality of client information;
- (4) advertising;
- (5) training and supervision of sponsored licensees;
- (6) required disclosures and use of forms;
- (7) handling of risk management matters; and
- (8) handling of earnest money and escrows.

These topics are provided as an example and are not intended to be inclusive or exclusive of other topics.

(225 ILCS 454/15-15)

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

Sec. 15-15. Duties of licensees representing clients.

(a) A licensee representing a client shall:

- (1) Perform the terms of the brokerage agreement between a broker and the client.
- (2) Promote the best interest of the client by:
  - (A) Seeking a transaction at the price and terms stated in the brokerage agreement or at a price and terms otherwise acceptable to the client.
  - (B) Timely presenting all offers to and from the client, unless the client has waived this duty.

(C) Disclosing to the client material facts concerning the transaction of which the licensee has actual knowledge, unless that information is confidential information. Material facts do not include the following when located on or related to real estate that is not the subject of the transaction: (i) physical conditions that do not have a substantial adverse effect on the value of the real estate, (ii) fact situations, or (iii) occurrences.

- (D) Timely accounting for all money and property received in which the client has, may have, or should have had an interest.
- (E) Obeying specific directions of the client that are not otherwise contrary to applicable statutes, ordinances, or rules.
- (F) Acting in a manner consistent with promoting the client's best interests as opposed to a licensee's or any other person's self-interest.

(3) Exercise reasonable skill and care in the performance of brokerage services.

(4) Keep confidential all confidential information received from the client.

(5) Comply with all requirements of this Act and all applicable statutes and regulations, including without limitation fair housing and civil rights statutes.

(b) A licensee representing a client does not breach a duty or obligation to the client by showing alternative properties to prospective buyers or tenants, ~~or~~ by showing properties in which the client is interested to other prospective buyers or tenants , or by making or preparing contemporaneous offers or contracts to purchase or lease the same property. However, a licensee shall provide written disclosure to all clients for whom the licensee is preparing or making contemporaneous offers or contracts to purchase or lease the same property and shall refer to another designated agent any client that requests such referral.

(c) A licensee representing a buyer or tenant client will not be presumed to have breached a duty or obligation to that client by working on the basis that the licensee will receive a higher fee or compensation based on higher selling price or lease cost.

(d) A licensee shall not be liable to a client for providing false information to the client if the false information was provided to the licensee by a customer unless the licensee knew or should have known the information was false.

(e) Nothing in the Section shall be construed as changing a licensee's duty under common law as to negligent or fraudulent misrepresentation of material information.

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

(225 ILCS 454/15-35)

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

[October 15, 2009]

Sec. 15-35. Agency relationship disclosure.

(a) A licensee shall advise a consumer in writing shall be advised of the following no later than beginning to work as a designated agent on behalf of the consumer entering into a brokerage agreement with the sponsoring broker:

(1) That a designated agency relationship exists, unless there is written agreement between the sponsoring broker and the consumer providing for a different brokerage relationship.

(2) The name or names of his or her designated agent or agents. The written disclosure can be included in a brokerage agreement or be a separate document, a copy of which is retained by the sponsoring broker for the licensee in writing.

(b) ~~(3)~~ The licensee representing the consumer shall discuss with the consumer the sponsoring broker's compensation and policy with regard to cooperating with brokers who represent other parties in a transaction.

(c) ~~(b)~~ A licensee shall disclose in writing to a customer that the licensee is not acting as the agent of the customer at a time intended to prevent disclosure of confidential information from a customer to a licensee, but in no event later than the preparation of an offer to purchase or lease real property. This subsection (b) does not apply to residential lease or rental transactions unless the lease or rental agreement includes an option to purchase real estate.

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

(225 ILCS 454/15-45)

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

Sec. 15-45. Dual agency.

(a) A licensee may act as a dual agent only with the informed written consent of all clients. Informed written consent shall be presumed to have been given by any client who signs a document that includes the following:

"The undersigned (insert name(s)), ("Licensee"), may undertake a dual representation (represent both the seller or landlord and the buyer or tenant) for the sale or lease of property. The undersigned acknowledge they were informed of the possibility of this type of representation. Before signing this document please read the following: Representing more than one party to a transaction presents a conflict of interest since both clients may rely upon Licensee's advice and the client's respective interests may be adverse to each other. Licensee will undertake this representation only with the written consent of ALL clients in the transaction. Any agreement between the clients as to a final contract price and other terms is a result of negotiations between the clients acting in their own best interests and on their own behalf. You acknowledge that Licensee has explained the implications of dual representation, including the risks involved, and understand that you have been advised to seek independent advice from your advisors or attorneys before signing any documents in this transaction.

#### WHAT A LICENSEE CAN DO FOR CLIENTS

##### WHEN ACTING AS A DUAL AGENT

1. Treat all clients honestly.
2. Provide information about the property to the buyer or tenant.
3. Disclose all latent material defects in the property that are known to the Licensee.
4. Disclose financial qualification of the buyer or tenant to the seller or landlord.
5. Explain real estate terms.
6. Help the buyer or tenant to arrange for property inspections.
7. Explain closing costs and procedures.
8. Help the buyer compare financing alternatives.
9. Provide information about comparable properties that have sold so both clients may make educated decisions on what price to accept or offer.

##### WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN ACTING AS A DUAL AGENT

1. Confidential information that Licensee may know about a client, without that client's permission.
2. The price or terms the seller or landlord will take other than the listing price without permission of the seller or landlord.
3. The price or terms the buyer or tenant is willing to pay without permission of the buyer or tenant.
4. A recommended or suggested price or terms the buyer or tenant should offer.
5. A recommended or suggested price or terms the seller or landlord should counter with or accept.

If either client is uncomfortable with this disclosure and dual representation, please let Licensee know. You are not required to sign this document unless you want to allow Licensee to

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proceed as a Dual Agent in this transaction. By signing below, you acknowledge that you have read and understand this form and voluntarily consent to Licensee acting as a Dual Agent (that is, to represent BOTH the seller or landlord and the buyer or tenant) should that become necessary."

(b) The dual agency disclosure form provided for in subsection (a) of this Section must be presented by a licensee, who offers dual representation, to the client at the time the brokerage agreement is entered into and may be signed by the client at that time or at any time before the licensee acts as a dual agent as to the client.

(c) A licensee acting in a dual agency capacity in a transaction must obtain a written confirmation from the licensee's clients of their prior consent for the licensee to act as a dual agent in the transaction. This confirmation should be obtained at the time the clients are executing any offer or contract to purchase or lease in a transaction in which the licensee is acting as a dual agent. This confirmation may be included in another document, such as a contract to purchase, in which case the client must not only sign the document but also initial the confirmation of dual agency provision. That confirmation must state, at a minimum, the following:

"The undersigned confirm that they have previously consented to (insert name(s)),

("Licensee"), acting as a Dual Agent in providing brokerage services on their behalf and specifically consent to Licensee acting as a Dual Agent in regard to the transaction referred to in this document."

(d) No cause of action shall arise on behalf of any person against a dual agent for making disclosures allowed or required by this Article, and the dual agent does not terminate any agency relationship by making the allowed or required disclosures.

(e) In the case of dual agency, each client and the licensee possess only actual knowledge and information. There shall be no imputation of knowledge or information among or between clients, brokers, or their affiliated licensees.

(f) In any transaction, a licensee may without liability withdraw from representing a client who has not consented to a disclosed dual agency. The withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction or limit the licensee from representing the client in other transactions. When a withdrawal as contemplated in this subsection (f) occurs, the licensee shall not receive a referral fee for referring a client to another licensee unless written disclosure is made to both the withdrawing client and the client that continues to be represented by the licensee.

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

(225 ILCS 454/15-65)

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

Sec. 15-65. Regulatory enforcement. Nothing contained in this Article limits ~~the Department OBRE~~ in its regulation of licensees under other Articles of this Act and the substantive rules adopted by ~~the Department OBRE~~. ~~The Department OBRE~~, with the advice of the Board, is authorized to promulgate any rules that may be necessary for the implementation and enforcement of this Article 15.

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

(225 ILCS 454/20-5)

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

Sec. 20-5. Index of decisions. ~~The Department OBRE~~ shall maintain an index of formal decisions regarding the issuance, refusal to issue, renewal, refusal to renew, revocation, and suspension of licenses and probationary or other disciplinary action taken under this Act on or after December 31, 1999. ~~The decisions shall be indexed according to the Sections of statutes and the administrative rules, if any, that are the basis for the decision.~~ The index shall be available to the public during regular business hours.

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

(225 ILCS 454/20-10)

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

Sec. 20-10. Unlicensed practice; civil penalty.

(a) Any person who practices, offers to practice, attempts to practice, or holds oneself out to practice as a real estate broker, real estate salesperson, or leasing agent without being licensed under this Act shall, in addition to any other penalty provided by law, pay a civil ~~penalty fine~~ ~~to the Department OBRE~~ in an amount not to exceed \$25,000 for each offense as determined by ~~the Department OBRE~~. The civil ~~penalty fine~~ shall be assessed by ~~the Department OBRE~~ after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a license.

(b) ~~The Department OBRE~~ has the authority and power to investigate any and all unlicensed activity.

(c) The civil ~~penalty fine~~ shall be paid within 60 days after the effective date of the order imposing the civil ~~penalty fine~~. The order shall constitute a ~~judgment judgement~~ and may be filed and execution had thereon in the same manner from any court of record.

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

[October 15, 2009]

(225 ILCS 454/20-20)

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

Sec. 20-20. ~~Grounds for discipline~~ ~~Disciplinary actions; causes.~~

(a) ~~The Department~~ ~~ORRE~~ may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, ~~or may censure, reprimand, or take any other disciplinary or non-disciplinary action as the Department may deem proper otherwise discipline~~ or impose a civil fine not to exceed \$25,000 upon any licensee ~~under this Act or against a licensee in handling his or her own property, whether held by deed, option, or otherwise, hereunder~~ 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. (a) When the applicant or licensee has, by false or fraudulent representation, obtained or sought to obtain a license.~~

(2) ~~The conviction of, plea of guilty or plea of nolo contendere to a felony or misdemeanor (b) When the applicant or licensee has been convicted of any crime, an essential element of which is dishonesty or fraud or larceny, embezzlement, or~~

~~obtaining money, property, or credit by false pretenses or by means of a confidence game, in has been convicted in this or another state of a crime that is a felony under the laws of this State, or any other jurisdiction has been convicted of a felony in a federal court.~~

(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 (c) When the applicant or licensee has been adjudged to be a person under legal disability or subject to involuntary admission or to meet the standard for judicial admission as provided in the Mental Health and Developmental Disabilities Code.~~

(4) ~~Practice under this Act as a (d) When the licensee performs or attempts to perform any act as a broker or salesperson 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) ~~Disciplinary action of another state or jurisdiction against the license or other authorization to practice as a managing broker, broker, salesperson, or leasing agent (e) Discipline of a licensee by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of~~

~~one of the grounds for 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, in which case the only issue will be whether one of the grounds for that discipline is the same or equivalent to one of the grounds for discipline under this Act.~~

(6) ~~Engaging in the practice of (f) When the applicant or licensee has engaged in real estate brokerage activity without a license or after the licensee's license was expired or while the license was inoperative.~~

(7) ~~Cheating on or attempting (g) When the applicant or licensee attempts to subvert or cheat on the Real Estate License Exam or continuing education exam.~~

(8) ~~Aiding or abetting aids and abets 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. (h) When the licensee in performing, attempting to perform, or pretending to perform any act as a broker, salesperson, or leasing agent or when the licensee in handling his or her own property, whether held by deed, option, or otherwise, is found guilty of:~~

(10) ~~(1) Making any substantial misrepresentation or untruthful advertising.~~

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

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

(13) ~~(4) 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) ~~(5) Acting for more than one party in a transaction without providing written notice to all parties for whom the licensee acts.~~

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

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

(17) ~~(8) Failure to maintain and deposit in a special account, separate and apart from~~

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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) (9)~~ Failure to make available to the ~~Department~~ real estate enforcement personnel of OBRE during normal business hours 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~~ OBRE personnel.

~~(19) (4)~~ Failing to furnish copies upon request of ~~all~~ documents relating to a real estate transaction to a ~~party who has executed that document~~ all parties executing them.

~~(20) (1)~~ Failure of a sponsoring broker to timely provide information, sponsor cards, or termination of licenses to the ~~Department~~ OBRE.

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

~~(22) (3)~~ Commingling the money or property of others with his or her own money or property.

~~(23) (4)~~ 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) (5)~~ 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) (6)~~ Any other conduct, whether of the same or a different character from that specified in this Section, that constitutes dishonest dealing.

~~(26) (7)~~ 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) (8)~~ Failing to provide information requested by the ~~Department~~, or otherwise respond to that request ~~OBRE~~, within 30 days of the request, ~~either as the result of a formal or informal complaint to OBRE or as a result of a random audit conducted by OBRE, which would indicate a violation of this Act.~~

~~(28) (9)~~ Advertising by means of a blind advertisement, except as otherwise permitted in Section 10-30 of this Act.

~~(29) (20)~~ Offering guaranteed sales plans, as defined in clause (A) of this subdivision ~~(29) (20)~~, 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 listing contract between the sponsoring broker and the seller ~~or on other terms acceptable to 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)~~ ~~(21)~~ 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)~~ ~~(22)~~ 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)~~ ~~(23)~~ 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)~~ ~~(24)~~ Negotiating a sale, exchange, or lease of real estate directly with any person if the licensee knows that the person has ~~an a-written~~ exclusive brokerage agreement with another broker, unless specifically authorized by that broker.

~~(34)~~ ~~(25)~~ 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)~~ ~~(26)~~ 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)~~ ~~(26)~~, "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)~~ ~~(27)~~ 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 ~~OBRE~~ to enforce those Acts.

~~(37)~~ ~~(28)~~ Violating the terms of a disciplinary order issued by the Department ~~OBRE~~.

~~(38)~~ ~~(29)~~ Paying or failing to disclose compensation in violation of Article 10 of this Act.

~~(39)~~ ~~(30)~~ 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)~~ ~~(31)~~ Disregarding or violating any provision of this Act or the published rules promulgated by the Department ~~OBRE~~ 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 ~~OBRE~~ to enforce this Act.

~~(41)~~ ~~(32)~~ 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.)

(225 ILCS 454/20-21 new)

Sec. 20-21. Injunctions: cease and desist order.

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

(b) Whenever in the opinion of the Department a person violates a provision of this Act, the Department may issue a ruling to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(c) Other than as provided in Section 5-20 of this Act, if any person practices as a real estate broker, real estate salesperson or leasing agent or holds himself or herself out as a licensed sponsoring broker,

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managing broker, real estate broker, real estate salesperson or leasing agent under this Act without being issued a valid existing license by the Department, then any licensed sponsoring broker, managing broker, real estate broker, real estate salesperson, leasing agent, any interested party, or any person injured thereby may, in addition to the Secretary, petition for relief as provided in subsection (a) of this Section.

(225 ILCS 454/20-22 new)

Sec. 20-22. Violations. Any person who is found working or acting as a managing broker, real estate broker, real estate salesperson, or leasing agent or holding himself or herself out as a licensed sponsoring broker, managing broker, real estate broker, real estate salesperson, or leasing agent without being issued a valid existing license is guilty of a Class A misdemeanor and on conviction of a second or subsequent offense the violator shall be guilty of a Class 4 felony.

(225 ILCS 454/20-25)

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

Sec. 20-25. Returned checks; fees. Any person who delivers a check or other payment to the Department ~~OBRE~~ that is returned to the Department ~~OBRE~~ unpaid by the financial institution upon which it is drawn shall pay to the Department ~~OBRE~~, in addition to the amount already owed to the Department ~~OBRE~~, a fee of \$50. The Department ~~OBRE~~ shall notify the person that payment of fees and fines shall be paid to the Department ~~OBRE~~ by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department ~~OBRE~~ shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department ~~OBRE~~ for restoration or issuance of the license and pay all fees and fines due to the Department ~~OBRE~~. The Department ~~OBRE~~ may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary ~~Commissioner~~ may waive the fees due under this Section in individual cases where the Secretary ~~Commissioner~~ finds that the fees would be unreasonable or unnecessarily burdensome.

(Source: P.A. 91-245, eff. 12-31-99; 92-146, eff. 1-1-02.)

(225 ILCS 454/20-50)

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

Sec. 20-50. Illegal discrimination. When there has been an adjudication in a civil or criminal proceeding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department ~~OBRE~~, upon the recommendation of the Board as to the extent of the suspension or revocation, shall suspend or revoke the license of that licensee in a timely manner, unless the adjudication is in the appeal process. When there has been an order in an administrative proceeding finding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department ~~OBRE~~, upon recommendation of the Board as to the nature and extent of the discipline, shall take one or more of the disciplinary actions provided for in Section 20-20 of this Act in a timely manner, unless the administrative order is in the appeal process.

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

(225 ILCS 454/20-55)

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

Sec. 20-55. Illinois Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act, the notice required under the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of record ~~a party~~.

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

(225 ILCS 454/20-60)

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

Sec. 20-60. ~~Investigations Hearing; investigation; notice and hearing ;disciplinary consent order.~~ The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render services or any person holding or claiming to hold a license under this Act. The Department shall, before revoking, (a) ~~OBRE may conduct hearings through the Board or a duly appointed hearing officer on proceedings to suspend, revoke, or to refuse to issue or renew licenses of persons applying for licensure or licensed under this Act or to censure, reprimand, or impose a civil fine not to exceed \$25,000 upon any licensee hereunder and may revoke, suspend, or refuse to issue or renew these licenses or censure, reprimand, or impose a civil fine not to exceed \$25,000 upon any licensee hereunder.~~ (b) Upon the motion of either OBRE or the Board or upon the verified complaint in writing

of any persons setting forth facts that if proven would constitute grounds for suspension or revocation under this Act, OBRE, the Board, or its subcommittee shall cause to be investigated the actions of any person so accused who holds a license or is holding himself or herself out to be a licensee. This person is hereinafter called the accused. (c) Prior to initiating any formal disciplinary proceedings resulting from an investigation conducted pursuant to subsection (b) of this Section, that matter shall be reviewed by a subcommittee of the Board according to procedures established by rule. The subcommittee shall make a recommendation to the full Board as to the validity of the complaint and may recommend that the Board not proceed with formal disciplinary proceedings if the complaint is determined to be frivolous or without merit. (d) Except as provided for in Section 20-65 of this Act, OBRE shall, before suspending, revoking, placing on probation, reprimanding probationary status, or taking any other disciplinary action under Article 20 of this Act, at least 30 days before the date set for the hearing, (i) as OBRE may deem proper with regard to any licensee: (1) notify the accused in writing of the at least 30 days prior to the date set for the hearing of any charges made and the time and place for the hearing on of the charges, (ii) direct him or her to file a written answer to the charges with to be heard before the Board under oath within 20 days after the service on him or her of the notice, and (iii) ; and (2) inform the accused that if he or she fails to answer upon failure to file an answer and request a hearing before the date originally set for the hearing, default will be taken against him or her or that the accused and his or her license may be suspended, revoked, or placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Board may continue the hearing from time to time. In case the person, after receiving the the accused's practice, as OBRE may deem proper, may be taken with regard thereto. In case the person fails to file an answer after receiving notice, fails to file an answer, his or her license may, in the discretion of the Department OBRE, be suspended, revoked, or placed on probationary status, or the Department OBRE may take whatever disciplinary action considered deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that such action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

(e) At the time and place fixed in the notice, the Board shall proceed to hearing of the charges and both the accused person and the complainant shall be accorded ample opportunity to present in person or by counsel such statements, testimony, evidence and argument as may be pertinent to the charges or to any defense thereto. The Board or its hearing officer may continue a hearing date upon its own motion or upon an accused's motion for one period not to exceed 30 days. The Board or its hearing officer may grant further continuances for periods not to exceed 30 days only upon good cause being shown by the moving party. The non moving party shall have the opportunity to object to a continuance on the record at a hearing upon the motion to continue. All motions for continuances and any denial or grant thereof shall be in writing. All motions shall be submitted not later than 48 hours before the scheduled hearing unless made upon an emergency basis. In determining whether good cause for a continuance is shown, the Board or its hearing officer shall consider such factors as the volume of cases pending, the nature and complexity of legal issues raised, the diligence of the party making the request, the availability of party's legal representative or witnesses, and the number of previous requests for continuance.

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

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

(h) Any circuit court or any judge thereof, upon the application of the accused person, complainant, OBRE, or the Board, may, by order entered, require the attendance of witnesses and the production of relevant books and papers before the Board in any hearing relative to the application for or refusal, recall, suspension, or revocation of a license, and the court or judge may compel obedience to the court's or the judge's order by proceedings for contempt.

(i) OBRE, at its expense, shall preserve a record of all proceedings at the formal hearing of any case

involving the refusal to issue or the revocation, suspension, or other discipline of a licensee. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the orders of OBRE shall be the record of the proceeding. At all hearings or pre hearing conferences, OBRE and the accused shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or pre hearing conference at the expense of the party requesting the court reporter's attendance. A copy of the transcribed proceeding shall be available to the other party for the cost of a copy of the transcript.

(j) ~~The Board shall present to the Commissioner its written report of its findings and recommendations. A copy of the report shall be served upon the accused, either personally or by certified mail as provided in this Act for the service of the citation. Within 20 days after the service, the accused may present to the Commissioner a motion in writing for a rehearing that shall specify the particular grounds therefor. If the accused shall order and pay for a transcript of the record as provided in this Act, the time elapsing thereafter and before the transcript is ready for delivery to the accused shall not be counted as part of the 20 days. Whenever the Commissioner is satisfied that substantial justice has not been done, the Commissioner may order a rehearing by the Board or other special committee appointed by the Commissioner or may remand the matter to the Board for their reconsideration of the matter based on the pleadings and evidence presented to the Board. In all instances, under this Act, in which the Board has rendered a recommendation to the Commissioner with respect to a particular licensee or applicant, the Commissioner shall, in the event that he or she disagrees with or takes action contrary to the recommendation of the Board, file with the Board and the Secretary of State his specific written reasons of disagreement with the Board. The reasons shall be filed within 60 days of the Board's recommendation to the Commissioner and prior to any contrary action. At the expiration of the time specified for filing a motion for a rehearing, the Commissioner shall have the right to take the action recommended by the Board. Upon the suspension or revocation of a license, the licensee shall be required to surrender his or her license to OBRE, and upon failure or refusal to do so, OBRE shall have the right to seize the license.~~

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

(l) ~~An order of revocation or suspension or a certified copy thereof, over the seal of OBRE and purporting to be signed by the Commissioner and prior to any contrary action, shall be prima facie proof that:~~

- (1) ~~The signature is the genuine signature of the Commissioner.~~
- (2) ~~The Commissioner is duly appointed and qualified.~~
- (3) ~~The Board and the members thereof are qualified.~~

~~Such proof may be rebutted.~~

(m) ~~Notwithstanding any provisions concerning the conduct of hearings and recommendations for disciplinary actions, OBRE as directed by the Commissioner has the authority to negotiate agreements with licensees and applicants resulting in disciplinary consent orders. These consent orders may provide for any of the forms of discipline provided in this Act. These consent orders shall provide that they were not entered into as a result of any coercion by OBRE. Any such consent order shall be filed with the Commissioner along with the Board's recommendation and accepted or rejected by the Commissioner within 60 days of the Board's recommendation.~~

(Source: P.A. 91-245, eff. 12-31-99; 92-217, eff. 8-2-01.)

(225 ILCS 454/20-62 new)

Sec. 20-62. Record of proceedings; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding.

(225 ILCS 454/20-63 new)

Sec. 20-63. Subpoenas; depositions; oaths. The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in an Act that is administered by the Department.

(225 ILCS 454/20-64 new)

Sec. 20-64. Board; rehearing. At the conclusion of a hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for

rehearing. The Department may respond to the motion, or if a motion for rehearing is denied, then upon denial, and except as provided in Section 20-72 of this Act, the Secretary may enter an order in accordance with the recommendations of the Board. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, then the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(225 ILCS 454/20-65)

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

Sec. 20-65. Temporary suspension. The ~~Secretary Commissioner~~ may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 20-61 ~~20-60~~ of this Act, if the ~~Secretary Commissioner~~ finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. In the event that the ~~Secretary Commissioner~~ temporarily suspends the license without a hearing before the Board, a hearing shall be ~~commenced held~~ within 30 days after the suspension has occurred. The suspended licensee may seek a continuance of the hearing during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

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

(225 ILCS 454/20-66 new)

Sec. 20-66. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee. The hearing officer has full authority to conduct the hearing. Any Board member may attend the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board. The Board shall review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary and all parties to the proceeding. If the Secretary disagrees with a recommendation of the Board or of the hearing officer, then the Secretary may issue an order in contravention of the recommendation.

(225 ILCS 454/20-67 new)

Sec. 20-67. Order or certified copy; prima facie proof. An order, or certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary is prima facie proof that (i) the signature is the genuine signature of the Secretary, (ii) the Secretary is duly appointed and qualified, and (iii) the Board and its members are qualified to act.

(225 ILCS 454/20-68 new)

Sec. 20-68. Surrender of license. Upon the revocation or suspension of a license, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, the Department has the right to seize the license.

(225 ILCS 454/20-69 new)

Sec. 20-69. Restoration of a suspended or revoked license. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee, upon the written recommendation of the Board, unless after an investigation and a hearing the Board determines that restoration is not in the public interest.

(225 ILCS 454/20-72 new)

Sec. 20-72. Secretary; rehearing. If the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or any other discipline of an applicant or licensee, then he or she may order a rehearing by the same or other examiners.

(225 ILCS 454/20-73 new)

Sec. 20-73. Certifications of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

(225 ILCS 454/20-75)

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

Sec. 20-75. Administrative Review ~~venue Law; certification fee; summary report of final disciplinary actions.~~

(a) All final administrative decisions of the Department are ~~OBRE shall be~~ subject to judicial review under pursuant to the provisions of the Administrative Review Law and its the rules adopted pursuant thereto. The term "administrative decision" is defined in Section 3-101 of the Code of Civil Procedure

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Administrative Review Law.

(b) Proceedings for judicial review shall be commenced in the circuit court of the court in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County. OBRE shall not be required to certify any record or file any answer or otherwise appear unless the party filing the complaint pays to OBRE the certification fee provided for by rule representing costs of the certification. Failure on the part of the plaintiff to make such a deposit shall be grounds for dismissal of the action. OBRE shall prepare from time to time, but in no event less often than once every other month, a summary report of final disciplinary actions taken since the previous summary report. The summary report shall contain a brief description of the action that brought about the discipline and the final disciplinary action taken. The summary report shall be made available upon request.

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

(225 ILCS 454/20-82 new)

Sec. 20-82. Fines and penalties; Real Estate Recovery Fund. All fines and penalties collected under this Act by the Department shall be deposited in the Real Estate Recovery Fund.

(225 ILCS 454/20-85)

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

Sec. 20-85. Recovery from Real Estate Recovery Fund. The Department ~~OBRE~~ 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 order of the circuit court of the county where the violation occurred, an amount of not more than ~~\$25,000~~ ~~\$10,000~~ 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 licensed broker or salesperson~~ may recover from the Fund unless the court finds that the person suffered a loss resulting from intentional misconduct. The 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 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~~ ~~\$50,000~~. 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 licensed broker, salesperson, or unlicensed employee~~ who was at the time of the act or omission acting in such capacity or was apparently acting in such capacity and unless the aggrieved person has obtained a valid judgment as provided 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. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-90)

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

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

(a) No action for a judgment that subsequently results in 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 real estate brokers, real estate salespersons,~~ or their employees 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 individual brokers, salespersons,~~ or their employees shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. The aggrieved party may also name as additional parties defendant any corporations, limited liability companies, partnerships, registered limited liability partnership, or other business associations that may be responsible for acts giving rise to a right of recovery from the Real Estate Recovery Fund.

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(c) 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 OBRE in writing to this effect within 7 days of the commencement of the action. Failure to so notify the Department OBRE 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 OBRE 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 defendant 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 Commissioner. Service of process on the Secretary Commissioner shall be taken and held in that court to be as valid and binding as if due service had been made upon the defendant. In case any process mentioned in this Section is served upon the Secretary Commissioner, the Secretary Commissioner shall forward a copy of the process by certified mail to the licensee's last address on record with the Department OBRE. Any judgment obtained after service of process on the Secretary Commissioner under this Act shall apply to and be enforceable against the Real Estate Recovery Fund only. OBRE may intervene in and defend any such action.

(e) 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 OBRE set aside that judgment by default. After such a judgment by default has been set aside, the Department OBRE 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 OBRE 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 OBRE within 20 days prior written notice of all supplementary proceedings so as to allow the Department OBRE to participate in all efforts to collect on the judgment.

(g) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee or an unlicensed employee of any 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 OBRE, and to the person against whom the judgment was obtained, may apply to the court for 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 at an evidentiary hearing to be held by the court upon the application the aggrieved party shall be required to show that the aggrieved person:

- (1) Is not a spouse of the debtor 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 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 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) The court shall make an order directed to the Department OBRE requiring payment from the Real

Estate Recovery Fund 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, 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 OBRE pay from the Real Estate Recovery Fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensed broker or salesperson or an unlicensed employee of a broker, the licensee's license shall be automatically terminated upon the issuance of a 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. 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 OBRE 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. 91-245, eff. 12-31-99.)

(225 ILCS 454/20-95)

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

Sec. 20-95. Power of the Department OBRE to defend. When the Department OBRE 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 defendant and take recourse through any appropriate method of review on behalf of and in the name of the defendant.

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

(225 ILCS 454/20-100)

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

Sec. 20-100. Subrogation of the Department OBRE to rights of judgment creditor. When, upon the order of the court, the Department OBRE has paid from the Real Estate Recovery Fund any sum to the judgment creditor, the Department OBRE shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all rights, title, and interest in the judgment to the Department OBRE and any amount and interest so recovered by the Department OBRE on the judgment shall be deposited in the Real Estate Recovery Fund.

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

(225 ILCS 454/20-110)

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

Sec. 20-110. Disciplinary actions of the Department OBRE not limited. Nothing contained in Sections 20-80 through 20-100 of this Act limits the authority of the Department OBRE to take disciplinary action against any licensee for a violation of this Act or the rules of the Department OBRE, nor shall the repayment in full of all obligations to the Real Estate Recovery Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this Act.

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

(225 ILCS 454/20-115)

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

Sec. 20-115. Time limit on action. No action may be taken by the Department OBRE against any person for violation of the terms of this Act or its rules unless the action is commenced within 5 years after the occurrence of the alleged violation.

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

(225 ILCS 454/25-5)

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

Sec. 25-5. The Department OBRE; powers and duties. The Department OBRE shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties as are prescribed by this Act. The Department OBRE may contract with third parties for services or the development of courses necessary for the proper administration of this Act.

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

(225 ILCS 454/25-10)

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

Sec. 25-10. Real Estate Administration and Disciplinary Board; duties. There is created the Real Estate Administration and Disciplinary Board. The Board shall be composed of 9 persons appointed by the Governor. Members shall be appointed to the Board subject to the following conditions:

- (1) All members shall have been residents and citizens of this State for at least 6 years prior to the date of appointment.
- (2) Six members shall have been actively engaged as brokers or salespersons or both for at least the 10 years prior to the appointment.
- (3) Three members of the Board shall be public members who represent consumer interests.

None of these members shall be (i) a person who is licensed under this Act or a similar Act of another jurisdiction, (ii) the spouse or family member of a licensee, (iii) ~~the spouse of a person licensed under this Act, or~~ a person who has an ownership interest in a real estate brokerage business, or (iv) a person the Department determines to have any other connection with a real estate brokerage business or a licensee. The members' terms shall be 4 years or until their successor is appointed, and the expiration of their terms shall be staggered. Appointments to fill vacancies shall be for the unexpired portion of the term. ~~No A member shall be reappointed to the Board for a term that would cause his or her service on the Board to be longer than 12 years in a lifetime may be reappointed for successive terms but no person shall be appointed to more than 2 terms or any part thereof in his or her lifetime. Persons holding office as members of the Board immediately prior to December 31, 1999 under the Real Estate License Act of 1983 shall continue as members of the Board until the expiration of the term for which they were appointed and until their successors are appointed and qualified.~~ The membership of the Board should reasonably reflect the geographic distribution of the licensee population in this State. In making the appointments, the Governor shall give due consideration to the recommendations by members and organizations of the profession. The Governor may terminate the appointment of any member for cause that in the opinion of the Governor reasonably justifies the termination. Cause for termination shall include without limitation misconduct, incapacity, neglect of duty, or missing 4 board meetings during any one calendar year. Each member of the Board may ~~shall~~ receive a per diem stipend in an amount to be determined by the ~~Secretary Commissioner~~. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties. Such compensation and expenses shall be paid out of the Real Estate License Administration Fund. The ~~Secretary Commissioner~~ shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and examination of candidates under this Act. ~~The Department OBRE~~, after notifying and considering the recommendations of the Board, if any, may issue rules, consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms that shall be used in connection therewith. ~~Five Board members shall constitute a quorum. A quorum is required for all Board decisions. None of the functions, powers, or duties enumerated in Sections 20-20 and 30-5 and subsections (a) and (j) of Section 20-60 of this Act shall be exercised by OBRE except upon the action and report in writing of the Board.~~

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

(225 ILCS 454/25-13)

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

Sec. 25-13. Rules. ~~The Department OBRE~~, after notifying and considering the recommendations of the Board, if any, shall adopt, promulgate, and issue any rules that may be necessary for the implementation and enforcement of this Act.

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

(225 ILCS 454/25-14)

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

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

(Source: P.A. 92-217, eff. 8-2-01.)

(225 ILCS 454/25-15)

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

Sec. 25-15. ~~Director of~~ Real Estate ~~Coordinator~~; duties. There shall be in ~~the Department a OBRE a Director and a Deputy Director of~~ Real Estate ~~Coordinator~~, appointed by the ~~Secretary Commissioner~~, who shall hold a currently valid broker's license, which shall be surrendered to ~~the Department OBRE~~

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during the appointment. The ~~Director of Real Estate Coordinator~~ shall ~~have report to the Commissioner and shall do~~ the following duties and responsibilities:

- (1) act as Chairperson of the Board, ex-officio, without vote;
- (2) be the direct liaison between the Department ~~OBRE~~, the profession, and real estate organizations and associations;
- (3) prepare and circulate to licensees any educational and informational material that the Department ~~OBRE~~ deems necessary for providing guidance or assistance to licensees;
- (4) appoint any necessary committees to assist in the performance of the functions and duties of the Department ~~OBRE~~ under this Act; and
- (5) subject to the administrative approval of the Secretary Commissioner, supervise all real estate activities of ~~OBRE~~.

~~The Commissioner shall appoint, for a term of 4 years, a Deputy Director of Real Estate who shall hold a currently valid broker's license, which shall be surrendered to OBRE during the appointment. Under direction of the Director of Real Estate, the Deputy Director of Real Estate shall be responsible for the administration of the licensing, disciplinary, and education provisions of this Act. The Deputy Director shall also assist the Director of Real Estate in the performance of his or her duties.~~

In designating the ~~Director and Deputy Director~~ of Real Estate Coordinator, the Secretary Commissioner shall give due consideration to recommendations by members and organizations of the profession.

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

(225 ILCS 454/25-20)

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

~~Sec. 25-20. Staff. The Department~~ ~~OBRE~~ shall employ a minimum of one investigator per 10,000 licensees and one prosecutor per 20,000 licensees in order to have sufficient staff to perform the Department's obligations under the Act. ~~carry out the provisions of this Act.~~

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

(225 ILCS 454/25-21 new)

Sec. 25-21. Peer review advisors. The Department may contract with licensees meeting qualifications established by the Department to serve as peer review advisors for complaints and alleged violations of the Act. A peer review advisor is authorized to investigate and determine the facts of a complaint. The peer review advisor shall, at the direction of the Department, interview witnesses, the complainant and any licensees involved in the alleged matter and make a recommendation as to the findings of fact to the Department. The Department shall have 30 days from receipt of the recommendation to accept, reject or modify the recommended findings of fact. Peer review advisors shall be compensated from the Real Estate Audit Fund at a rate of not to exceed \$15,000.00 per advisor annually. A peer review advisor shall not investigate a complaint from a marketplace in which the peer review advisor does business.

(225 ILCS 454/25-25)

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

Sec. 25-25. Real Estate Research and Education Fund. A special fund to be known as the Real Estate Research and Education Fund is created and shall be held in trust in the State Treasury. Annually, on September 15th, the State Treasurer shall cause a transfer of \$125,000 to the Real Estate Research and Education Fund from the Real Estate License Administration Fund. The Real Estate Research and Education Fund shall be administered by the Department ~~OBRE~~. Money deposited in the Real Estate Research and Education Fund may be used for research and education at state institutions of higher education or other organizations for research and the advancement of education in the real estate industry. Of the \$125,000 annually transferred into the Real Estate Research and Education Fund, \$15,000 shall be used to fund a scholarship program for persons of minority racial origin who wish to pursue a course of study in the field of real estate. For the purposes of this Section, "course of study" means a course or courses that are part of a program of courses in the field of real estate designed to further an individual's knowledge or expertise in the field of real estate. These courses shall include without limitation courses that a salesperson licensed under this Act must complete to qualify for a real estate broker's license, courses that a broker licensed under this Act must complete to qualify for a managing broker's license, courses required to obtain the Graduate Realtors Institute designation, and any other courses or programs offered by accredited colleges, universities, or other institutions of higher education in Illinois. The scholarship program shall be administered by the Department ~~OBRE~~ or its designee. Moneys in the Real Estate Research and Education Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund and all earnings, interest, and dividends

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received from such investments shall be deposited in the Real Estate Research and Education Fund and may be used for the same purposes as moneys transferred to the Real Estate Research and Education Fund. Moneys in the Real Estate Research and Education Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/25-30)

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

Sec. 25-30. Real Estate License Administration Fund; audit. A special fund to be known as the Real Estate License Administration Fund is created in the State Treasury. All fees received by the Department OBRE under this Act shall be deposited in the Real Estate License Administration Fund. The moneys deposited in the Real Estate License Administration Fund shall be appropriated to the Department OBRE for expenses of the Department OBRE and the Board in the administration of this Act and for the administration of any Act administered by the Department OBRE providing revenue to this Fund. Moneys in the Real Estate License Administration Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund. All earnings received from such investment shall be deposited in the Real Estate License Administration Fund and may be used for the same purposes as fees deposited in the Real Estate License Administration Fund. Moneys in the Real Estate License Administration Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Upon the completion of any audit of the Department OBRE, as prescribed by the Illinois State Auditing Act, which includes an audit of the Real Estate License Administration Fund, the Department OBRE shall make the audit open to inspection by any interested person.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/25-35)

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

Sec. 25-35. Real Estate Recovery Fund. A special fund to be known as the Real Estate Recovery Fund is created in the State Treasury. ~~All fines and penalties~~ ~~The sums~~ received by the Department OBRE pursuant to Article 20 ~~the provisions of Sections 20-20, 20-30, and 20-80 through 20-100~~ of this Act shall be deposited into the State Treasury and held in the Real Estate Recovery Fund. The money in the Real Estate Recovery Fund shall be used by the Department OBRE exclusively for carrying out the purposes established by this Act. If, at any time, the balance remaining in the Real Estate Recovery Fund is less than \$750,000, the State Treasurer shall cause a transfer of moneys to the Real Estate Recovery Fund from the Real Estate License Administration Fund in an amount necessary to establish a balance of \$800,000 in the Real Estate Recovery Fund. These funds may be invested and reinvested in the same manner as authorized for pension funds in Article 1 44 of the Illinois Pension Code. All earnings, interest, and dividends received from investment of funds in the Real Estate Recovery Fund shall be deposited into the Real Estate License Administration Fund and shall be used for the same purposes as other moneys deposited in the Real Estate License Administration Fund.

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

(225 ILCS 454/25-37)

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

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

(a) A special fund to be known as the Real Estate Audit Fund is created in the State Treasury. ~~The State Treasurer shall cause a transfer of \$200,000 from the Real Estate License Administration Fund to the Real Estate Audit Fund on January 1, 2002.~~ If, at any time, the balance in the Real Estate Audit Fund is less than \$25,000, the State Treasurer shall cause a transfer of \$200,000 from the Real Estate License Administration Fund to the Real Estate Audit Fund. The moneys held in the Real Estate Audit Fund shall be used exclusively by the Department OBRE to conduct audits of special accounts of moneys belonging to others held by a broker.

(b) Upon receipt of a complaint or evidence by the Department OBRE sufficient to cause the Department OBRE to reasonably believe that funds required to be maintained in a special account by a broker have been misappropriated, the broker shall, within 30 days of written notice, submit to an audit of all special accounts. Such audit shall be performed by a licensed certified public accountant, shall result in a written report by the accountant, and shall specifically refer to the escrow and record-keeping requirements of this Act and the rules adopted under this Act. If it is found, pursuant to an order issued by the Secretary Commissioner, that moneys required to be maintained in a special account by a broker were misappropriated, as further defined by rule, the broker shall reimburse the Department OBRE, in addition to any other discipline or civil penalty imposed, for the cost of the audit performed pursuant to

this Section. The Department OBRE may file in circuit court for a judgment to enforce the collection of the reimbursement of the cost of such audit. Any reimbursement collected by the Department OBRE shall be deposited into the Real Estate Audit Fund.

(c) Moneys in the Real Estate Audit Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund. All earnings received from such investment shall be deposited in the Real Estate Audit Fund and may be used for the same purpose as other moneys deposited in the Real Estate Audit Fund. Moneys in the Real Estate Audit Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Upon completion of any audit of the Department OBRE, prescribed by the Illinois State Auditing Act, which includes an audit of the Real Estate Audit Fund, the Department OBRE shall make the audit open to inspection by any interested person.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 454/30-5)

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

Sec. 30-5. Licensing of pre-license schools, school branches, and instructors.

(a) No person shall operate a pre-license school or school branch without possessing a valid pre-license school or school branch license issued by the Department OBRE. No person shall act as a pre-license instructor at a pre-license school or school branch without possessing a valid pre-license instructor license issued by the Department OBRE. Every person who desires to obtain a pre-license school, school branch, or pre-license instructor license shall make application to the Department OBRE in writing in form and substance satisfactory to the Department OBRE and pay the required fees prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. The Department OBRE shall issue a pre-license school, school branch, or pre-license instructor license to applicants who meet qualification criteria established by rule. The Department OBRE may refuse to issue, suspend, revoke, or otherwise discipline a pre-license school, school branch, or pre-license instructor license or may withdraw approval of a course offered by a pre-license school for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

(b) All pre-license instructors must teach at least one course within the period of licensure or take an instructor training program approved by the Department OBRE in lieu thereof. A pre-license instructor may teach at more than one licensed pre-license school.

(c) The term of license for pre-license schools, branches, and instructors shall be 2 years as established by rule.

(d) The Department OBRE or the Advisory Council may, after notice, cause a pre-license school to attend an informal conference before the Advisory Council for failure to comply with any requirement for licensure or for failure to comply with any provision of this Act or the rules for the administration of this Act. The Advisory Council shall make a recommendation to the Board as a result of its findings at the conclusion of any such informal conference.

(e) For purposes of this Section, the term "pre-license" shall also include the 30-hour post-license course required to be taken to retain a broker's license.

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

(225 ILCS 454/30-10)

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

Sec. 30-10. Advisory Council; powers and duties. There is created within the Department OBRE an Advisory Council to be comprised of 5 7 members appointed by the Governor. The members' terms shall be 4 years or until their successor is appointed and the expiration of their terms shall be staggered for 4 year staggered terms. No member shall be reappointed to the Advisory Council for a term that would cause his or her service on the Advisory Council to be longer than 12 ~~serve more than 8~~ years in a lifetime. Two Three of the members shall be licensees who are current members of the Board, one member shall be a representative of an Illinois real estate trade organization who is not a member of the Board, one member shall be a representative of a licensed pre-license school or continuing education school, and one member shall be a representative of an institution of higher education that offers pre-license and continuing education courses. The Real Estate Coordinator Director shall serve as the chairman of the Advisory Council, ex officio, without vote. Three Advisory Council members shall constitute a quorum. A quorum is required for all Advisory Council decisions. The Advisory Council shall recommend criteria for the licensing and renewal of pre-license schools, pre-license instructors, continuing education schools, and continuing education instructors; review applications for these licenses to determine if the applicants meet the qualifications for licensure established in this Act and by

rule; approve pre-license school and continuing education curricula; and make recommendations to the Board regarding rules to be adopted for the conduct of schools and instructors and the administration of the education provisions of this Act.

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

(225 ILCS 454/30-15)

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

Sec. 30-15. Licensing of continuing education schools; approval of courses.

(a) Only continuing education schools in possession of a valid continuing education school license may provide real estate continuing education courses that will satisfy the requirements of this Act. Pre-license schools licensed to offer pre-license education courses for salespersons, brokers and managing brokers shall qualify for a continuing education school license upon completion of an application and the submission of the required fee. Every entity that desires to obtain a continuing education school license shall make application to the Department OBRE in writing in forms prescribed by the Department OBRE and pay the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number.

(b) The criteria for a continuing education license shall include the following:

(1) A sound financial base for establishing, promoting, and delivering the necessary courses. Budget planning for the School's courses should be clearly projected.

(2) A sufficient number of qualified, licensed instructors as provided by rule.

(3) Adequate support personnel to assist with administrative matters and technical assistance.

(4) Maintenance and availability of records of participation for licensees.

(5) The ability to provide each participant who successfully completes an approved program with a certificate of completion signed by the administrator of a licensed continuing education school on forms provided by the Department OBRE.

(6) The continuing education school must have a written policy dealing with procedures for the management of grievances and fee refunds.

(7) The continuing education school shall maintain lesson plans and examinations for each course.

(8) The continuing education school shall require a 70% passing grade for successful completion of any continuing education course.

(9) The continuing education school shall identify and use instructors who will teach in a planned program. Suggested criteria for instructor selections include:

(A) appropriate credentials;

(B) competence as a teacher;

(C) knowledge of content area; and

(D) qualification by experience.

(10) The continuing education school shall provide a proctor or an electronic means of proctoring for each examination. The continuing education school shall be responsible for the conduct of the proctor. The duties and responsibilities of a proctor shall be established by rule.

(11) The continuing education school must provide for closed book examinations for each course unless the Advisory Council excuses this requirement based on the complexity of the course material.

(c) Advertising and promotion of continuing education activities must be carried out in a responsible fashion, clearly showing the educational objectives of the activity, the nature of the audience that may benefit from the activity, the cost of the activity to the participant and the items covered by the cost, the amount of credit that can be earned, and the credentials of the faculty.

(d) The Department OBRE may or upon request of the Advisory Council shall, after notice, cause a continuing education school to attend an informal conference before the Advisory Council for failure to comply with any requirement for licensure or for failure to comply with any provision of this Act or the rules for the administration of this Act. The Advisory Council shall make a recommendation to the Board as a result of its findings at the conclusion of any such informal conference.

(e) All continuing education schools shall maintain these minimum criteria and pay the required fee in order to retain their continuing education school license.

(f) All continuing education schools shall submit, at the time of initial application and with each license renewal, a list of courses with course materials to be offered by the continuing education school. The Department OBRE, however, shall establish a mechanism whereby continuing education schools may apply for and obtain approval for continuing education courses that are submitted after the time of initial application or renewal. The Department OBRE shall provide to each continuing education school

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a certificate for each approved continuing education course. All continuing education courses shall be valid for the period coinciding with the term of license of the continuing education school. All continuing education schools shall provide a copy of the certificate of the continuing education course within the course materials given to each student or shall display a copy of the certificate of the continuing education course in a conspicuous place at the location of the class.

(g) Each continuing education school shall provide to the Department OBRE a monthly report in a format determined by the Department OBRE, with information concerning students who successfully completed all approved continuing education courses offered by the continuing education school for the prior month.

(h) The Department OBRE, upon the recommendation of the Advisory Council, may temporarily suspend a licensed continuing education school's approved courses without hearing and refuse to accept successful completion of or participation in any of these continuing education courses for continuing education credit from that school upon the failure of that continuing education school to comply with the provisions of this Act or the rules for the administration of this Act, until such time as the Department OBRE receives satisfactory assurance of compliance. The Department OBRE shall notify the continuing education school of the noncompliance and may initiate disciplinary proceedings pursuant to this Act. The Department OBRE may refuse to issue, suspend, revoke, or otherwise discipline the license of a continuing education school or may withdraw approval of a continuing education course for good cause. Failure to comply with the requirements of this Section or any other requirements established by rule shall be deemed to be good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

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

(225 ILCS 454/30-20)

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

Sec. 30-20. Fees for continuing education school license; renewal; term. All applications for a continuing education school license shall be accompanied by a nonrefundable application fee in an amount established by rule. All continuing education schools shall be required to submit a renewal application, the required fee as established by rule, and a listing of the courses to be offered during the year to renew their continuing education school licenses. The term for a continuing education school license shall be 2 years and as established by rule. The fees collected under this Article 30 shall be deposited in the Real Estate License Administration Fund and shall be used to defray the cost of administration of the program and per diem of the Advisory Council as determined by the Secretary Commissioner.

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

(225 ILCS 454/30-25)

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

Sec. 30-25. Licensing of continuing education instructors.

(a) No such person shall act as a continuing education instructor at a continuing education school or branch without possessing Only persons approved by the Advisory Council and in possession of a valid continuing education instructor license and satisfying any other qualification criteria established by the Department by rule issued by OBRE may instruct continuing education courses.

(b) After the effective date of this Act, every person who desires to obtain a continuing education instructor's license shall attend and successfully complete a one-day instructor development workshop, as approved by the Department. The term of licensure for a continuing education instructor shall be 2 years and as established by rule. Every person who desires to obtain a continuing education instructor license shall make application to the Department OBRE in writing on forms prescribed by the Office, accompanied by the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. The Department OBRE shall issue a continuing education instructor license to applicants who meet qualification criteria established by this Act or rule.

(c) The Department OBRE may refuse to issue, suspend, revoke, or otherwise discipline a continuing education instructor for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act. All The term of a license for a continuing education instructors instructor shall be 2 years and as established by rule. All Continuing Education Instructors must teach at least one course within the period of licensure or take an instructor training program approved by the Department OBRE in lieu thereof.

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

Section 25. The Code of Civil Procedure is amended by changing Sections 15-1503 and 15-1508 as

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follows:

(735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

Sec. 15-1503. Notice of Foreclosure.

(a) A notice of foreclosure, whether the foreclosure is initiated by complaint or counterclaim, made in accordance with this Section and recorded in the county in which the mortgaged real estate is located shall be constructive notice of the pendency of the foreclosure to every person claiming an interest in or lien on the mortgaged real estate, whose interest or lien has not been recorded prior to the recording of such notice of foreclosure. Such notice of foreclosure must be executed by any party or any party's attorney and shall include (i) the names of all plaintiffs and the case number, (ii) the court in which the action was brought, (iii) the names of title holders of record, (iv) a legal description of the real estate sufficient to identify it with reasonable certainty, (v) a common address or description of the location of the real estate and (vi) identification of the mortgage sought to be foreclosed. An incorrect common address or description of the location, or an immaterial error in the identification of a plaintiff or title holder of record, shall not invalidate the lis pendens effect of the notice under this Section. A notice which complies with this Section shall be deemed to comply with Section 2-1901 of the Code of Civil Procedure and shall have the same effect as a notice filed pursuant to that Section; however, a notice which complies with Section 2-1901 shall not be constructive notice unless it also complies with the requirements of this Section.

(b) With respect to residential real estate, a copy of the notice of foreclosure described in subsection (a) of Section 15-1503 shall be sent by first class mail, postage prepaid, to the municipality within the boundary of which the mortgaged real estate is located, or to the county within the boundary of which the mortgaged real estate is located if the mortgaged real estate is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which such notice shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which such notice shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b), then such notice to the municipality or county shall be provided pursuant to Section 2-211 of the Code of Civil Procedure.

(Source: P.A. 86-974.)

(735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

Sec. 15-1508. Report of Sale and Confirmation of Sale.

(a) Report. The person conducting the sale shall promptly make a report to the court, which report shall include a copy of all receipts and, if any, certificate of sale.

(b) Hearing. Upon motion and notice in accordance with court rules applicable to motions generally, which motion shall not be made prior to sale, the court shall conduct a hearing to confirm the sale. Unless the court finds that (i) a notice required in accordance with subsection (c) of Section 15-1507 was not given, (ii) the terms of sale were unconscionable, (iii) the sale was conducted fraudulently or (iv) that justice was otherwise not done, the court shall then enter an order confirming the sale. The confirmation order shall include a name, address, and telephone number of the holder of the certificate of sale or deed issued pursuant to that certificate or, if no certificate or deed was issued, the purchaser, whom a municipality or county may contact with concerns about the real estate. The confirmation order may also:

(1) approve the mortgagee's fees and costs arising between the entry of the judgment of foreclosure and the confirmation hearing, those costs and fees to be allowable to the same extent as provided in the note and mortgage and in Section 15-1504;

(2) provide for a personal judgment against any party for a deficiency; and

(3) determine the priority of the judgments of parties who deferred proving the priority pursuant to subsection (h) of Section 15-1506, but the court shall not defer confirming the sale pending the determination of such priority.

(b-5) Notice with respect to residential real estate. With respect to residential real estate, the notice required under subsection (b) of this Section shall be sent to the mortgagor even if the mortgagor has previously been held in default. In the event the mortgagor has filed an appearance, the notice shall be sent to the address indicated on the appearance. In all other cases, the notice shall be sent to the mortgagor at the common address of the foreclosed property. The notice shall be sent by first class mail. Unless the right to possession has been previously terminated by the court, the notice shall include the following language in 12-point boldface capitalized type:

IF YOU ARE THE MORTGAGOR (HOMEOWNER), YOU HAVE THE RIGHT TO REMAIN IN POSSESSION FOR 30 DAYS AFTER ENTRY OF AN ORDER OF POSSESSION, IN ACCORDANCE WITH SECTION 15-1701(c) OF THE ILLINOIS MORTGAGE FORECLOSURE

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(b-10) Notice of confirmation order sent to municipality or county. A copy of the confirmation order required under subsection (b) shall be sent to the municipality in which the foreclosed property is located, or to the county within the boundary of which the foreclosed property is located if the foreclosed property is located in an unincorporated territory. A municipality or county must clearly publish on its website a single address to which such notice shall be sent. If a municipality or county does not maintain a website, then the municipality or county must publicly post in its main office a single address to which such notice shall be sent. In the event that a municipality or county has not complied with the publication requirement in this subsection (b-10), then such notice to the municipality or county shall be provided pursuant to Section 2-211 of the Code of Civil Procedure.

(c) Failure to Give Notice. If any sale is held without compliance with subsection (c) of Section 15-1507 of this Article, any party entitled to the notice provided for in paragraph (3) of that subsection (c) who was not so notified may, by motion supported by affidavit made prior to confirmation of such sale, ask the court which entered the judgment to set aside the sale. Any such party shall guarantee or secure by bond a bid equal to the successful bid at the prior sale, unless the party seeking to set aside the sale is the mortgagor, the real estate sold at the sale is residential real estate, and the mortgagor occupies the residential real estate at the time the motion is filed. In that event, no guarantee or bond shall be required of the mortgagor. Any subsequent sale is subject to the same notice requirement as the original sale.

(d) Validity of Sale. Except as provided in subsection (c) of Section 15-1508, no sale under this Article shall be held invalid or be set aside because of any defect in the notice thereof or in the publication of the same, or in the proceedings of the officer conducting the sale, except upon good cause shown in a hearing pursuant to subsection (b) of Section 15-1508. At any time after a sale has occurred, any party entitled to notice under paragraph (3) of subsection (c) of Section 15-1507 may recover from the mortgagee any damages caused by the mortgagee's failure to comply with such paragraph (3). Any party who recovers damages in a judicial proceeding brought under this subsection may also recover from the mortgagee the reasonable expenses of litigation, including reasonable attorney's fees.

(e) Deficiency Judgment. In any order confirming a sale pursuant to the judgment of foreclosure, the court shall also enter a personal judgment for deficiency against any party (i) if otherwise authorized and (ii) to the extent requested in the complaint and proven upon presentation of the report of sale in accordance with Section 15-1508. Except as otherwise provided in this Article, a judgment may be entered for any balance of money that may be found due to the plaintiff, over and above the proceeds of the sale or sales, and enforcement may be had for the collection of such balance, the same as when the judgment is solely for the payment of money. Such judgment may be entered, or enforcement had, only in cases where personal service has been had upon the persons personally liable for the mortgage indebtedness, unless they have entered their appearance in the foreclosure action.

(f) Satisfaction. Upon confirmation of the sale, the judgment stands satisfied to the extent of the sale price less expenses and costs. If the order confirming the sale includes a deficiency judgment, the judgment shall become a lien in the manner of any other judgment for the payment of money.

(g) The order confirming the sale shall include, notwithstanding any previous orders awarding possession during the pendency of the foreclosure, an award to the purchaser of possession of the mortgaged real estate, as of the date 30 days after the entry of the order, against the parties to the foreclosure whose interests have been terminated.

An order of possession authorizing the removal of a person from possession of the mortgaged real estate shall be entered and enforced only against those persons personally named as individuals in the complaint or the petition under subsection (h) of Section 15-1701 and in the order of possession and shall not be entered and enforced against any person who is only generically described as an unknown owner or nonrecord claimant or by another generic designation in the complaint.

Notwithstanding the preceding paragraph, the failure to personally name, include, or seek an award of possession of the mortgaged real estate against a person in the confirmation order shall not abrogate any right that the purchaser may have to possession of the mortgaged real estate and to maintain a proceeding against that person for possession under Article 9 of this Code or subsection (h) of Section 15-1701; and possession against a person who (1) has not been personally named as a party to the foreclosure and (2) has not been provided an opportunity to be heard in the foreclosure proceeding may be sought only by maintaining a proceeding under Article 9 of this Code or subsection (h) of Section 15-1701.

(Source: P.A. 95-826, eff. 8-14-08; 96-265, eff. 8-11-09.)

Section 30. The Residential Real Property Disclosure Act is amended by changing Section 70 as

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follows:

(765 ILCS 77/70)

Sec. 70. Predatory lending database program.

(a) As used in this Article:

"Adjustable rate mortgage" or "ARM" means a closed-end mortgage transaction that allows adjustments of the loan interest rate during the first 3 years of the loan term.

"Borrower" means a person seeking a mortgage loan.

"Broker" means a "broker" or "loan broker", as defined in subsection (p) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Closing agent" means an individual assigned by a title insurance company or a broker or originator to ensure that the execution of documents related to the closing of a real estate sale or the refinancing of a real estate loan and the disbursement of closing funds are in conformity with the instructions of the entity financing the transaction.

"Counseling" means in-person counseling provided by a counselor employed by a HUD-certified counseling agency to all borrowers, or documented telephone counseling where a hardship would be imposed on one or more borrowers. A hardship shall exist in instances in which the borrower is confined to his or her home due to medical conditions, as verified in writing by a physician, or the borrower resides 50 miles or more from the nearest participating HUD-certified housing counseling agency. In instances of telephone counseling, the borrower must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"Counselor" means a counselor employed by a HUD-certified housing counseling agency.

"Credit score" means a credit risk score as defined by the Fair Isaac Corporation, or its successor, and reported under such names as "BEACON", "EMPIRICA", and "FAIR ISAAC RISK SCORE" by one or more of the following credit reporting agencies or their successors: Equifax, Inc., Experian Information Solutions, Inc., and TransUnion LLC. If the borrower's credit report contains credit scores from 2 reporting agencies, then the broker or loan originator shall report the lower score. If the borrower's credit report contains credit scores from 3 reporting agencies, then the broker or loan originator shall report the middle score.

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

"Exempt person" means that term as it is defined in subsections (d)(1) and (d)(1.5) of Section 1-4 of the Residential Mortgage License Act of 1987.

"First-time homebuyer" means a borrower who has not held an ownership interest in residential property.

"HUD-certified counseling" or "counseling" means counseling given to a borrower by a counselor employed by a HUD-certified housing counseling agency.

"Interest only" means a closed-end loan that permits one or more payments of interest without any reduction of the principal balance of the loan, other than the first payment on the loan.

"Lender" means that term as it is defined in subsection (g) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Licensee" means that term as it is defined in subsection (e) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Mortgage loan" means that term as it is defined in subsection (f) of Section 1-4 of the Residential Mortgage License Act of 1987.

"Negative amortization" means an amortization method under which the outstanding balance may increase at any time over the course of the loan because the regular periodic payment does not cover the full amount of interest due.

"Originator" means a "loan originator" as defined in subsection (hh) of Section 1-4 of the Residential Mortgage License Act of 1987, except an exempt person.

"Points and fees" has the meaning ascribed to that term in Section 10 of the High Risk Home Loan Act.

"Prepayment penalty" means a charge imposed by a lender under a mortgage note or rider when the loan is paid before the expiration of the term of the loan.

"Refinancing" means a loan secured by the borrower's or borrowers' primary residence where the proceeds are not used as purchase money for the residence.

"Title insurance company" means any domestic company organized under the laws of this State for the purpose of conducting the business of guaranteeing or insuring titles to real estate and any title insurance company organized under the laws of another State, the District of Columbia, or a foreign government and authorized to transact the business of guaranteeing or insuring titles to real estate in this State.

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(a-5) A predatory lending database program shall be established within Cook County. The program shall be administered in accordance with this Article. The inception date of the program shall be July 1, 2008. A predatory lending database program shall be expanded to include Kane, Peoria, and Will counties. The inception date of the expansion of the program as it applies to Kane, Peoria, and Will counties shall be July 1, 2010. Until the inception date, none of the duties, obligations, contingencies, or consequences of or from the program shall be imposed. The program shall apply to all mortgage applications that are governed by this Article and that are made or taken on or after the inception of the program.

(b) The database created under this program shall be maintained and administered by the Department. The database shall be designed to allow brokers, originators, counselors, title insurance companies, and closing agents to submit information to the database online. The database shall not be designed to allow those entities to retrieve information from the database, except as otherwise provided in this Article. Information submitted by the broker or originator to the Department may be used to populate the online form submitted by a counselor, title insurance company, or closing agent.

(c) Within 10 days after taking a mortgage application, the broker or originator for any mortgage on residential property within the program area must submit to the predatory lending database all of the information required under Section 72 and any other information required by the Department by rule. Within 7 days after receipt of the information, the Department shall compare that information to the housing counseling standards in Section 73 and issue to the borrower and the broker or originator a determination of whether counseling is recommended for the borrower. The borrower may not waive counseling. If at any time after submitting the information required under Section 72 the broker or originator (i) changes the terms of the loan or (ii) issues a new commitment to the borrower, then, within 5 days thereafter, the broker or originator shall re-submit all of the information required under Section 72 and, within 4 days after receipt of the information re-submitted by the broker or originator, the Department shall compare that information to the housing counseling standards in Section 73 and shall issue to the borrower and the broker or originator a new determination of whether re-counseling is recommended for the borrower based on the information re-submitted by the broker or originator. The Department shall require re-counseling if the loan terms have been modified to meet another counseling standard in Section 73, or if the broker has increased the interest rate by more than 200 basis points.

(d) If the Department recommends counseling for the borrower under subsection (c), then the Department shall notify the borrower of all participating HUD-certified counseling agencies located within the State and direct the borrower to interview with a counselor associated with one of those agencies. Within 10 days after receipt of the notice of HUD-certified counseling agencies, the borrower shall select one of those agencies and shall engage in an interview with a counselor associated with that agency. Within 7 days after interviewing the borrower, the counselor must submit to the predatory lending database all of the information required under Section 74 and any other information required by the Department by rule. Reasonable and customary costs not to exceed \$300 associated with counseling provided under the program shall be paid by the broker or originator. The Department shall annually calculate to the nearest dollar an adjusted rate for inflation. A counselor shall not recommend or suggest that a borrower contact any specific mortgage origination company, financial institution, or entity that deals in mortgage finance to obtain a loan, another quote, or for any other reason related to the specific mortgage transaction; however, a counselor may suggest that the borrower seek an opinion or a quote from another mortgage origination company, financial institution, or entity that deals in mortgage finance. A counselor or housing counseling agency that in good faith provides counseling shall not be liable to a broker or originator or borrower for civil damages, except for willful or wanton misconduct on the part of the counselor in providing the counseling.

(e) The broker or originator and the borrower may not take any legally binding action concerning the loan transaction until the later of the following:

(1) the Department issues a determination not to recommend HUD-certified counseling for the borrower in accordance with subsection (c); or

(2) the Department issues a determination that HUD-certified counseling is recommended for the borrower and the counselor submits all required information to the database in accordance with subsection (d).

(f) Within 10 days after closing, the title insurance company or closing agent must submit to the predatory lending database all of the information required under Section 76 and any other information required by the Department by rule.

(g) The title insurance company or closing agent shall attach to the mortgage a certificate of compliance with the requirements of this Article, as generated by the database. If the title insurance company or closing agent fails to attach the certificate of compliance, then the mortgage is not

recordable. In addition, if any lis pendens for a residential mortgage foreclosure is recorded on the property within the program area, a certificate of service must be simultaneously recorded that affirms that a copy of the lis pendens was filed with the Department. If the certificate of service is not recorded, then the lis pendens pertaining to the residential mortgage foreclosure in question is not recordable and is of no force and effect.

(h) All information provided to the predatory lending database under the program is confidential and is not subject to disclosure under the Freedom of Information Act, except as otherwise provided in this Article. Information or documents obtained by employees of the Department in the course of maintaining and administering the predatory lending database are deemed confidential. Employees are prohibited from making disclosure of such confidential information or documents. Any request for production of information from the predatory lending database, whether by subpoena, notice, or any other source, shall be referred to the Department of Financial and Professional Regulation. Any borrower may authorize in writing the release of database information. The Department may use the information in the database without the consent of the borrower: (i) for the purposes of administering and enforcing the program; (ii) to provide relevant information to a counselor providing counseling to a borrower under the program; or (iii) to the appropriate law enforcement agency or the applicable administrative agency if the database information demonstrates criminal, fraudulent, or otherwise illegal activity.

(i) Nothing in this Article is intended to prevent a borrower from making his or her own decision as to whether to proceed with a transaction.

(j) Any person who violates any provision of this Article commits an unlawful practice within the meaning of the Consumer Fraud and Deceptive Business Practices Act.

(k) During the existence of the program, the Department shall submit semi-annual reports to the Governor and to the General Assembly by May 1 and November 1 of each year detailing its findings regarding the program. The report shall include, by county, at least the following information for each reporting period:

(1) the number of loans registered with the program;

(2) the number of borrowers receiving counseling;

(3) the number of loans closed;

(4) the number of loans requiring counseling for each of the standards set forth in Section 73;

(5) the number of loans requiring counseling where the mortgage originator changed the loan terms subsequent to counseling; -

(6) the number of licensed mortgage brokers and loan originators entering information into the database;

(7) the number of investigations based on information obtained from the database, including the number of licensees fined, the number of licenses suspended, and the number of licenses revoked;

(8) a summary of the types of non-traditional mortgage products being offered; and

(9) a summary of how the Department is actively utilizing the program to combat mortgage fraud.

(Source: P.A. 95-691, eff. 6-1-08; 96-328, eff. 8-11-09.)

(225 ILCS 454/5-30 rep.) (225 ILCS 454/5-55 rep.) (225 ILCS 454/20-30 rep.) (225 ILCS 454/20-35 rep.) (225 ILCS 454/20-40 rep.) (225 ILCS 454/20-45 rep.) (225 ILCS 454/20-80 rep.) (225 ILCS 454/20-120 rep.) (225 ILCS 454/30-30 rep.)

Section 95. The Real Estate License Act of 2000 is amended by repealing Sections 5-30, 5-55, 20-30, 20-35, 20-40, 20-45, 20-80, 20-120, and 30-30.

Section 97. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 99. Effective date. This Act takes effect upon becoming law, except that Sections 5, 20, and 95 take effect on December 31, 2009 and Sections 10 and 25 take effect 60 days after becoming law."

#### **AMENDMENT NO. 2 TO SENATE BILL 1894**

AMENDMENT NO. 2. Amend Senate Bill 1894, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 5, immediately below line 1, by inserting the following:

"(d) In the case of an abandoned residential property as defined in Section 11-20-15.1, the municipality may elect to obtain a lien for the removal cost pursuant to Section 11-20-15.1, in which case the provisions of Section 11-20-15.1 shall be the exclusive remedy for the removal cost.

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The provisions of this subsection (d), other than this sentence, are inoperative upon certification by the Secretary of the Illinois Department of Financial and Professional Regulation, after consultation with the United States Department of Housing and Urban Development, that the Mortgage Electronic Registration System program is effectively registering substantially all mortgaged residential properties located in the State of Illinois, is available for access by all municipalities located in the State of Illinois without charge to them, and such registration includes the telephone number for the mortgage servicer."; and

on page 10, line 12, by replacing "1009" with "2009".

Under the rules, the foregoing **Senate Bill No. 1894**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 2106

A bill for AN ACT concerning local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 2106

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

**AMENDMENT NO. 1 TO SENATE BILL 2106**

AMENDMENT NO. 1. Amend Senate Bill 2106 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Massac-Metropolis Port District Act.

Section 5. Definitions. As used in this Act, the following terms shall have the following meanings unless a different meaning clearly appears from the context:

"Aircraft" means any contrivance now known or hereafter invented, used, or designed for navigation of, or flight in, the air.

"Airport" means any locality, either land or water, which is used or designed for the landing and taking off of aircraft, or for the location of runways, landing fields, airdromes, hangars, buildings, structures, airport roadways, and other facilities.

"Airport hazard" means any structure, or object of natural growth, located on or in the vicinity of an airport, or any use of land near an airport which is hazardous to the use of such airport for the landing and take off of aircraft.

"Approach" means any path, course, or zone defined by an ordinance of the District or by other lawful regulation, on the ground or in the air, or both, for the use of aircraft in landing and taking off from an airport located within the District.

"Board" means the Massac-Metropolis Port District Board.

"Commercial aircraft" means any aircraft other than public aircraft engaged in the business of transporting persons or property.

"District" or "Port District" means the Massac-Metropolis Port District created by this Act.

"Export trading companies" means a person, partnership, association, public or private corporation or similar organization, whether operated for profit or not-for-profit, which is organized and operated principally for purposes of exporting goods or services produced in the United States, importing goods or services produced in foreign countries, conducting third country trading or facilitating such trade by providing one or more services in support of such trade.

"General obligation bond" means any bond issued by the District any part of the principal or interest of which bond is to be paid by taxation.

"Governmental agency" means the Federal government, the State, and any unit of local government or school district, and any agency or instrumentality, corporate or otherwise, thereof.

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"Governor" means the Governor of the State of Illinois.

"Mayor" means the Mayor of the City of Metropolis, the Mayor of the City of Brookport, or the President of the Village of Joppa, as the case may require.

"Navigable waters" means any public waters which are or can be made usable for water commerce.

"Person" means any individual, firm, partnership, corporation, both domestic and foreign, company, association, or joint stock association; and includes any trustee, receiver, assignee, or personal representative thereof.

"Port facilities" means all public structures, except terminal facilities as defined herein, that are in, over, under, or adjacent to navigable waters and are necessary for or incident to the furtherance of water commerce and includes the widening and deepening of slips, harbors, and navigable waters.

"Private aircraft" means any aircraft other than public and commercial aircraft.

"Public aircraft" means an aircraft used exclusively in the governmental service of the United States, or of any state or of any public agency, including military and naval aircraft.

"Public airport" means an airport owned by a Port District, an airport authority or other public agency which is used or is intended for use by public, commercial, and private aircraft and by persons owning, managing, operating or desiring to use, inspect, or repair any such aircraft or to use any such airport for aeronautical purposes.

"Public interest" means the protection, furtherance and advancement of the general welfare and of public health and safety and public necessity and convenience in respect to aeronautics.

"Revenue bond" means any bond issued by the District the principal and interest of which bond is payable solely from revenues or income derived from terminal, terminal facilities, or port facilities of the District.

"Terminal" means a public place, station, or depot for receiving and delivering baggage, mail, freight, or express matter and for any combination of such purposes, in connection with the transportation of persons and property on water or land or in the air.

"Terminal facilities" means all land, buildings, structures, improvements, equipment, and appliances useful in the operation of public warehouse, storage, and transportation facilities for the accommodation of or in connection with commerce by water or land or in the air or useful as an aid, or constituting an advantage or convenience to, the safe landing, taking off and navigation of aircraft, or the safe and efficient operation or maintenance of a public airport; except that nothing in this definition contained shall be interpreted as granting authority to the District to acquire, purchase, create, erect, or construct a bridge across any waterway which serves as a boundary between the State of Illinois and any other state.

Section 10. Massac-Metropolis Port District. There is created a political subdivision, body politic, and municipal corporation by the name of the Massac-Metropolis Port District embracing all of the area within the corporate limits of Massac County. Territory may be annexed to the District in the manner hereinafter provided in this Act. The District may sue and be sued in its corporate name but execution shall not in any case issue against any property of the District. It may adopt a common seal and change the same at pleasure.

Section 15. Property of district; exemption. All property of every kind owned by the Port District shall be exempt from taxation. However, a tax may be levied upon a lessee of the Port District by reason of the value of a leasehold estate separate and apart from the fee simple title, or upon such improvements as are constructed and owned by others than the Port District.

All property of the Port District shall be public grounds owned by a municipal corporation and used exclusively for public purposes within the tax exemption provisions of Sections 15-10, 15-15, 15-20, 15-30, 15-75, 15-140, 15-155, and 15-160 of the Property Tax Code.

Section 20. Rights and powers. The Port District has the following rights and powers:

(a) To issue permits: for the construction of all wharves, piers, dolphins, booms, weirs, breakwaters, bulkheads, jetties, bridges or other structures of any kind, over, under, in, or within 40 feet of any navigable waters within the Port Districts; for the deposit of rock, earth, sand, or other material, or any matter of any kind or description in said waters; except that nothing contained in this subsection (a) shall be construed so that it will be deemed necessary to obtain a permit from the District for the erection, operation, or maintenance of any bridge crossing a waterway which serves as a boundary between the State of Illinois and any other State, when said erection, operation, or maintenance is performed by any city within the District.

(b) To prevent or remove obstructions in navigable waters, including the removal of wrecks.

(c) To locate and establish dock lines and shore or harbor lines.

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(d) To regulate the anchorage, moorage, and speed of water borne vessels and to establish and enforce regulations for the operation of bridges, except nothing contained in this subsection (d) shall be construed to give the District authority to regulate the operation of any bridge crossing a water way which serves as a boundary between the State of Illinois and any other State, when such operation is performed or to be performed by any city within the District.

(e) To acquire, own, construct, lease, operate, and maintain terminals, terminal facilities, and port facilities, and to fix and collect just, reasonable, and nondiscriminatory charges for the use of such facilities. The charges so collected shall be used to defray the reasonable expenses of the Port District and to pay the principal of and interest on any revenue bonds issued by the District.

(f) To locate, establish, and maintain a public airport, public airports and public airport facilities within its corporate limits or within or upon any body of water adjacent thereto, and to construct, develop, expand, extend, and improve any such airport or airport facility.

(g) To operate, maintain, manage, lease, sublease, and to make and enter into contracts for the use, operation, or management of, and to provide rules and regulations for, the operation, management or use of, any public airport or public airport facility.

(h) To fix, charge, and collect reasonable rentals, tolls, fees, and charges for the use of any public airport, or any part thereof, or any public airport facility.

(i) To establish, maintain, extend, and improve roadways and approaches by land, water, or air to any such airport and to contract or otherwise provide, by condemnation if necessary, for the removal of any airport hazard or the removal or relocation of all private structures, railways, mains, pipes, conduits, wires, poles, and all other facilities and equipment which may interfere with the location, expansion, development, or improvement of airports or with the safe approach thereto or takeoff therefrom by aircraft, and to pay the cost of removal or relocation; and, subject to the Airport Zoning Act, to adopt, administer, and enforce airport zoning regulations for territory which is within its corporate limits or which extends not more than 2 miles beyond its corporate limits.

(j) To restrict the height of any object of natural growth or structure or structures within the vicinity of any airport or within the lines of an approach to any airport and, when necessary, for the reduction in the height of any such existing object or structure, to enter into an agreement for such reduction or to accomplish same by condemnation.

(k) To agree with the state or federal governments or with any public agency in respect to the removal and relocation of any object of natural growth, airport hazard, or any structure or building within the vicinity of any airport or within an approach and which is owned or within the control of such government or agency and to pay all or an agreed portion of the cost of such removal or relocation.

(l) For the prevention of accidents, for the furtherance and protection of public health, safety, and convenience in respect to aeronautics, for the protection of property and persons within the District from any hazard or nuisance resulting from the flight of aircraft, for the prevention of interference between, or collision of, aircraft while in flight or upon the ground, for the prevention or abatement of nuisances in the air or upon the ground or for the extension of increase in the usefulness or safety of any public airport or public airport facility owned by the District, the District may regulate and restrict the flight of aircraft while within or above the incorporated territory of the District.

(m) To police its physical property only and all waterways and to exercise police powers in respect thereto or in respect to the enforcement of any rule or regulation provided by the ordinances of the District and to employ and commission police officers and other qualified persons to enforce the same. The use of any such public airport or public airport facility of the District shall be subject to the reasonable regulation and control of the District and upon such reasonable terms and conditions as shall be established by its Board. A regulatory ordinance of the District adopted under any provisions of this Section may provide for a suspension or revocation of any rights or privileges within the control of the District for a violation of any such regulatory ordinance. Nothing in this Section or in other provisions of this Act shall be construed to authorize the Board to establish or enforce any regulation or rule in respect to aviation, or the operation or maintenance of any airport facility within its jurisdiction, which is in conflict with any federal or state law or regulation applicable to the same subject matter.

(n) To enter into agreements with the corporate authorities or governing body of any other municipal corporation or any political subdivision of this State to pay the reasonable expense of services furnished by such municipal corporation or political subdivision for or on account of income producing properties of the District.

(o) To enter into contracts dealing in any manner with the objects and purposes of this Act.

(p) To acquire, own, lease, sell, or otherwise dispose of interests in and to real property and improvements situate thereon and in personal property necessary to fulfill the purposes of the District.

(q) To designate the fiscal year for the District.

(r) To engage in any activity or operation which is incidental to and in furtherance of efficient operation to accomplish the District's primary purpose.

(s) To build, construct, repair, and maintain levees.

Section 25. Prompt payment. Purchases made pursuant to this Act shall be made in compliance with the Local Government Prompt Payment Act.

Section 30. Acquisition of property. The District has power to acquire and accept by purchase, lease, gift, grant, or otherwise any property and rights useful for its purposes and to provide for the development of channels, ports, harbors, airports, airfields, terminals, port facilities, and terminal facilities adequate to serve the needs of commerce within the District. The District may acquire real or personal property or any rights therein in the manner, as near as may be, as is provided for the exercise of the right of eminent domain under the Eminent Domain Act; except that no rights or property of any kind or character now or hereafter owned, leased, controlled, or operated and used by, or necessary for the actual operations of, any common carrier engaged in interstate commerce, or of any other public utility subject to the jurisdiction of the Illinois Commerce Commission, shall be taken or appropriated by the District without first obtaining the approval of the Illinois Commerce Commission. Notwithstanding the provisions of any other Section of this Act, the District shall have full power and authority to lease any or all of its facilities for operation and maintenance to any person for such length of time and upon such terms as the District shall deem necessary.

Also the District may lease to others for any period of time, not to exceed 99 years, upon such terms as its Board may determine, any of its real property, rights-of-way or privileges, or any interest therein, or any part thereof, for industrial, manufacturing, commercial, or harbor purposes, which is in the opinion of the Port District Board no longer required for its primary purposes in the development of port and harbor facilities for the use of public transportation, or which may not be immediately needed for such purposes, but where such leases will in the opinion of the Port District Board aid and promote such purposes, and in conjunction with such leases, the District may grant rights-of-way and privileges across the property of the District, which rights-of-way and privileges may be assignable and irrevocable during the term of any such lease and may include the right to enter upon the property of the District to do such things as may be necessary for the enjoyment of such leases, rights-of-way, and privileges, and such leases may contain such conditions and retain such interest therein as may be deemed for the best interest of the District by such Board.

Also, the District shall have the right to grant easements and permits for the use of any such real property, rights-of-way, or privileges which in the opinion of the Board will not interfere with the use thereof by the District for its primary purposes and such easements and permits may contain such conditions and retain such interest therein as may be deemed for the best interest of the District by the Board.

With respect to any and all leases, easements, rights-of-way, privileges, and permits made or granted by the Board, the Board may agree upon and collect the rentals, charges, and fees that may be deemed for the best interest of the District. Such rentals, charges, and fees shall be used to defray the reasonable expenses of the District and to pay the principal of and interest on any revenue bonds issued by the District.

Section 35. Eminent domain. Notwithstanding any other provision of this Act, any power granted under this Act to acquire property by condemnation or eminent domain is subject to, and shall be exercised in accordance with, the Eminent Domain Act.

Section 40. Export trading companies. The District is authorized and empowered to establish, organize, own, acquire, participate in, operate, sell, and transfer export trading companies, whether as shareholder, partner, or co-venturer, alone or in cooperation with federal, state or local governmental authorities, federal, state, or national banking associations, or any other public or private corporation or person or persons. Export trading companies and all of the property thereof, wholly or partly owned, directly or indirectly, by the District, shall have the same privileges and immunities as accorded to the District; and export trading companies may borrow money or obtain financial assistance from private lenders or federal and state governmental authorities or issue general obligation and revenue bonds with the same kinds of security, and in accordance with the same procedures, restrictions, and privileges applicable when the District obtains financial assistance or issues bonds for any of its other authorized purposes. Such export trading companies are authorized, if necessary or desirable, to apply for certification under Title II or Title III of the Export Trading Company Act of 1982.

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Section 45. Grants, loans, and appropriations. The District has power to apply for and accept grants, loans, or appropriations from the Federal Government or any agency or instrumentality thereof to be used for any of the purposes of the District and to enter into any agreements with the Federal Government in relation to such grants, loans, or appropriations.

The District may petition any federal, state, municipal, or local authority, administrative, judicial and legislative, having jurisdiction in the premises, for the adoption and execution of any physical improvement, change in method or system of handling freight, warehousing, docking, lightering, and transfer of freight, which in the opinion of the District is designed to improve or better the handling of commerce in and through the Port District or improve terminal or transportation facilities therein.

Section 50. Insurance contracts. The District has power to procure and enter into contracts for any type of insurance or indemnity against loss or damage to property from any cause, including loss of use and occupancy, against death or injury of any person, against employers' liability, against any act of any member, officer, or employee of the District in the performance of the duties of his or her office or employment or any other insurable risk.

Section 55. Rentals, charges, and fees. With respect to any and all leases, easements, rights-of-way, privileges, and permits made or granted by the Board, the Board may agree upon and collect the rentals, charges, and fees that are deemed to be in the best interest of the District. Those rentals, charges, and fees must be used to defray the reasonable expenses of the District and to pay the principal and interest upon any revenue bonds issued by the District.

Section 60. Borrowing money. The District has the continuing power to borrow money and issue either general obligation bonds after approval by referendum as hereinafter provided or revenue bonds without referendum approval for the purpose of acquiring, constructing, reconstructing, extending or improving terminals, terminal facilities, airfields, airports, and port facilities, and for acquiring any property and equipment useful for the construction, reconstruction, extension, improvement, or operation of its terminals, terminal facilities, airfields, airports, and port facilities, and for acquiring necessary cash working funds.

The District may pursuant to ordinance adopted by the Board and without submitting the question to referendum from time to time issue and dispose of its interest bearing revenue bonds and may also in the same manner from time to time issue and dispose of its interest bearing revenue bonds to refund any revenue bonds at maturity or pursuant to redemption provisions or at any time before maturity with the consent of the holders thereof.

If the Board desires to issue general obligation bonds it shall adopt an ordinance specifying the amount of bonds to be issued, the purpose for which they will be issued, the maximum rate of interest they will bear which shall not be more than that permitted in the Bond Authorization Act. Such interest may be paid semiannually. The ordinance shall also specify the date of maturity which shall not be more than 20 years after the date of issuance and shall levy a tax that will be required to amortize such bonds. This ordinance shall not be effective until it has been submitted to referendum of, and approved by, the legal voters of the District. The Board shall certify the ordinance and the proposition to the proper election officials, who shall submit the proposition to the voters at an election in accordance with the general election law. If a majority of the vote on the proposition is in favor of the issuance of such general obligation bonds the county clerk shall annually extend taxes against all taxable property within the District at a rate sufficient to pay the maturing principal and interest of these bonds.

The proposition shall be in substantially the following form:

Shall general obligation bonds in the amount of (dollars) be issued by the Massac-Metropolis Port District for the (purpose) maturing in no more than (years), bearing not more than (interest)%, and a tax levied to pay the principal and interest thereof?  
The election authority must record the votes as "Yes" or "No".

Section 65. Revenue bonds. All revenue bonds shall be payable solely from the revenues or income to be derived from the terminals, terminal facilities, airfields, airports, or port facilities or any part thereof. The bonds may bear such date or dates and may mature at such time or times not exceeding 40 years from their respective dates, all as may be provided in the ordinance authorizing their issuance. All bonds, whether revenue or general obligation, may bear interest at such rate or rates as permitted in the Bond Authorization Act. Such interest may be paid semiannually. All such bonds may be in such form, may carry such registration privileges, may be executed in such manner, may be payable at such place or

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places, may be made subject to redemption in such manner and upon such terms, with or without premium as is stated on the face thereof, may be authenticated in such manner and may contain such terms and covenants, all as may be provided in the ordinance authorizing issuance. The holder or holders of any bonds or interest coupons appertaining thereto issued by the District may bring civil actions to compel the performance and observance by the District or any of its officers, agents, or employees of any contract or covenant made by the District with the holders of such bonds or interest coupons and to compel the District and any of its officers, agents, or employees to perform any duties required to be performed for the benefit of the holders of any such bonds or interest coupons by the provision in the ordinance authorizing their issuance, and to enjoin the District and any of its officers, agents, or employees from taking any action in conflict with any such contract or covenant, including the establishment of charges, fees, and rates for the use of facilities as hereinafter provided.

Notwithstanding the form and tenor of any bond, whether revenue or general obligation, and in the absence of any express recital on the face thereof that it is nonnegotiable, all such bonds shall be negotiable instruments. Pending the preparation and execution of any such bonds, temporary bonds may be issued with or without interest coupons as may be provided by ordinance.

Section 70. Issuing bonds. All bonds, whether general obligation or revenue, shall be issued and sold by the Board in such manner as the Board shall determine. However, if any bonds are issued to bear interest at the maximum rate of interest allowed by Section 60 or 65, whichever may be applicable, the bonds shall be sold for not less than par and accrued interest. The selling price of bonds bearing interest at a rate less than the maximum allowable interest rate per annum shall be such that the interest cost to the District of the money received from the bond sale shall not exceed the maximum annual interest rate allowed by Section 60 or 65, whichever may be applicable, computed to absolute maturity of such bonds according to standard tables of bond values.

Section 75. Rates and charges for facilities. Upon the issue of any revenue bonds as herein provided the Board shall fix and establish rates, charges, and fees for the use of facilities acquired, constructed, reconstructed, extended, or improved with the proceeds derived from the sale of said revenue bonds sufficient at all times with other revenues of the District, if any, to pay; (a) the cost of maintaining, repairing, regulating, and operating the said facilities; and (b) the bonds and interest thereon as they become due, and all sinking fund requirements and other requirements provided by the ordinance authorizing the issuance of the bonds or as provided by any trust agreement executed to secure payment thereof.

To secure the payment of any or all revenue bonds and for the purpose of setting forth the covenants and undertaking of the District in connection with the issuance of revenue bonds and the issuance of any additional revenue bonds payable from such revenue income to be derived from the terminals, terminal facilities, airports, airfields, and port facilities the District may execute and deliver a trust agreement or agreements except that no lien upon any physical property of the District shall be created thereby. A remedy for any breach or default of the terms of any such trust agreement by the District may be by mandamus proceedings in the circuit court to compel performance and compliance therewith, but the trust agreement may prescribe by whom or on whose behalf such action may be instituted.

Section 80. Bonds not obligations of the State or district. Under no circumstances shall any bonds issued by the District or any other obligation of the District be or become an indebtedness or obligation of the State of Illinois or of any other political subdivision of or municipality within the State.

No revenue bond shall be or become an indebtedness of the District within the purview of any constitutional limitation or provision, and it shall be plainly stated on the face of each revenue bond that it does not constitute such an indebtedness, or obligation but is payable solely from the revenues or income derived from terminals, terminal facilities, airports, airfields, and port facilities.

Section 85. Tax levy. The Board may, after referendum approval, levy a tax for corporate purposes of the District annually at the rate approved by referendum, but which rate shall not exceed 0.05% of the value of all taxable property within the Port District as equalized or assessed by the Department of Revenue. If the Board desires to levy such a tax it shall order that the question be submitted at an election to be held within the District. The Board shall certify its order and the question to the proper election officials, who shall submit the question to the voters at an election in accordance with the general election law. The Board shall cause the result of the election to be entered upon the records of the Port District. If a majority of the vote on the question is in favor of the proposition, the Board may annually thereafter levy a tax for corporate purposes at a rate not to exceed that approved by referendum

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but in no event to exceed 0.05% of the value of all taxable property within the District as equalized or assessed by the Department of Revenue.

The question shall be in substantially the following form:

Shall the Massac-Metropolis Port District levy a tax for corporate purposes annually at a rate not to exceed 0.05% of the value of taxable property as equalized or assessed by the Department of Revenue?

The election authority shall record the votes as "Yes" or "No".

Section 90. Permits. It is unlawful to make any fill or deposit of rock, earth, sand, or other material, or any refuse matter of any kind or description, or build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, bridge, or other structure over, under, or within 40 feet of any navigable waters within the Port District without first submitting the plans, profiles, and specifications therefor, and such other data and information as may be required, to the Port District and receiving a permit therefor; and any person, corporation, company, city or municipality or other agency, which shall do any of the things above prohibited, without securing a permit therefor as above provided, shall be guilty of a Class A misdemeanor; provided, however, that no such permit shall be required in the case of any project for which a permit shall have been secured from a proper governmental agency prior to the creation of the Port District nor shall any such permit be required in the case of any project to be undertaken by any city, village, or incorporated town in the District, or any combination thereof, for which a permit is required from a governmental agency other than the District before the municipality can proceed with such project. And in such event, such municipalities, or any of them, shall give at least 10 days' notice to the District of the application for a permit for any such project from a governmental agency other than the District so that the District may be present and represent its position relative to such application before such other governmental agency. Any structure, fill, or deposit erected or made in any of the public bodies of water within the Port District, in violation of the provisions of this Section, is a purpresture and may be abated as such at the expense of the person, corporation, company, municipality, or other agency responsible therefor, or if, in the discretion of the Port District, it is decided that such structure, fill, or deposit may remain, the Port District may fix such rule, regulation, requirement, restrictions, or rentals or require and compel such changes, modifications, and repairs as shall be necessary to protect the interest of the Port District.

Section 95. Board members. The governing and administrative body of the Port District shall be a Board consisting of 7 members, to be known as the Massac-Metropolis Port District Board. All members of the Board shall be residents of the District. The members of the Board shall serve without compensation but shall be reimbursed for actual expenses incurred by them in the performance of their duties. However, any member of the Board who is appointed to the office of secretary or treasurer may receive compensation for his or her services as such officer. No member of the Board or employee of the District shall have any private financial interest, profit, or benefit in any contract, work, or business of the District nor in the sale or lease of any property to or from the District.

Section 100. Board appointments; terms. The Governor shall appoint 4 members of the Board, each Mayor of the municipalities of Metropolis, Joppa, and Brookport shall appoint one member of the Board. All initial appointments shall be made within 60 days after this Act takes effect. Of the 4 members initially appointed by the Governor 2 shall be appointed for initial terms expiring June 1, 2016 and one for an initial term expiring June 1, 2012 and one for an initial term expiring June 1, 2011. The terms of the members initially appointed by the respective Mayors shall expire June 1, 2012. At the expiration of the term of any member, his or her successor shall be appointed by the Governor or the respective Mayor in like manner and with like regard to place of residence of the appointee, as in the case of appointments for the initial terms.

After the expiration of initial terms, each successor shall hold office for the term of 3 years beginning the first day of June of the year in which the term of office commences. In the case of a vacancy during the term of office of any member appointed by the Governor, the Governor shall make an appointment for the remainder of the term vacant and until a successor is appointed and qualified. In case of a vacancy during the term of office of any member appointed by a Mayor, the proper Mayor shall make an appointment for the remainder of the term vacant and until a successor is appointed and qualified. The Governor and each Mayor shall certify their respective appointments to the Secretary of State. Within 30 days after certification of his or her appointment, and before entering upon the duties of his or her office, each member of the Board shall take and subscribe the constitutional oath of office and file it in the office of the Secretary of State.

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Section 105. Resignation and removal of Board members. Members of the Board shall hold office until their respective successors have been appointed and qualified. Any member may resign from his or her office to take effect when his or her successor has been appointed and has qualified. The Governor and each Mayor, respectively, may remove any member of the Board they have appointed in case of incompetency, neglect of duty, or malfeasance in office. They shall give such member a copy of the charges against him or her and an opportunity to be publicly heard in person or by counsel in his or her own defense upon not less than 10 days' notice. In case of failure to qualify within the time required, or of abandonment of his or her office, or in case of death, conviction of a felony or removal from office, the office of such member shall become vacant. Each vacancy shall be filled for the unexpired term by appointment in like manner as in case of expiration of the term of a member of the Board.

Section 110. Organization of the Board. As soon as possible after the appointment of the initial members, the Board shall organize for the transaction of business, select a chairman and a temporary secretary from its own number, and adopt bylaws and regulations to govern its proceedings. The initial chairman and successors shall be elected by the Board from time to time for the term of his or her office as a member of the Board.

Section 115. Meetings. Regular meetings of the Board shall be held at least once in each calendar month, the time and place of such meetings to be fixed by the board. Four members of the Board shall constitute a quorum for the transaction of business. All action of the Board shall be by ordinance or resolution and the affirmative vote of at least 4 members shall be necessary for the adoption of any ordinance or resolution. All such ordinances and resolutions before taking effect shall be approved by the chairman of the Board, and if he or she approves thereof he or she shall sign the same, and such as he or she does not approve he or she shall return to the Board with his or her objections thereto in writing at the next regular meeting of the Board occurring after the passage thereof. But in the case the chairman fails to return any ordinance or resolution with his or her objections thereto by the time aforesaid, the chairman shall be deemed to have approved the same and it shall take effect accordingly. Upon the return of any ordinance or resolution by the chairman with his or her objections, the vote by which the same was passed shall be reconsidered by the Board, and if upon such reconsideration said ordinance or resolution is passed by the affirmative vote of at least 5 members, it shall go into effect notwithstanding the veto of the chairman. All ordinances, resolutions, and all proceedings of the District and all documents and records in its possession shall be public records, and open to public inspection, except such documents and records as are kept or prepared by the Board for use in negotiations, legal actions, or proceedings to which the District is a party.

Section 120. Secretary and treasurer; oath and bond. The Board shall appoint a secretary and a treasurer, who need not be members of the Board, to hold office during the pleasure of the Board, and fix their duties and compensation. The secretary and treasurer shall be residents of the District. Before entering upon the duties of their respective offices they shall take and subscribe the constitutional oath of office, and the treasurer shall execute a bond with corporate sureties to be approved by the Board. The bond shall be payable to the District in whatever penal sum may be directed by the Board conditioned upon the faithful performance of the duties of the office and the payment of all money received by him or her according to law and the orders of the Board. The Board may, at any time, require a new bond from the treasurer in such penal sum as may then be determined by the Board. The obligation of the sureties shall not extend to any loss sustained by the insolvency, failure, or closing of any savings and loan association or national or State bank wherein the treasurer has deposited funds if the bank or savings and loan association has been approved by the Board as a depository for these funds. The oaths of office and the treasurer's bond shall be filed in the principal office of the District.

Section 125. Deposits; checks or drafts. All funds deposited by the treasurer in any bank or savings and loan association shall be placed in the name of the District and shall be withdrawn or paid out only by check or draft upon the bank or savings and loan association, signed by the treasurer and countersigned by the chairman of the Board. Subject to prior approval of such designations by a majority of the Board, the chairman may designate any other Board member or any officer of the District to affix the signature of the chairman and the treasurer may designate any other officer of the District to affix the signature of the treasurer to any check or draft for payment of salaries or wages and for payment of any other obligation of not more than \$2,500.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless

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it has complied with the requirements established pursuant to Section 6 of the Public Funds Investment Act.

In case any officer whose signature appears upon any check or draft issued pursuant to this Act, ceases to hold his or her office before the delivery thereof to the payee, his or her signature nevertheless shall be valid and sufficient for all purposes with the same effect as if he or she had remained in office until delivery thereof.

Section 130. General manager. The Board may appoint a general manager who shall be a person of recognized ability and business experience to hold office during the pleasure of the Board. The general manager shall have management of the properties and business of the District and the employees thereof subject to the general control of the Board, shall direct the enforcement of all ordinances, resolutions, rules, and regulations of the Board, and shall perform such other duties as may be prescribed from time to time by the Board. The Board may appoint a general attorney and a chief engineer, and shall provide for the appointment of other officers, attorneys, engineers, consultants, agents, and employees as may be necessary. It shall define their duties and may require bonds of such of them as the Board may designate. The general manager, general attorney, chief engineer, and all other officers provided for pursuant to this Section shall be exempt from taking and subscribing any oath of office and shall not be members of the Board. The compensation of the general manager, general attorney, chief engineer, and all other officers, attorneys, consultants, agents, and employees shall be fixed by the Board.

Section 135. Fines and penalties. The Board has power to pass all ordinances and make all rules and regulations proper or necessary, and to carry into effect the powers granted to the District, with such fines or penalties as may be deemed proper. All fines and penalties shall be imposed by ordinances, which shall be published in a newspaper of general circulation in the area embraced by the District. No such ordinance shall take effect until 10 days after its publication.

Section 140. Report and financial statement. Within 60 days after the end of each fiscal year, the Board shall cause to be prepared and printed a complete and detailed report and financial statement of the operations and assets and liabilities of the Port District. A reasonably sufficient number of copies of such report shall be printed for distribution to persons interested, upon request, and a copy thereof shall be filed with the Governor and the county clerk and the presiding officer of the county board of Massac County. A copy of such report shall be addressed to and mailed to the corporate authorities of each municipality within the area of the District.

Section 145. Investigations. The Board may investigate conditions in which it has an interest within the area of the District, the enforcement of its ordinances, rules and regulations, and the action, conduct, and efficiency of all officers, agents, and employees of the District. In the conduct of such investigations the Board may hold public hearings on its own motion, and shall do so on complaint of any municipality within the District. Each member of the Board shall have power to administer oaths, and the secretary, by order of the Board, shall issue subpoenas to secure the attendance and testimony of witnesses, and the production of books and papers relevant to such investigations and to any hearing before the Board or any member thereof.

Any circuit court of this State, upon application of the Board, or any member thereof, may in its discretion compel the attendance of witnesses, the production of books and papers, and giving of testimony before the Board or before any member thereof or any officers' committee appointed by the Board, by attachment for contempt or otherwise in the same manner as the production of evidence may be compelled before the court.

Section 150. Administrative Review Law. All final administrative decisions of the Board hereunder shall be subject to judicial review pursuant to the provisions of the Administrative Review Law, and all amendments and modifications thereof, and the rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

Section 155. Records. In the conduct of any investigation authorized by Section 145 the Port District shall, at its expense, provide a stenographer to take down all testimony and shall preserve a record of such proceedings. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony and the orders or decision of the Board constitutes the record of such proceedings.

The Port District is not required to certify any record or file any answer or otherwise appear in any

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proceeding for judicial review of an administrative decision unless the party asking for review deposits with the clerk of the court the sum of 75 cents per page of the record representing the costs of such certification. Failure to make such deposit is grounds for dismissal of the action.

Section 160. Annexation. Territory which is contiguous to the District and which is not included within any other port district may be annexed to and become a part of the District in the manner provided in Section 165 or 170 whichever may be applicable.

Section 165. Petition for annexation. At least 5% of the legal voters resident within the limits of such proposed addition to the District may petition the circuit court for the county in which the major part of the District is situated, to cause the question to be submitted to the legal voters of such proposed additional territory, whether such proposed additional territory shall become a part of the District and assume a proportionate share of the general obligation bonded indebtedness, if any, of the District. Such petition shall be addressed to the court and shall contain a definite description of the boundaries of the territory to be embraced in the proposed addition.

Upon filing any such petition with the clerk of the court, the court shall fix a time and place for a hearing upon the subject of the petition.

Notice shall be given by the court to whom the petition is addressed, or by the circuit clerk or sheriff of the county in which such petition is made at the order and direction of the court, of the time and place of the hearing upon the subject of the petition at least 20 days prior thereto by at least one publication thereof in any newspaper having general circulation within the area proposed to be annexed, and by mailing a copy of such notice to the mayor or president of the board of trustees of all cities, villages, and incorporated towns within the District.

At the hearing all persons residing in or owning property situated in the area proposed to be annexed to the District may appear and be heard touching upon the sufficiency of the petition. If the court finds that the petition does not comply with the requirements of the law, the court shall dismiss the petition; but if the court finds that the petition is sufficient the court shall certify the proposition to the proper election officials, who shall submit the proposition to the voters at an election in accordance with the general election law. In addition to the requirements of the general election law, the notice of such referendum shall specify the purpose of such referendum with a description of the area proposed to be annexed to the District.

The proposition shall be in substantially the following form:

Shall (description of the territory proposed to be annexed) join the Massac-Metropolis  
Port District?

The votes shall be recorded as "Yes" or "No".

The court shall cause a statement of the result of such election to be filed in the records of the court.

If a majority of the votes cast upon the question of annexation to the District are in favor of becoming a part of such District, the court shall then enter an order stating that such additional territory shall thenceforth be an integral part of the Massac-Metropolis Port District and subject to all of the benefits of service and responsibilities of the District. The circuit clerk shall transmit a certified copy of the order to the circuit clerk of any other county in which any of the territory affected is situated.

Section 170. Annexation of territory having no legal voters. If there is territory contiguous to the District which has no legal voters residing therein, a petition to annex such territory, signed by all the owners of record of such territory may be filed with the circuit court for the county in which the major part of the District is situated. A time and place for a hearing on the subject of the petition shall be fixed and notice thereof shall be given in the manner provided in Section 165. At such hearing any owner of land in the territory proposed to be annexed, the District and any resident of the District may appear and be heard touching on the sufficiency of the petition. If the court finds that the petition satisfies the requirements of this Section it shall enter an order stating that thenceforth such territory shall be an integral part of the Massac-Metropolis Port District and subject to all of the benefits of service and responsibilities, including the assumption of a proportionate share of the general obligation bonded indebtedness, if any, of the District. The circuit clerk shall transmit a certified copy of the order of the court to the circuit clerk of any other county in which the annexed territory is situated.

Section 175. Severability. If any provision of this Act is held invalid such provision shall be deemed to be excised from this Act and the invalidity thereof shall not affect any of the other provisions of this Act. If the application of any provision of this Act to any person or circumstance is held invalid it shall not affect the application to such persons or circumstances other than those as to which it is invalid. The

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provisions of this Act shall not be considered as impairing, altering, modifying, repealing, or superseding any of the jurisdiction or powers of the Illinois Commerce Commission or of the Department of Natural Resources under the Rivers, Lakes, and Streams Act. Nothing in this Act or done under its authority shall apply to, restrict, limit, or interfere with the use of any terminal facility or port facility owned or operated by any private person for the storage or handling or transfer of any commodity moving in interstate commerce or the use of the land and facilities of a common carrier or other public utility and the space above such land and facilities in the business of such common carrier or other public utility, without approval of the Illinois Commerce Commission and without the payment of just compensation to any such common carrier or other public utility for damages resulting from any such restriction, limitation, or interference.

Section 180. Non-applicability. The provisions of the Illinois Municipal Code, or the provisions of the Airport Authorities Act, or the provisions of the General County Airport and Landing Field Act, shall not be effective within the area of the District insofar as the provisions of said Acts conflict with the provisions of this Act or grant substantially the same powers to any municipal corporation or political subdivision as are granted to the District by this Act.

Section 185. The Eminent Domain Act is amended by adding Section 15-5-45 as follows:  
(735 ILCS 30/15-5-45 new)

Sec. 15-5-45. Eminent domain powers in New Acts. The following provisions of law may include express grants of the power to acquire property by condemnation or eminent domain:

Massac-Metropolis Port District Act; Massac-Metropolis Port District; for general purposes.

Section 999. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 2106**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by  
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 4625

A bill for AN ACT concerning local government.  
Passed the House, October 14, 2009.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 4625** was taken up, ordered printed and placed on first reading.

#### JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 227

#### INTRODUCTION OF BILLS

**SENATE BILL NO. 2483.** Introduced by Senator Demuzio, a bill for AN ACT concerning public employee benefits.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

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**SENATE BILL NO. 2484.** Introduced by Senator Haine, a bill for AN ACT concerning State government.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2485.** Introduced by Senator Haine, a bill for AN ACT concerning utilities.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

**SENATE BILL NO. 2486.** Introduced by Senator Pankau, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Assignments.

### PRESENTATION OF RESOLUTIONS

#### SENATE RESOLUTION NO. 450

Offered by Senator Demuzio and all Senators:

Mourns the death of Edward Forrester Bloome of Harvel.

#### SENATE RESOLUTION NO. 451

Offered by Senator Demuzio and all Senators:

Mourns the death of Ted Dworzynski of Carlinville.

#### SENATE RESOLUTION NO. 452

Offered by Senator Kotowski and all Senators:

Mourns the death of May Aldrin.

#### SENATE RESOLUTION NO. 453

Offered by Senator Kotowski and all Senators:

Mourns the death of Mildred "Mim" D. Sullivan.

#### SENATE RESOLUTION NO. 454

Offered by Senator Lauzen and all Senators:

Mourns the death of Bishop Louis Puscas of Aurora.

#### SENATE RESOLUTION NO. 460

Offered by Senator E. Jones and all Senators:

Mourns the death of Michael Durrell McCurine.

#### SENATE RESOLUTION NO. 461

Offered by Senator E. Jones and all Senators:

Mourns the death of Geraldine Gregg-Horton.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

### CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILL ON SECRETARY'S DESK

On motion of Senator Frerichs, **Senate Bill No. 1180**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Frerichs moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAY 1.

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The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Harmon	McCarter	Steans
Burzynski	Hendon	Meeks	Sullivan
Clayborne	Holmes	Millner	Syverson
Collins	Hultgren	Muñoz	Trotter
Cronin	Hutchinson	Murphy	Viverito
Crotty	Jones, E.	Noland	Wilhelmi
Dahl	Jones, J.	Pankau	Mr. President
DeLeo	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	
Duffy	Lightford	Risinger	

The following voted in the negative:

Jacobs

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1180**, by a three-fifths vote.

Ordered that the Secretary inform the House of Representatives thereof.

#### CONSIDERATION OF GOVERNOR'S VETO MESSAGES

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator J. Jones moved that **Senate Bill No. 1743** do pass, the veto of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the veto of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

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Senator Maloney asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 1743**.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Raoul moved to accept the Governor's specific recommendations for change to **Senate Bill No. 1050**.

And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Raoul
Bivins	Frerichs	Lightford	Righter
Bomke	Garrett	Link	Risinger
Bond	Haine	Luechtefeld	Rutherford
Brady	Harmon	Maloney	Sandoval
Burzynski	Hendon	Martinez	Schoenberg
Clayborne	Holmes	McCarter	Silverstein
Collins	Hultgren	Meeks	Steans
Cronin	Hutchinson	Millner	Sullivan
Crotty	Jacobs	Muñoz	Syverson
Dahl	Jones, E.	Murphy	Trotter
Demuzio	Jones, J.	Noland	Wilhelmi
Dillard	Koehler	Pankau	Mr. President
Duffy	Kotowski	Radogno	

The motion prevailed.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Kotowski moved to accept the Governor's specific recommendations for change to **Senate Bill No. 1698**.

And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, J.	Noland	Wilhelmi
Demuzio	Koehler	Pankau	Mr. President
Dillard	Kotowski	Raoul	

The motion prevailed.

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Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator E. Jones asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the affirmative on **Senate Bill No. 1698**.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Raoul moved to accept the Governor's specific recommendations for change to **Senate Bill No. 1725**.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Laufen	Righter	

The motion prevailed.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Pankau moved that **Senate Bill No. 47** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAY 1.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Harmon	McCarter	Steans
Burzynski	Holmes	Meeks	Sullivan
Clayborne	Hultgren	Millner	Syverson
Collins	Hutchinson	Muñoz	Trotter
Cronin	Jacobs	Murphy	Viverito
Crotty	Jones, E.	Noland	Wilhelmi
Dahl	Jones, J.	Pankau	Mr. President
DeLeo	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Laufen	Righter	

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Duffy                                      Lightford                                      Risinger

The following voted in the negative:

Hendon

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Cronin moved that **Senate Bill No. 1882** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 55; NAY 1.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Raoul
Bivins	Forby	Lightford	Righter
Bomke	Frerichs	Link	Risinger
Bond	Garrett	Luechtefeld	Rutherford
Brady	Haine	Maloney	Sandoval
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hutchinson	Millner	Syverson
Crotty	Jacobs	Muñoz	Trotter
Dahl	Jones, E.	Murphy	Viverito
DeLeo	Jones, J.	Noland	Wilhelmi
Demuzio	Koehler	Pankau	Mr. President
Dillard	Kotowski	Radogno	

The following voted in the negative:

Hendon

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Wednesday, October 14, 2009 and journalized Wednesday, October 14, 2009, Senator Steans moved that **Senate Bill No. 2043** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Link	Rutherford
Bivins	Garrett	Luechtefeld	Sandoval
Bomke	Haine	Maloney	Schoenberg
Bond	Harmon	Martinez	Silverstein

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Brady	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	
Forby	Lightford	Risinger	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

At the hour of 3:45 o'clock p.m., Senator Lightford, presiding.

#### **READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME**

On motion of Senator Kotowski, **House Bill No. 4625** was taken up, read by title a first time and referred to the Committee on Assignments.

#### **MOTION IN WRITING**

Senator Sullivan submitted the following Motion in Writing:

I move that Senate Bill 1685 do pass, notwithstanding the specific recommendations of the Governor.

10/15/09  
DATE

s/J. Sullivan  
SENATOR

The foregoing Motion in Writing was filed with the Secretary and ordered placed on the Senate Calendar.

#### **SENATE BILL RECALLED**

On motion of Senator Martinez, **Senate Bill No. 332** was recalled from the order of third reading to the order of second reading.

Senator Martinez offered the following amendment and moved its adoption:

#### **AMENDMENT NO. 1 TO SENATE BILL 332**

AMENDMENT NO. 1. Amend Senate Bill 332 by replacing everything after the enacting clause with the following:

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

(5 ILCS 80/4.20)

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

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

The Auction License Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

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~~The Land Sales Registration Act of 1999.~~

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

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

The Medical Practice Act of 1987.

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

(5 ILCS 80/4.30 new)

Sec. 4.30. Act repealed on January 1, 2020. The following Act is repealed on January 1, 2020:

The Land Sales Registration Act of 1999.

Section 10. The Land Sales Registration Act of 1999 is amended by changing Sections 1-10, 1-15, 5-5, 5-10, 5-15, 5-20, 5-25, 10-15, 10-20, 10-30, 15-5, 15-10, 15-15, 15-20, 15-25, 15-30, 15-35, 15-40, 15-45, 15-50, 15-55, 15-60, 15-65, 15-70, 15-75, 20-5, 20-10, 20-15, 20-20, and 20-25 and by adding Sections 5-23 and 15-7 as follows:

(765 ILCS 86/1-10)

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

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

"Blanket encumbrance" means a trust deed, mortgage, mechanics lien, or any other lien or financial encumbrance securing or evidencing money debt and affecting land to be subdivided or affecting more than one lot or parcel of subdivided land; or an agreement affecting more than one such lot or parcel by which the subdivider holds the subdivision under an option, contract to purchase, or trust agreement. Taxes and assessments levied by public authority are not an encumbrance under this Act.

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

"Common promotional plan" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease. Where land is offered for sale by a developer or group of developers acting in concert and the land is contiguous or is known, designated, or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, to be offered for sale or lease as part of a common promotional plan.

"Department" means the Illinois Department of Financial and Professional Regulation.

"Offer" includes every inducement, solicitation, or attempt to encourage a person to acquire an interest in a subdivision or subdivided land, if undertaken for gain or profit.

"Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, 2 or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Sale" includes a sale, lease, assignment, or award by lottery, or any offer or solicitation of an offer to do any of the foregoing, concerning a subdivision or any part of a subdivision, if undertaken for gain or profit.

"Secretary" means the Secretary of Financial and Professional Regulation.

"Subdivided land" and "subdivision" mean improved or unimproved lands located outside the State of Illinois, divided or proposed to be divided into 25 or more lots or parcels, and also include any land, whether contiguous or not, if 25 or more lots, parcels, units or interests are offered as a part of a common promotional plan of advertising and sale.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/1-15)

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

Sec. 1-15. Powers and duties of the ~~Department Office of Banks and Real Estate~~. The Department Office of Banks and Real Estate shall exercise the powers and duties established by this Act. The ~~Secretary Commissioner~~ may adopt rules consistent with the provisions of this Act for its administration and enforcement and may prescribe forms that shall be issued in connection with this Act. The ~~Department Office of Banks and Real Estate~~ shall issue a certificate of registration to any person who meets the qualifications set forth in this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-5)

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

[October 15, 2009]

Sec. 5-5. Registration requirement; exemptions. It is unlawful for any person to engage in the business of selling land that is located outside the State of Illinois to any individual located in Illinois without a certificate of registration issued by the ~~Department Office of Banks and Real Estate~~ pursuant to this Act. Unless the method of sale is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to an offer or disposition of an interest in land:

- (1) by a purchaser of subdivided lands for the purchaser's own account in a single or isolated transaction;
- (2) if fewer than 25 separate lots, parcels, units or interests in subdivided lands are offered by a person;
- (3) on which there is a commercial or industrial building, shopping center, house, apartment house, condominium structure, or town house, or as to which there is a legal obligation on the part of the seller to construct such a building within 2 years from the date of disposition;
- (4) that is sold for industrial, commercial, or institutional purposes;
- (5) that consists of cemetery lots or interests;
- (6) that consists of a subdivision as to which the plan of sale is to dispose of it to 10 or fewer persons; or
- (7) in lots or parcels of 20 or more acres, unconditionally, or of 10 or more acres if there is free and ready access leading to county-maintained roads.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-10)

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

Sec. 5-10. Application for registration.

(a) Before subdivided lands are offered for sale, the subdivider or the subdivider's agent shall file with the ~~Department Office of Banks and Real Estate~~ an application on forms supplied by the ~~Department Office of Banks and Real Estate~~. A registration fee shall accompany the application. The application shall contain all of the following information:

- (1) The name and address of the fee title owner of the subdivided lands.
- (2) The name and address of the subdivider.
- (3) The name and address of an agent of the subdivider in Illinois authorized to accept service of process on behalf of the subdivider.
- (4) The legal description and acreage of the lands, together with a map showing the layout as recorded or proposed and the relation of the lands to existing streets or roads, waterways, schools, churches, shopping centers, and local bus and rail transportation, with a statement of distances to each.
- (5) A true statement as to title to the subdivided land, including all financial encumbrances and unpaid taxes thereon.
- (6) If subject property is in a land trust, a true statement of the names and addresses of all parties with a beneficial interest in the trust.
- (7) A true statement of the terms and conditions by which it is intended the subdivided land will be sold, together with copies of any and all forms of contract or conveyance intended to be used. If a language other than English was used in advertising the property or during the sales presentation, translations, in that language, of the Illinois Public Property Report, any contract or lien, and any note shall be provided to the purchaser before the purchaser executes the contract. A receipt for these translations shall be obtained and a copy of the receipt shall be kept ~~available in this State~~ and subject to inspection by the ~~Department Office of Banks and Real Estate~~ for 3 years from the date of the receipt.
- (8) A true statement of provision for sewage disposal and public utilities, if any, in the proposed or existing subdivision, including water, electricity, gas, and telephone facilities.
- (9) A correct reference to applicable zoning ordinances and regulations.
- (10) Certified financial statements of the subdivider.
- (11) A proposed public property report, suitable for distribution to any proposed purchaser if a certificate of registration is issued, which shall contain the following information:
  - (A) the name and principal address of the subdivider;
  - (B) a general description of the subdivided lands, stating the total number of lots, parcels, units, or interests in the offering;
  - (C) the significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each lot or unit, and a statement of all existing taxes and existing or proposed special taxes or assessments that affect the subdivided lands;

(D) a statement of the use for which the property is offered;

(E) information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated costs, date of completion, and responsibility for construction and maintenance of existing and proposed improvements that are referred to in connection with the offering or disposition of any interest in subdivided lands;

(F) a statement that certified financial statements are available upon request; and

(G) such additional information consistent with this Act which may be required by the ~~Department Office of Banks and Real Estate~~ to assure full and fair disclosure to prospective purchasers.

(b) The subdivider shall report all material changes with respect to subdivided lands registered for sale under this Act, and the ~~Department Office of Banks and Real Estate~~ may require that the public property report be amended to reflect such material change. In the event the subdivider wishes to update the public property report, the subdivider may do so upon proper application to the ~~Department Office of Banks and Real Estate~~.

(c) If the subdivider registers additional subdivided lands to be offered for sale, the subdivider may consolidate the subsequent registration with any earlier registration offering subdivided lands for sale under the same promotional plan, and the public property report shall be amended to include the additional subdivided lands so registered.

(d) The ~~Department Office of Banks and Real Estate~~ shall, at the time the application is submitted or from time to time thereafter, require the subdivider to furnish financial assurances, in the form of a performance bond, a surety bond, or an irrevocable letter of credit in the amount and subject to terms and requirements approved by the ~~Department Office of Banks and Real Estate~~, for the purpose of protecting purchasers of lots in the subdivision to ensure that the improvements will be constructed and maintained in the manner represented by the subdivider. The ~~Department Office of Banks and Real Estate~~ may accept evidence that such assurances have been furnished to a foreign state, or a county or municipality within such state, in fulfillment of this requirement.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-15)

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

Sec. 5-15. ~~Issuance Notice of filing; issuance of certificate; exemption; renewal.~~

(a) ~~The Department~~ Upon receipt of the application for registration in proper form, the ~~Office of Banks and Real Estate~~ shall issue a notice of filing to the applicant. Within 60 days from the date of the notice of filing, the ~~Office of Banks and Real Estate~~ shall enter an order registering the subdivided lands or rejecting the registration. ~~If no order of rejection is entered within 60 days from the date of receipt notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.~~

(b) If the ~~Department Office of Banks and Real Estate~~ affirmatively determines, upon inquiry and examination, that the requirements of this Act have been met, it shall issue a certificate of registration ~~registering the subdivided lands~~ and shall approve the form of the public property report.

(b-5) ~~If the Department affirmatively determines, upon inquiry and examination, that the exemption requirements of this Act have been met, it shall issue a written approval.~~

(c) If the ~~Department Office of Banks and Real Estate~~ determines, upon inquiry and examination, that any of the requirements of this Act have not been met, it shall notify the applicant that the application for registration or exemption must be corrected in the particulars specified within 15 days. If the requirements are not met within the time allowed, the ~~Department Office of Banks and Real Estate~~ shall enter an order rejecting the registration or exemption, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for 20 days, during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

(d) The ~~Department Office of Banks and Real Estate~~ may adopt rules authorizing the subdivider or the subdivider's agent to file an abbreviated application ~~as the subdivider's application for a certificate of registration in lieu of some or all of the requirements of Section 5-10, (i) a copy of the statement of record filed with respect to the subdivision pursuant to the Federal Interstate Land Sales Full Disclosure Act if the statement complies with the requirements of that Act and the regulations pertinent to that Act or (ii) an acceptable certificate of registration from another jurisdiction in which the requirements for registration are substantially the same or exceed those provided in this Act.~~ Notwithstanding the requirements of Section 5-10, the ~~Department Office of Banks and Real Estate~~ may suspend or revoke any registration under this Section that includes any registration, property report, or similar disclosure documents accepted under this subsection if the registration, property report, or similar disclosure is

suspended or revoked by the registering state or by the federal government.

(e) A certificate of registration issued under this Section shall expire on June 30 following the date of issuance. In the absence of any reason or condition under Section ~~15-5~~ ~~10-35~~ that might warrant the suspension or revocation of a registration, a certificate shall be renewed upon payment of the required fee and submission of documentation as provided by rule. ~~An exemption issued under this Section shall not expire or renew.~~ The applicant must notify the Department of any change in the status of the subdivision under which the exemption was approved.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-20)

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

Sec. 5-20. Fees.

(a) ~~The Department Office of Banks and Real Estate~~ shall provide, by rule, for fees to be paid by applicants and registrants to cover the reasonable costs of the ~~Department Office of Banks and Real Estate~~ in administering and enforcing the provisions of this Act. The ~~Department Office of Banks and Real Estate~~ may also provide, by rule, for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(b) All fees collected under this Act shall be paid into the Real Estate License Administration Fund in the State treasury and appropriated to the ~~Department Office of Banks and Real Estate~~ for administration of this Act or any other Act administered by the ~~Department Office of Banks and Real Estate~~ and providing revenue to this fund.

(c) ~~(Blank). Any person who delivers a check or other payment to the Office of Banks and Real Estate that is returned to the Office of Banks and Real Estate unpaid by the financial institution upon which it is drawn shall pay to the Office of Banks and Real Estate, in addition to the amount already owed to the Office of Banks and Real Estate, a fee of \$50.~~

(d) ~~(Blank). The fees imposed by this Section are in addition to any other disciplinary action provided under this Act for unlicensed practice or practice on a non-renewed license.~~

(e) ~~(Blank). The Office of Banks and Real Estate shall notify the person that payment of fees and fines shall be paid to the Office of Banks and Real Estate by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Office of Banks and Real Estate shall automatically terminate the certificate of registration or deny the application, without hearing. If, after termination or denial, the person seeks a certificate of registration, he or she shall apply to the Office of Banks and Real Estate for restoration or issuance of the certificate of registration and pay all fees due the Office of Banks and Real Estate. The Commissioner may waive the fees due under this Section in individual cases where the Commissioner finds that the fees would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-23 new)

Sec. 5-23. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unregistered practice or practice on a nonrenewed registration. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the registration or deny the application, without hearing. If, after termination or denial, the person seeks a registration, he or she shall apply to the Department for restoration or issuance of the registration and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a registration to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(765 ILCS 86/5-25)

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

Sec. 5-25. Public property report. When a certificate of registration is granted by the ~~Department Office of Banks and Real Estate~~, a copy of the public property report shall be given by the owner, subdivider, or agent to each prospective purchaser prior to the execution of any binding contract or agreement for the sale of any lot or parcel in a subdivision. A receipt, in duplicate, shall be taken from each purchaser to evidence compliance with this Section. Receipts taken for any published report shall

be kept on file in possession of the owner, subdivider, or agent, subject to inspection by the Department Office of Banks and Real Estate for 3 years from the date the receipt is taken. The report shall not be used for advertising purposes unless the report is used in its entirety. No portion of the report shall be underscored, italicized, or printed in larger or heavier type than any other portion of the report, unless required by this Act. The report shall contain the following statement:

If you received this report prior to signing a contract or agreement, you may cancel your contract or agreement by giving notice to the seller any time before midnight of the seventh day following the signing of the contract or agreement.

If you did not receive this report before you signed a contract or agreement, you may cancel the contract or agreement any time within 2 years from the date of signing.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-15)

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

Sec. 10-15. Copies of instruments. A copy of the instruments executed in connection with the sale of parcels within a subdivision shall be kept ~~available in this State~~ and subject to inspection by the Department Office of Banks and Real Estate. The Department Office of Banks and Real Estate shall be notified of any change of address affecting the location of the owner's, subdivider's, or agent's records, or of any change in the depository for purchasers' payments under this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-20)

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

Sec. 10-20. Sale of encumbered lots prohibited; exceptions. It is unlawful for the owner or subdivider to sell lots or parcels within a subdivision subject to a blanket encumbrance unless one of the following conditions is met:

(1) All sums paid or advanced by a purchaser are placed in an escrow or other depository account acceptable to the Department Office of Banks and Real Estate until (i) the fee title contracted for is delivered to the purchaser by deed together with complete release from all financial encumbrances; (ii) the owner, subdivider, or purchaser defaults and fails to perform under the contract of sale and there is final determination as to the disposition of such moneys; or (iii) the funds in the escrow or other account are voluntarily returned to the contract purchaser.

(2) The fee title to the subdivision is placed in trust under an agreement or trust acceptable to the Department Office of Banks and Real Estate until a proper release from each blanket encumbrance, including all taxes, is obtained and title is delivered to the purchaser.

(3) A bond to the State of Illinois is furnished to the Department Office of Banks and Real Estate for the benefit and

protection of purchasers of such lots or parcels, in the amount and subject to terms approved by the Department Office of Banks and Real Estate. The bond shall be executed by a surety company that is authorized to do business in the State of Illinois and has given consent to be sued in this State. The bond shall provide for the return of moneys paid or advanced by a purchaser if (i) the title contracted for is not delivered and (ii) a full release from each blanket encumbrance is not obtained. If it is determined that the purchaser, by reason of default or otherwise, is not entitled to the return of those moneys, or any portion of those moneys, then the bond is released by the amount of moneys to which the purchaser of parcel is not entitled.

(4) The blanket encumbrance contains provisions evidencing the subordination of the lien of the holder of the blanket encumbrance to the rights of those persons purchasing from the subdivider, and further evidencing that the subdivider is able to secure releases from such blanket encumbrances with respect to the property.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-30)

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

Sec. 10-30. Failure to pay registration, ~~and~~ inspection, ~~or~~ renewal fees; civil penalty. Any owner, subdivider, or agent who fails to pay the registration, inspection, or renewal fees when due shall be assessed a ~~late fee or~~ civil penalty of \$100 per day for each day past the due date that the fee is not paid. Practice by a registrant while in a non-renewed status constitutes unregistered practice. Any penalties collected under this Act shall be deposited into the Real Estate License Administration Fund.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-5)

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

Sec. 15-5. Disciplinary action; civil penalty.

[October 15, 2009]

(a) ~~The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$25,000 for each violation, with regard to any registration for any one or combination of the following: Office of Banks and Real Estate may refuse to issue or renew any certificate of registration, or revoke or suspend any certificate of registration, or place on probation or administrative supervision or reprimand a registrant registered under this Act, or impose a civil penalty not to exceed \$25,000, for any one or any combination of the following causes:~~

(1) ~~Violations of this Act, or of the rules promulgated under this Act. A registrant's disregard or violation of any provision of this Act or of the rules adopted by the Office of Banks and Real Estate to enforce this Act.~~

(2) ~~(Blank). A conviction of the registrant or any principal of the registrant of (i) a felony under the laws of any U.S. jurisdiction, (ii) a misdemeanor under the laws of any U.S. jurisdiction if an essential element of the offense is dishonesty, or (iii) a crime under the laws of any U.S. jurisdiction if the crime relates directly to the practice of the profession regulated by this Act.~~

(3) ~~A registrant's making any misrepresentation for the purpose of obtaining an exemption or certificate of registration a registration or certificate.~~

(4) ~~Disciplinary action against a registrant by another U.S. jurisdiction, state agency, or foreign nation regarding the making of land sales regulated by this Act, if at least one of the grounds for the discipline is the same as or substantially equivalent to one of those set forth in this Act.~~

(5) ~~A finding by the Department Office of Banks and Real Estate that the registrant, after having his or her registration placed~~ on probationary status, has violated the terms of probation.

(6) ~~A registrant's practicing or attempting to practice under a name other than the name as shown on his or her registration or any other legally authorized name.~~

(7) ~~(Blank). A registrant's failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the requirements of any such tax Act are satisfied.~~

(8) ~~A registrant's engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.~~

(9) ~~A registrant's aiding or abetting another person or persons in disregarding or violating any provision of this Act or of the rules adopted by the Department Office of Banks and Real Estate to enforce this Act.~~

(10) ~~Any representation in any document or information filed with the Department Office of Banks and Real Estate which is false or misleading.~~

(11) ~~A registrant's disseminating or causing to be disseminated any false or misleading promotional materials or advertisements in connection with a registered subdivision.~~

(12) ~~A registrant's concealing, diverting, or disposing of any funds or assets of any person in a manner that impairs the rights of purchasers of lots within a registered subdivision.~~

(13) ~~A registrant's failure to perform any stipulation or agreement made to induce the Department Office of Banks and Real Estate to issue an order relating to the registered subdivision.~~

(14) ~~A registrant's engaging in any act that constitutes a violation of Section 3-102, 3-103, 3-104, or 3-105 of the Illinois Human Rights Act.~~

(15) ~~A registrant's failure to provide information requested in writing by the Department Office of Banks and Real Estate,~~

~~within 30 days of the request, either as the result of a formal or informal complaint to the Office of Banks and Real Estate or as a result of a random audit conducted by the Office of Banks and Real Estate, which would indicate a violation of this Act.~~

(16) ~~A registrant's failure to account for or remit any escrow funds coming into his or her possession which belonged to others.~~

(17) ~~A registrant's failure to make available to Department Office of Banks and Real Estate personnel during normal business hours all escrow records and related documents maintained in connection therewith, within 24 hours of a request from Department Office of Banks and Real Estate personnel.~~

(18) ~~A registrant's failure to comply with any provision of this Act or the rules implementing this Act, or any order made by the Department Office of Banks and Real Estate.~~

(19) ~~A person's offering for sale, as an agent, salesman, or broker for a subdivider,~~

developer, or owner, subdivided lands or a subdivision, wherever situated, without first complying with this Act.

(20) A registrant's failure to provide to the purchaser a translation of the Illinois Public Property Report or any contract, lien, or note as required by this Act.

(21) A registrant's advertising for sale in this State any parcel in a subdivision, or in any other manner assisting an owner, subdivider, or developer of a subdivision who has not complied with this Act to offer subdivided land within this State.

(22) A registrant's making any material change in the plan of disposition and development of the subdivision or subdivided lands subsequent to receiving a certificate of registration, without obtaining written approval of an amendment to the registration.

(23) A registrant's encumbering a lot or parcel, or allowing a lot or parcel to be encumbered, after a contract for its sale has been signed by the parties to the contract.

~~(b) (Blank). A civil penalty imposed under subsection (a) shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.~~

~~(c) Violation of tax Acts. The Department may refuse to issue or renew or may suspend the registration 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.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-7 new)

Sec. 15-7. Civil penalties.

~~(a) In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$25,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act.~~

~~(b) The Department has the authority and power to investigate any and all unregistered activity.~~

~~(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.~~

~~(d) All moneys collected under this Section shall be deposited into the Real Estate License Administration Fund.~~

(765 ILCS 86/15-10)

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

~~Sec. 15-10. Investigation. The Department Office of Banks and Real Estate may investigate the actions or qualifications of any person or persons holding or claiming to hold a certificate of registration under this Act. Such a person is referred to as "the respondent" in this Article.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-15)

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

~~Sec. 15-15. Disciplinary hearings; record; appointment of administrative law judge.~~

~~(a) The Department Office of Banks and Real Estate has the authority to conduct hearings before an administrative law judge on proceedings to revoke, suspend, or refuse to issue or renew a certificate of registration issued under this Act, or to place on probation or administrative supervision or reprimand a registrant registered under this Act, or to impose a civil penalty not to exceed \$25,000 upon any registrant registered under this Act.~~

~~(b) The Department Office of Banks and Real Estate, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or the revocation or suspension of a certificate of registration issued under this Act or involving other discipline of a registrant registered under this Act. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the administrative law judge, and the orders of the Department Office of Banks and Real Estate shall be the record of proceeding. At all hearings or prehearing conferences, the Department Office of Banks and Real Estate and the respondent shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or prehearing conference.~~

~~(c) The Secretary Commissioner has the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as an administrative law judge in any action for refusal to issue or renew a certificate of registration or to discipline a registrant or person holding a certificate of~~

registration. The administrative law judge has full authority to conduct the hearing. The administrative law judge shall report his or her findings and recommendations to the Secretary Commissioner. If the Secretary Commissioner disagrees with the recommendation of the administrative law judge, the Secretary Commissioner may issue an order in contravention of the recommendation.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-20)

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

Sec. 15-20. Investigations; notice and hearing. ~~Notice of proposed disciplinary action; hearing.~~ The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render land sales services or any person holding or claiming to hold a certificate of registration as a registered land sales developer or subdivision. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 80 of this Act, at least 30 days before the date set for the hearing: (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her registration may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the registration, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her registration may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

(a) Before taking any disciplinary action with regard to any registrant, the Office of Banks and Real Estate shall:

(1) notify the respondent in writing, at least 30 calendar days prior to the date set for the hearing, of any charges made, the time and place for the hearing of the charges, and that testimony at the hearing will be heard under oath; and

(2) inform the respondent that upon failure to file an answer and request a hearing before the date originally set for the hearing, default will be taken against the respondent and the respondent's certificate of registration may be suspended or revoked, or other disciplinary action may be taken against the respondent, as the Office of Banks and Real Estate may deem proper.

(b) If the respondent fails to file an answer after receiving notice, the respondent's certificate of registration may, in the discretion of the Office of Banks and Real Estate, be revoked or suspended, or other disciplinary action may be taken against the respondent, as deemed proper, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act.

(c) At the time and place fixed in the notice, the Office of Banks and Real Estate shall proceed to hearing of the charges. Both the respondent and the complainant shall be accorded ample opportunity to present in person, or by counsel, statements, testimony, evidence, and argument that may be pertinent to the charges or any defense to the charges.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-25)

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

Sec. 15-25. Subpoenas; attendance of witnesses; oaths.

(a) The Department Office of Banks and Real Estate has the power to issue subpoenas ad testificandum and to bring before it any persons, and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Department Office of Banks and Real Estate has the power to issue subpoenas duces tecum and to bring before it any documents, papers, files, books, and records, with the same costs and in the same manner as prescribed in civil cases in the courts of this State.

(b) Upon application of the Department Office of Banks and Real Estate or its designee or of the applicant, registrant, or person holding a certificate of registration against whom proceedings under this Act are pending, any circuit court may enter an order compelling the enforcement of any subpoena issued by the Department Office of Banks and Real Estate in connection with any hearing or

investigation.

(c) The ~~Secretary Commissioner~~ and the designated administrative law judge have power to administer oaths to witnesses at any hearing that the ~~Department Office of Banks and Real Estate~~ is authorized to conduct under this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-30)

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

Sec. 15-30. Administrative law judge's findings of fact, conclusions of law, and recommendations. At the conclusion of the hearing, the administrative law judge shall present to the ~~Secretary Commissioner~~ a written report of the administrative law judge's findings of fact, conclusions of law, and recommendations regarding discipline or a civil penalty. The report shall contain a finding of whether or not the respondent violated this Act or failed to comply with the conditions required in this Act. The administrative law judge shall specify the nature of the violation or failure to comply. If the ~~Secretary Commissioner~~ disagrees in any regard with the report of the administrative law judge, the ~~Secretary Commissioner~~ may issue an order in contravention of the report. ~~The Commissioner shall provide a written report to the administrative law judge on any deviation and shall specify with particularity the reasons for that action in the final order.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-35)

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

Sec. 15-35. Rehearing. After any hearing involving disciplinary action against a registrant, a copy of the administrative law judge's report shall be served on the respondent by the ~~Department Office of Banks and Real Estate~~, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after the service, the respondent may present to the ~~Department Office of Banks and Real Estate~~ a motion in writing for a rehearing. The motion shall specify the particular grounds for rehearing. If the respondent orders a transcript of the record from the reporting service and pays for it within the time for filing a motion for rehearing, the 20 calendar day period within which a motion for rehearing may be filed shall commence upon the delivery of the transcript to the respondent.

If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the ~~Secretary Commissioner~~ may enter an order in accordance with the recommendations of the administrative law judge, except as otherwise provided in this Article. Whenever the ~~Secretary Commissioner~~ is not satisfied that substantial justice has been done in the hearing or in the administrative law judge's report, the ~~Secretary Commissioner~~ may order a rehearing by the same or some other duly qualified administrative law judge.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-40)

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

Sec. 15-40. Disciplinary consent orders. Notwithstanding any other provisions of this Act concerning the conduct of hearings and recommendations for disciplinary actions, the ~~Department Office of Banks and Real Estate~~ has the authority to negotiate agreements with registrants and applicants resulting in disciplinary or non-disciplinary consent orders. Any such consent order may provide for any form of discipline provided for in the Act. Any such consent order shall provide that it is not entered into as a result of any coercion by the ~~Department Office of Banks and Real Estate~~. ~~The consent order shall be final upon signature of the Secretary. Any such consent order shall be accepted by signature or rejected by the Commissioner in a timely manner.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-45)

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

Sec. 15-45. Order or certified copy. An order or a certified copy of an order, over the seal of the ~~Department Office of Banks and Real Estate~~ and purporting to be signed by the ~~Secretary Commissioner~~, shall be prima facie proof of the following:

- (1) That the signature is the genuine signature of the ~~Secretary Commissioner~~.
- (2) That the ~~Secretary Commissioner~~ is duly appointed and qualified.
- (3) That the administrative law judge is duly appointed and qualified.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-50)

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

Sec. 15-50. Restoration of certificate of registration. ~~Upon petition, after the successful completion of the term of~~ ~~At any time after~~ the suspension or revocation of any certificate of registration, the

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Department Office of Banks and Real Estate may restore the certificate of registration to the respondent upon the written recommendation of the administrative law judge, unless after an investigation and a hearing the administrative law judge determines that restoration is not in the public interest.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-55)

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

Sec. 15-55. Surrender of certificate of registration. Upon the revocation or suspension of a certificate of registration, the registrant shall immediately surrender the certificate of registration to the Department Office of Banks and Real Estate. If the registrant fails to do so, the Department Office of Banks and Real Estate has the right to seize the certificate of registration.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-60)

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

Sec. 15-60. Administrative Review Law; transcripts; certifications of record; costs. All final administrative decisions of the Department Office of Banks and Real Estate under this Act are subject to judicial review under the Administrative Review Law and the rules implementing that Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of this State, the venue shall be in Cook or Sangamon County.

Pending the court's final decision on administrative review, the acts, orders, sanctions, and rulings of the Department Office of Banks and Real Estate regarding any registration shall remain in full force and effect unless modified or suspended by court order pending a final judicial decision.

The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of a case involving the refusal to issue or renew a registration. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report, and orders of the Department shall be in the record of the proceeding.

The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which shall be computed at the rate of 20 cents per page of the record. Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

The Office of Banks and Real Estate shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Office of Banks and Real Estate acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file a receipt in the court is grounds for dismissal of the action.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-65)

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

Sec. 15-65. Public interest, safety, or welfare; summary suspension. The Secretary Commissioner may temporarily suspend any registration pursuant to this Act, without hearing, simultaneously with the institution of proceedings for a hearing provided for in this Section, if the Secretary Commissioner finds that the evidence indicates that imminent danger exists to the public interest, safety, or welfare imperatively requires emergency action. If the Secretary Commissioner temporarily suspends any registration without a hearing, a hearing must be held within 30 calendar days after the suspension. The person whose registration is suspended may seek a continuance of the hearing, during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-70)

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

Sec. 15-70. Non-registered practice; civil penalty; injunction.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a registrant under this Act without being registered under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department Office of Banks and Real Estate in an amount not to exceed \$25,000 for each offense as determined by the Department Office of Banks and Real Estate. The civil penalty shall be assessed by the Department Office of Banks and Real Estate after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a registration.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days after the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued. The Office of Banks and Real Estate has the authority and power to investigate any and all activity subject to registration under this Act.

(c) A civil penalty imposed under subsection (a) shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) Engaging in the sale of land located outside the State of Illinois but offered for sale in Illinois by any entity not holding a valid and current registration under this Act is declared to be inimical to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary Commissioner, the Attorney General, the State's Attorney of any county in the State, or any person may maintain an action in the name of the People of the State of Illinois, and may apply for injunctive relief in any circuit court to enjoin the entity from engaging in the conduct prohibited under this subsection. Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that the entity has been engaged in that conduct without a valid and current registration, may enter a temporary restraining order without notice or bond, enjoining the defendant from such further conduct. Only the showing of nonregistration, by affidavit or otherwise, is necessary in order for a temporary injunction to issue. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases except as modified by this Section. If it is established that the defendant has been or is engaged in such unlawful conduct, the court may enter an order or judgment perpetually enjoining the defendant from further unlawful conduct. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges and reasonable attorneys' fees. In the case of a violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. Proceedings for an injunction under this Section shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-75)

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

Sec. 15-75. Cease and desist orders. The Department Office of Banks and Real Estate may issue a cease and desist order to any person who engages in any activity prohibited by this Act. Any person in violation of a cease and desist order entered by the Department Office of Banks and Real Estate is subject to all of the remedies provided by law.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-5)

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

Sec. 20-5. Administration of Act. The Department Office of Banks and Real Estate shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise other powers and duties necessary for effectuating the purposes of this Act. The Department Office of Banks and Real Estate may contract with third parties for services necessary for the proper administration of this Act. The Department Office of Banks and Real Estate has the authority to establish public policies and procedures necessary for the administration of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-10)

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

Sec. 20-10. Administrative rules. The Department Office of Banks and Real Estate shall adopt rules for the implementation and enforcement of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-15)

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

Sec. 20-15. Investigation of subdivisions. The Department may Office of Banks and Real Estate shall investigate any every subdivision offered for sale in this State and may:

(1) Require the applicant to submit reports prepared by competent engineers concerning any hazard to which any subdivision offered for sale is subject in the opinion of the Department Office of Banks and Real Estate, or any factor that affects the utility of lots or parcels within the

subdivision, and require evidence of compliance.

(2) Make an on-site inspection of each subdivision. In connection with any on-site inspection, the owner, subdivider, or agent shall defray all expenses incurred by the inspector in the course of the inspection.

(3) Make additional on-site inspections of each subdivision for which the owner, subdivider, or agent shall defray all expenses incurred by the inspector in the course of the inspection.

(4) Require the owner, subdivider, or agent to deposit the expenses to be incurred in any inspection, in advance, based upon an estimate by the ~~Department Office of Banks and Real Estate~~ of the expenses likely to be incurred.

(5) In those cases where an on-site inspection of any subdivision has been made under the provisions of this Act, waive an inspection of a subsequent registration submitted as an amendment to the registration covering subdivided land to be sold under the same common promotional plan. An inspection of the subsequent registration may be made in connection with the next succeeding on-site inspection.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-20)

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

Sec. 20-20. Forms. The ~~Department Office of Banks and Real Estate~~ may prescribe forms and procedures for submitting to the ~~Department Office of Banks and Real Estate~~.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-25)

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

Sec. 20-25. Real Estate License Administration Fund. All fees collected for registration and for civil penalties pursuant to this Act and administrative rules adopted under this Act shall be deposited into the Real Estate Administration Fund. The moneys deposited in the Real Estate Administration License Fund shall be appropriated to the ~~Department Office of Banks and Real Estate~~ for expenses for the administration and enforcement of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Martinez, **Senate Bill No. 332**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi

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DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 390** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 390

AMENDMENT NO. 1. Amend Senate Bill 390 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Finance Authority Act is amended by changing Sections 825-65, 825-70, and 825-75 as follows:

(20 ILCS 3501/825-65)

Sec. 825-65. Clean Coal, Coal, Energy Efficiency, and Renewable Energy Project Financing.

(a) Findings and declaration of policy.

(i) It is hereby found and declared that Illinois has abundant coal resources and, in some areas of Illinois, the demand for power exceeds the generating capacity. Incentives to encourage the construction of coal-fueled electric generating plants in Illinois to ensure power generating capacity into the future and to advance clean coal technology and the use of Illinois coal are in the best interests of all of the citizens of Illinois.

(ii) It is further found and declared that Illinois has abundant potential and resources to develop renewable energy resource projects and that there are many opportunities to invest in cost-effective energy efficiency projects throughout the State. The development of those projects will create jobs and investment as well as decrease environmental impacts and promote energy independence in Illinois. Accordingly, the development of those projects is in the best interests of all of the citizens of Illinois.

(iii) The Authority is authorized to issue bonds to help finance Clean Coal, Coal, Energy Efficiency, and Renewable Energy projects pursuant to this Section.

(b) Definitions.

(i) "Clean Coal Project" means (A) "clean coal facility", as defined in Section 1-10 of the Illinois Power Agency Act; (B) "clean coal SNG facility", as defined in Section 1-10 of the Illinois Power Agency Act; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); (D) pipelines or other methods to transfer carbon dioxide from the point of production to the point of storage or sequestration for projects described in this subsection (b); or (E) projects to provide carbon abatement technology for existing generating facilities.

(ii) "Coal Project" means new electric generating facilities or new gasification facilities, as defined in Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois, which may include mine-mouth power plants, projects that employ the use of clean coal technology, projects to provide scrubber technology for existing energy generating plants, or projects to provide electric transmission facilities or new gasification facilities.

(iii) "Energy Efficiency Project" means measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with Section 1-10 of the Illinois Power Agency Act.

(iv) "Renewable Energy Project" means (A) a project that uses renewable energy resources, as defined in Section 1-10 of the Illinois Power Agency Act; (B) a project that uses environmentally preferable technologies and practices that result in improvements to the production of renewable fuels,

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including but not limited to, cellulosic conversion, water and energy conservation, fractionation, alternative feedstocks, or reduced green house gas emissions; (C) transmission lines and associated equipment that transfer electricity from points of supply to points of delivery for projects described in this subsection (b); or (D) projects that use technology for the storage of renewable energy, including, without limitation, the use of battery or electrochemical storage technology for mobile or stationary applications.

(c) Creation of reserve funds. The Authority may establish and maintain one or more reserve funds to enhance bonds issued by the Authority for a Clean Coal Project, a Coal Project, an Energy Efficiency Project, or a Renewable Energy Project. There may be one or more accounts in these reserve funds in which there may be deposited:

(1) any proceeds of the bonds issued by the Authority required to be deposited therein by the terms of any contract between the Authority and its bondholders or any resolution of the Authority;

(2) any other moneys or funds of the Authority that it may determine to deposit therein from any other source; and

(3) any other moneys or funds made available to the Authority. Subject to the terms of any pledge to the owners of any bonds, moneys in any reserve fund may be held and applied to the payment of principal, premium, if any, and interest of such bonds.

(d) Powers and duties. The Authority has the power:

(1) To issue bonds in one or more series pursuant to one or more resolutions of the Authority for any Clean Coal Project, Coal Project, Energy Efficiency Project, or Renewable Energy Project authorized under this Section, within the authorization set forth in subsection (e).

(2) To provide for the funding of any reserves or other funds or accounts deemed necessary by the Authority in connection with any bonds issued by the Authority.

(3) To pledge any funds of the Authority or funds made available to the Authority that may be applied to such purpose as security for any bonds or any guarantees, letters of credit, insurance contracts or similar credit support or liquidity instruments securing the bonds.

(4) To enter into agreements or contracts with third parties, whether public or private, including, without limitation, the United States of America, the State or any department or agency thereof, to obtain any appropriations, grants, loans or guarantees that are deemed necessary or desirable by the Authority. Any such guarantee, agreement or contract may contain terms and provisions necessary or desirable in connection with the program, subject to the requirements established by the Act.

(5) To exercise such other powers as are necessary or incidental to the foregoing.

(e) Clean Coal Project, Coal Project, Energy Efficiency Project, and Renewable Energy Project bond authorization and financing limits. In addition to any other bonds authorized to be issued under Sections 801-40(w), 825-60, 830-25 and 845-5, the Authority may have outstanding, at any time, bonds for the purpose enumerated in this Section 825-65 in an aggregate principal amount that shall not exceed \$3,000,000,000, subject to the following limitations: (i) up to \$300,000,000 may be issued to finance projects, as described in clause (C) of subsection (b)(i) and clause (C) of subsection (b)(iv) ~~(b)(iii)~~ of this Section 825-65; (ii) up to \$500,000,000 may be issued to finance projects, as described in clauses (D) and (E) of subsection (b)(i) of this Section 825-65; (iii) up to \$2,000,000,000 may be issued to finance Clean Coal Projects, as described in clauses (A) and (B) of subsection (b)(i) of this Section 825-65 and Coal Projects, as described in subsection (b)(ii) of this Section 825-65; and (iv) up to \$2,000,000,000 may be issued to finance Energy Efficiency Projects, as described in subsection (b)(iii) of this Section 825-65 and Renewable Energy Projects, as described in clauses (A), (B), and (D) of subsection (b)(iii) of this Section 825-65. An application for a loan financed from bond proceeds from a borrower or its affiliates for a Clean Coal Project, a Coal Project, Energy Efficiency Project, or a Renewable Energy Project may not be approved by the Authority for an amount in excess of \$450,000,000 for any borrower or its affiliates. These bonds shall not constitute an indebtedness or obligation of the State of Illinois and it shall be plainly stated on the face of each bond that it does not constitute an indebtedness or obligation of the State of Illinois, but is payable solely from the revenues, income or other assets of the Authority pledged therefor.

(f) The bonding authority granted under this Section is in addition to and not limited by the provisions of Section 845-5.

(Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10.)

(20 ILCS 3501/825-70)

Sec. 825-70. Criteria for participation in the program. Applications to the Authority for financing of any Clean Coal, Coal, Energy Efficiency Project, or Renewable Energy Project shall be reviewed by the

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Authority. Upon submission of any such application, the Authority staff shall review the application for its completeness and may, at the discretion of the Authority staff, request such additional information as it deems necessary or advisable to aid in review. If the Authority receives applications for financing for Clean Coal, Coal, Energy Efficiency Project, or Renewable Energy Projects in excess of the bond authorization available for such financing at any one time, it shall consider applications in the order of priority as it shall determine, in consultation with other State agencies, and consistent with State policy to promote environmentally preferable technology and energy independence.

(Source: P.A. 96-103, eff. 1-1-10.)

(20 ILCS 3501/825-75)

Sec. 825-75. Additional Security. In the event that the Authority determines that monies of the Authority will not be sufficient for the payment of the principal of and interest on any bonds issued by the Authority under Sections 825-65 through 825-75 of this Act for Clean Coal Projects, Coal Projects, Energy Efficiency Projects, or Renewable Energy Projects during the next State fiscal year, the Chairperson, as soon as practicable, shall certify to the Governor the amount required by the Authority to enable it to pay such principal, premium, if any, and interest on such bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. This subsection shall apply to any bonds or notes as to which the Authority shall have determined, in the resolution authorizing the issuance of the bonds or notes, that this subsection shall apply. Whenever the Authority makes such a determination, that fact shall be plainly stated on the face of the bonds or notes and that fact should also be reported to the Governor. In the event of a withdrawal of moneys from a reserve fund established with respect to any issue or issues of bonds of the Authority to pay principal, premium, if any, and interest on such bonds, the Chairman of the Authority, as soon as practicable, shall certify to the Governor the amount required to restore the reserve fund to the level required in the resolution or indenture securing those bonds. The Governor shall submit the amount so certified to the General Assembly as soon as practicable, but no later than the end of the current State fiscal year. The Authority shall obtain written approval from the Governor for any bonds and notes to be issued under this Section.

(Source: P.A. 95-470, eff. 8-27-07; 96-103, eff. 1-1-10.)

Section 99. Effective date. This Act takes effect January 1, 2010."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 390**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None; Present 1.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Hendon	McCarter	Stears
Burzynski	Holmes	Meeks	Sullivan
Clayborne	Hultgren	Millner	Syverson
Collins	Hutchinson	Muñoz	Trotter
Cronin	Jacobs	Murphy	Viverito
Crotty	Jones, E.	Noland	Wilhelmi
Dahl	Jones, J.	Pankau	Mr. President

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DeLeo	Koehler	Radogno
Demuzio	Kotowski	Raoul
Dillard	Lauzen	Righter
Duffy	Lightford	Risinger

The following voted present:

Harmon

This bill, having received the vote of three-fifths of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Collins, **Senate Bill No. 395** was recalled from the order of third reading to the order of second reading.

Senator Collins offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 395

AMENDMENT NO. 1. Amend Senate Bill 395 by replacing everything after the enacting clause with the following:

"Section 5. The Deposit of State Moneys Act is amended by changing Section 22.5 as follows:  
(15 ILCS 520/22.5) (from Ch. 130, par. 41a)

(For force and effect of certain provisions, see Section 90 of P.A. 94-79)

Sec. 22.5. Permitted investments. The State Treasurer may, with the approval of the Governor, invest and reinvest any State money in the treasury which is not needed for current expenditures due or about to become due, in obligations of the United States government or its agencies or of National Mortgage Associations established by or under the National Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage participation certificates representing undivided interests in specified, first-lien conventional residential Illinois mortgages that are underwritten, insured, guaranteed, or purchased by the Federal Home Loan Mortgage Corporation or in Affordable Housing Program Trust Fund Bonds or Notes as defined in and issued pursuant to the Illinois Housing Development Act. All such obligations shall be considered as cash and may be delivered over as cash by a State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, purchase any state bonds with any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on the bonds. The bonds shall be considered as cash and may be delivered over as cash by the State Treasurer to his successor.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the treasury that is not needed for current expenditure due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in shares, withdrawable accounts, and investment certificates of savings and building and loan associations, incorporated under the laws of this State or any other state or under the laws of the United States; provided, however, that investments may be made only in those savings and loan or building and loan associations the shares and withdrawable accounts or other forms of investment securities of which are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may not invest State money in any savings and loan or building and loan association unless a commitment by the savings and loan (or building and loan) association, executed by the president or chief executive officer of that association, is submitted in the following form:

The ..... Savings and Loan (or Building and Loan) Association pledges not

to reject arbitrarily mortgage loans for residential properties within any specific part of the community served by the savings and loan (or building and loan) association because of the location of the property. The savings and loan (or building and loan) association also pledges to make loans available on low and moderate income residential property throughout the community within the limits of its legal restrictions and prudent financial practices.

The State Treasurer may, with the approval of the Governor, invest or reinvest, at a price not to

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exceed par, any State money in the treasury that is not needed for current expenditures due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and interest on any State bonds, in bonds issued by counties or municipal corporations of the State of Illinois.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury which is not needed for current expenditure, due or about to become due, or any money in the State Treasury which has been set aside and held for the payment of the principal of and the interest on any State bonds, in participations in loans, the principal of which participation is fully guaranteed by an agency or instrumentality of the United States government; provided, however, that such loan participations are represented by certificates issued only by banks which are incorporated under the laws of this State or any other state or under the laws of the United States, and such banks, but not the loan participation certificates, are insured by the Federal Deposit Insurance Corporation.

The State Treasurer may, with the approval of the Governor, invest or reinvest any State money in the Treasury that is not needed for current expenditure, due or about to become due, or any money in the State Treasury that has been set aside and held for the payment of the principal of and the interest on any State bonds, in any of the following:

(1) Bonds, notes, certificates of indebtedness, Treasury bills, or other securities now or hereafter issued that are guaranteed by the full faith and credit of the United States of America as to principal and interest.

(2) Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and instrumentalities.

(2.5) Bonds, notes, debentures, or other similar obligations of a foreign government, other than the Republic of the Sudan, that are guaranteed by the full faith and credit of that government as to principal and interest, but only if the foreign government has not defaulted and has met its payment obligations in a timely manner on all similar obligations for a period of at least 25 years immediately before the time of acquiring those obligations.

(3) Interest-bearing savings accounts, interest-bearing certificates of deposit, interest-bearing time deposits, or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.

(4) Interest-bearing accounts, certificates of deposit, or any other investments constituting direct obligations of any savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States.

(5) Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principal office of the credit union must be located within the State of Illinois.

(6) Bankers' acceptances of banks whose senior obligations are rated in the top 2 rating categories by 2 national rating agencies and maintain that rating during the term of the investment.

(7) Short-term obligations of corporations organized in the United States with assets exceeding \$500,000,000 if (i) the obligations are rated at the time of purchase at one of the 3 highest classifications established by at least 2 standard rating services and mature not later than 270 days from the date of purchase, (ii) the purchases do not exceed 10% of the corporation's outstanding obligations, (iii) no more than one-third of the public agency's funds are invested in short-term obligations of corporations, and (iv) the corporation has not been identified as a forbidden entity, as that term is defined in Section 1-110.6 of the Illinois Pension Code, by an independent researching firm that specializes in global security risk that has been engaged by the State Treasurer.

(8) Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of the money market mutual fund is limited to obligations described in this Section and to agreements to repurchase such obligations.

(9) The Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act or in a fund managed, operated, and administered by a bank.

(10) Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of that Act and the regulations issued thereunder.

(11) Investments made in accordance with the Technology Development Act.

For purposes of this Section, "agencies" of the United States Government includes:

(i) the federal land banks, federal intermediate credit banks, banks for cooperatives, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory thereto;

- (ii) the federal home loan banks and the federal home loan mortgage corporation;
- (iii) the Commodity Credit Corporation; and
- (iv) any other agency created by Act of Congress.

The Treasurer may, with the approval of the Governor, lend any securities acquired under this Act. However, securities may be lent under this Section only in accordance with Federal Financial Institution Examination Council guidelines and only if the securities are collateralized at a level sufficient to assure the safety of the securities, taking into account market value fluctuation. The securities may be collateralized by cash or collateral acceptable under Sections 11 and 11.1.

(Source: P.A. 95-521, eff. 8-28-07; 96-469, eff. 8-14-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Collins, **Senate Bill No. 395**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Kotowski, **Senate Bill No. 588** was recalled from the order of third reading to the order of second reading.

Senator Kotowski offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 588

AMENDMENT NO. 1. Amend Senate Bill 588 by replacing everything after the enacting clause

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with the following:

"Section 5. The Counties Code is amended by changing Section 2-6008 as follows:  
(55 ILCS 5/2-6008) (from Ch. 34, par. 2-6008)

Sec. 2-6008. Approval of ordinances. All ordinances, resolutions or motions shall be submitted to said board of commissioners in writing, or reduced to writing before any vote shall be taken thereon; and if adopted by the board, the same shall not take effect until after the same shall have been approved in writing by the president of said board, except as hereinafter provided. It shall be the duty of the clerk of said board to deliver to the president thereof, upon his request, the original (or a copy) of each ordinance, resolution or motion, so passed or adopted by said board as aforesaid, within one day after its passage or adoption; and in case the president approves thereof, he shall sign the same, and it shall thereupon be in full force and effect. In case the president shall not approve any such ordinance, resolution or motion, he shall, within five days after the receipt of the same as aforesaid, return it to the clerk of said board, with his objections thereto in writing. Such veto by the president may extend to any one or more items or appropriations contained in any resolution making an appropriation, or to the entire resolution; and in case the veto only extends to a part of such resolution making an appropriation, the residue thereof not embraced within the veto shall take effect and be in force from the time of the receipt by said clerk of such veto of such part. Upon the return of any such ordinance, resolution or motion by the president, with his objections thereto as aforesaid, the vote by which the same was passed shall be reconsidered by the board of commissioners as to so much thereof as may have been vetoed; and if, after such reconsideration, ~~three-fifths~~ ~~four-fifths~~ of all the members elected to the board shall agree to pass the same by yeas and nays, to be entered on the journal, the same shall take effect, notwithstanding the president may have refused to approve thereof. In case the president shall fail or omit to either sign and approve or return, with his objections as aforesaid, any such ordinance, motion or resolution which shall have been passed or adopted by the board within six days after it shall have been so passed or adopted, the same shall take effect without the approval of the president.

This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(Source: P.A. 86-962.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Kotowski, **Senate Bill No. 588**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 53; NAY 1; Present 2.

The following voted in the affirmative:

Althoff	Frerichs	Link	Risinger
Bivins	Garrett	Luechtefeld	Rutherford
Bomke	Haine	Maloney	Sandoval
Bond	Harmon	Martinez	Schoenberg
Brady	Hendon	McCarter	Silverstein
Burzynski	Holmes	Meeks	Steans
Clayborne	Hultgren	Millner	Sullivan
Cronin	Hutchinson	Muñoz	Syverson
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, J.	Noland	Wilhelmi

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Demuzio	Koehler	Pankau	Mr. President
Dillard	Kotowski	Radogno	
Duffy	Lauzen	Raoul	
Forby	Lightford	Righter	

The following voted in the negative:

Jones, E.

The following voted present:

Collins  
Trotter

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 595** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 595

AMENDMENT NO. 1. Amend Senate Bill 595 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Municipal Code is amended by changing Section 11-74.4-3.5 as follows:  
(65 ILCS 5/11-74.4-3.5)

Sec. 11-74.4-3.5. Completion dates for redevelopment projects.

(a) Unless otherwise stated in this Section, the estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer, as provided in subsection (b) of Section 11-74.4-8 of this Act, is to be made with respect to ad valorem taxes levied in the 23rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted if the ordinance was adopted on or after January 15, 1981.

(b) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.

The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 33rd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on May 20, 1985 by the Village of Wheeling.

~~(b-5) The estimated dates of completion of the redevelopment project and retirement of obligations issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 32nd calendar year after the year in which the ordinance approving the redevelopment project area was adopted, if the ordinance was adopted on September 9, 1999 by the Village of Downs.~~

(c) The estimated dates of completion of the redevelopment project and retirement of obligations

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issued to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may not be later than December 31 of the year in which the payment to the municipal treasurer as provided in subsection (b) of Section 11-74.4-8 of this Act is to be made with respect to ad valorem taxes levied in the 35th calendar year after the year in which the ordinance approving the redevelopment project area was adopted:

- (1) if the ordinance was adopted before January 15, 1981;
- (2) if the ordinance was adopted in December 1983, April 1984, July 1985, or December 1989;
- (3) if the ordinance was adopted in December 1987 and the redevelopment project is located within one mile of Midway Airport;
- (4) if the ordinance was adopted before January 1, 1987 by a municipality in Mason County;
- (5) if the municipality is subject to the Local Government Financial Planning and Supervision Act or the Financially Distressed City Law;
- (6) if the ordinance was adopted in December 1984 by the Village of Rosemont;
- (7) if the ordinance was adopted on December 31, 1986 by a municipality located in Clinton County for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997, or if the ordinance was adopted on December 31, 1986 by a municipality with a population in 1990 of less than 3,600 that is located in a county with a population in 1990 of less than 34,000 and for which at least \$250,000 of tax increment bonds were authorized on June 17, 1997;
- (8) if the ordinance was adopted on October 5, 1982 by the City of Kankakee, or if the ordinance was adopted on December 29, 1986 by East St. Louis;
- (9) if the ordinance was adopted on November 12, 1991 by the Village of Saugert;
- (10) if the ordinance was adopted on February 11, 1985 by the City of Rock Island;
- (11) if the ordinance was adopted before December 18, 1986 by the City of Moline;
- (12) if the ordinance was adopted in September 1988 by Sauk Village;
- (13) if the ordinance was adopted in October 1993 by Sauk Village;
- (14) if the ordinance was adopted on December 29, 1986 by the City of Galva;
- (15) if the ordinance was adopted in March 1991 by the City of Centreville;
- (16) if the ordinance was adopted on January 23, 1991 by the City of East St. Louis;
- (17) if the ordinance was adopted on December 22, 1986 by the City of Aledo;
- (18) if the ordinance was adopted on February 5, 1990 by the City of Clinton;
- (19) if the ordinance was adopted on September 6, 1994 by the City of Freeport;
- (20) if the ordinance was adopted on December 22, 1986 by the City of Tuscola;
- (21) if the ordinance was adopted on December 23, 1986 by the City of Sparta;
- (22) if the ordinance was adopted on December 23, 1986 by the City of Beardstown;
- (23) if the ordinance was adopted on April 27, 1981, October 21, 1985, or December 30, 1986 by the City of Belleville;
- (24) if the ordinance was adopted on December 29, 1986 by the City of Collinsville;
- (25) if the ordinance was adopted on September 14, 1994 by the City of Alton;
- (26) if the ordinance was adopted on November 11, 1996 by the City of Lexington;
- (27) if the ordinance was adopted on November 5, 1984 by the City of LeRoy;
- (28) if the ordinance was adopted on April 3, 1991 or June 3, 1992 by the City of Markham;
- (29) if the ordinance was adopted on November 11, 1986 by the City of Pekin;
- (30) if the ordinance was adopted on December 15, 1981 by the City of Champaign;
- (31) if the ordinance was adopted on December 15, 1986 by the City of Urbana;
- (32) if the ordinance was adopted on December 15, 1986 by the Village of Heyworth;
- (33) if the ordinance was adopted on February 24, 1992 by the Village of Heyworth;
- (34) if the ordinance was adopted on March 16, 1995 by the Village of Heyworth;
- (35) if the ordinance was adopted on December 23, 1986 by the Town of Cicero;
- (36) if the ordinance was adopted on December 30, 1986 by the City of Effingham;
- (37) if the ordinance was adopted on May 9, 1991 by the Village of Tilton;
- (38) if the ordinance was adopted on October 20, 1986 by the City of Elmhurst;
- (39) if the ordinance was adopted on January 19, 1988 by the City of Waukegan;
- (40) if the ordinance was adopted on September 21, 1998 by the City of Waukegan;
- (41) if the ordinance was adopted on December 31, 1986 by the City of Sullivan;
- (42) if the ordinance was adopted on December 23, 1991 by the City of Sullivan;
- (43) if the ordinance was adopted on December 31, 1986 by the City of Oglesby;

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- (44) if the ordinance was adopted on July 28, 1987 by the City of Marion;
- (45) if the ordinance was adopted on April 23, 1990 by the City of Marion;
- (46) if the ordinance was adopted on August 20, 1985 by the Village of Mount Prospect;
- (47) if the ordinance was adopted on February 2, 1998 by the Village of Woodhull;
- (48) if the ordinance was adopted on April 20, 1993 by the Village of Princeville;
- (49) if the ordinance was adopted on July 1, 1986 by the City of Granite City;
- (50) if the ordinance was adopted on February 2, 1989 by the Village of Lombard;
- (51) if the ordinance was adopted on December 29, 1986 by the Village of Gardner;
- (52) if the ordinance was adopted on July 14, 1999 by the Village of Paw Paw;
- (53) if the ordinance was adopted on November 17, 1986 by the Village of Franklin Park;
- (54) if the ordinance was adopted on November 20, 1989 by the Village of South Holland;
- (55) if the ordinance was adopted on July 14, 1992 by the Village of Riverdale;
- (56) if the ordinance was adopted on December 29, 1986 by the City of Galesburg;
- (57) if the ordinance was adopted on April 1, 1985 by the City of Galesburg;
- (58) if the ordinance was adopted on May 21, 1990 by the City of West Chicago;
- (59) if the ordinance was adopted on December 16, 1986 by the City of Oak Forest;
- (60) if the ordinance was adopted in 1999 by the City of Villa Grove;
- (61) if the ordinance was adopted on January 13, 1987 by the Village of Mt. Zion;
- (62) if the ordinance was adopted on December 30, 1986 by the Village of Manteno;
- (63) if the ordinance was adopted on April 3, 1989 by the City of Chicago Heights;
- (64) if the ordinance was adopted on January 6, 1999 by the Village of Rosemont;
- (65) if the ordinance was adopted on December 19, 2000 by the Village of Stone Park;
- (66) if the ordinance was adopted on December 22, 1986 by the City of DeKalb;
- (67) if the ordinance was adopted on December 2, 1986 by the City of Aurora;
- (68) if the ordinance was adopted on December 31, 1986 by the Village of Milan;
- (69) if the ordinance was adopted on September 8, 1994 by the City of West Frankfort;
- (70) if the ordinance was adopted on December 23, 1986 by the Village of Libertyville; ~~or~~
- (71) if the ordinance was adopted on December 22, 1986 by the Village of Hoffman

Estates; ~~or~~

(72) ~~(71)~~ if the ordinance was adopted on September 17, 1986 by the Village of Sherman ; -

(73) ~~(71)~~ if the ordinance was adopted on December 16, 1986 by the City of Macomb ; -

(74) ~~(72)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the West Washington Street TIF; ~~or~~

(75) ~~(73)~~ if the ordinance was adopted on June 11, 2002 by the City of East Peoria to create the Camp Street TIF; -

(76) ~~(72)~~ if the ordinance was adopted on August 7, 2000 by the City of Des Plaines ; -

(77) ~~(72)~~ if the ordinance was adopted on December 22, 1986 by the City of Washington to create the Washington Square TIF #2; -

(78) ~~(71)~~ ~~(72)~~ if the ordinance was adopted on December 29, 1986 by the City of Morris ; -

(79) ~~(71)~~ if the ordinance was adopted on July 6, 1998 by the Village of Steeleville ; -

(80) ~~(72)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF I (the Main St TIF); ~~or~~

(81) ~~(73)~~ if the ordinance was adopted on December 29, 1986 by the City of Pontiac to create TIF II (the Interstate TIF); -

(82) ~~(71)~~ ~~(72)~~ if the ordinance was adopted on November 6, 2002 by the City of Chicago to create

the

Madden/Wells TIF District;

(83) ~~(72)~~ ~~(73)~~ if the ordinance was adopted on November 4, 1998 by the City of Chicago to create

the

Roosevelt/Racine TIF District;

(84) ~~(73)~~ ~~(74)~~ if the ordinance was adopted on June 10, 1998 by the City of Chicago to create the Stony Island Commercial/Burnside Industrial Corridors TIF District; ~~or~~

(85) ~~(74)~~ ~~(75)~~ if the ordinance was adopted on November 29, 1989 by the City of Chicago to create the Englewood Mall TIF District; ~~or~~ -

(86) if the ordinance was adopted on December 30, 1986 by the Village of Bellevue to create the Bellevue TIF District I.

(d) For redevelopment project areas for which bonds were issued before July 29, 1991, or for which contracts were entered into before June 1, 1988, in connection with a redevelopment project in the area within the State Sales Tax Boundary, the estimated dates of completion of the redevelopment project and

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retirement of obligations to finance redevelopment project costs (including refunding bonds under Section 11-74.4-7) may be extended by municipal ordinance to December 31, 2013. The termination procedures of subsection (b) of Section 11-74.4-8 are not required for these redevelopment project areas in 2009 but are required in 2013. The extension allowed by Public Act 87-1272 shall not apply to real property tax increment allocation financing under Section 11-74.4-8.

(e) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were adopted on or after December 16, 1986 and for which at least \$8 million worth of municipal bonds were authorized on or after December 19, 1989 but before January 1, 1990; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(f) Those dates, for purposes of real property tax increment allocation financing pursuant to Section 11-74.4-8 only, shall be not more than 35 years for redevelopment project areas that were established on or after December 1, 1981 but before January 1, 1982 and for which at least \$1,500,000 worth of tax increment revenue bonds were authorized on or after September 30, 1990 but before July 1, 1991; provided that the municipality elects to extend the life of the redevelopment project area to 35 years by the adoption of an ordinance after at least 14 but not more than 30 days' written notice to the taxing bodies, that would otherwise constitute the joint review board for the redevelopment project area, before the adoption of the ordinance.

(g) In consolidating the material relating to completion dates from Sections 11-74.4-3 and 11-74.4-7 into this Section, it is not the intent of the General Assembly to make any substantive change in the law, except for the extension of the completion dates for the City of Aurora, the Village of Milan, the City of West Frankfort, the Village of Libertyville, and the Village of Hoffman Estates set forth under items (67), (68), (69), (70), and (71) of subsection (c) of this Section.

(Source: P.A. 95-932, eff. 8-26-08; 95-964, eff. 9-23-08; incorporates P.A. 95-777, eff. 9-22-08, and 95-1028, eff. 8-25-09 (see Section 5 of P.A. 96-717 for the effective date of changes made by P.A. 95-1028); 96-127, eff. 8-4-09; 96-182, eff. 8-10-09; 96-208, eff. 8-10-09; 96-209, eff. 1-1-10; 96-213, eff. 8-10-09; 96-264, eff. 8-11-09; 96-328, eff. 8-11-09; 96-439, eff. 8-14-09; 96-454, eff. 8-14-09; 96-722, eff. 8-25-09; 96-773, eff. 8-28-09; revised 9-25-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 595**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAY 1.

The following voted in the affirmative:

Althoff	Forby	Link	Risinger
Bivins	Frerichs	Luechtefeld	Rutherford
Bomke	Garrett	Maloney	Sandoval
Bond	Haine	Martinez	Schoenberg
Brady	Harmon	McCarter	Silverstein
Clayborne	Hendon	Meeks	Steans
Collins	Hultgren	Millner	Sullivan
Cronin	Hutchinson	Muñoz	Syverson
Crotty	Jacobs	Murphy	Trotter

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Dahl	Jones, E.	Noland	Viverito
DeLeo	Jones, J.	Pankau	Wilhelmi
Demuzio	Koehler	Radogno	Mr. President
Dillard	Lauzen	Raoul	
Duffy	Lightford	Righter	

The following voted in the negative:

Burzynski

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Senator Holmes asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the affirmative on **Senate Bill No. 595**.

### SENATE BILL RECALLED

On motion of Senator Koehler, **Senate Bill No. 616** was recalled from the order of third reading to the order of second reading.

Senator Koehler offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 616

AMENDMENT NO. 1. Amend Senate Bill 616 by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 17-2.11 and 19-1 as follows:  
(105 ILCS 5/17-2.11) (from Ch. 122, par. 17-2.11)

Sec. 17-2.11. School board power to levy a tax or to borrow money and issue bonds for fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes.

(a) Whenever, as a result of any lawful order of any agency, other than a school board, having authority to enforce any school building code applicable to any facility that houses students, or any law or regulation for the protection and safety of the environment, pursuant to the Environmental Protection Act, any school district having a population of less than 500,000 inhabitants is required to alter or reconstruct any school building or permanent, fixed equipment; the district may, by proper resolution, levy a tax for the purpose of making such alteration or reconstruction, based on a survey report by an architect or engineer licensed in this State, upon all of the taxable property of the district at the value as assessed by the Department of Revenue and at a rate not to exceed 0.05% per year for a period sufficient to finance such alteration or reconstruction, upon the following conditions:

(1) When there are not sufficient funds available in the operations and maintenance fund of the school district, the school facility occupation tax fund of the district, or the fire prevention and safety fund of the district, as determined by the district on the basis of rules adopted by the State Board of Education, to make such alteration or reconstruction or to purchase and install such permanent, fixed equipment so ordered or determined as necessary. Appropriate school district records must be made available to the State Superintendent of Education, upon request, to confirm this insufficiency.

(2) When a certified estimate of an architect or engineer licensed in this State stating the estimated amount necessary to make the alteration or reconstruction or to purchase and install the equipment so ordered has been secured by the school district, and the estimate has been approved by the regional superintendent of schools having jurisdiction over the district and the State Superintendent of Education. Approval must not be granted for any work that has already started without the prior express authorization of the State Superintendent of Education. If the estimate is not approved or is denied approval by the regional superintendent of schools within 3 months after the date on which it is submitted to him or her, the school board of the district may submit the estimate directly to the State Superintendent of Education for approval or denial.

In the case of an emergency situation, where the estimated cost to effectuate emergency repairs is less

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than the amount specified in Section 10-20.21 of this Code, the school district may proceed with such repairs prior to approval by the State Superintendent of Education, but shall comply with the provisions of subdivision (2) of this subsection (a) as soon thereafter as may be as well as Section 10-20.21 of this Code. If the estimated cost to effectuate emergency repairs is greater than the amount specified in Section 10-20.21 of this Code, then the school district shall proceed in conformity with Section 10-20.21 of this Code and with rules established by the State Board of Education to address such situations. The rules adopted by the State Board of Education to deal with these situations shall stipulate that emergency situations must be expedited and given priority consideration. For purposes of this paragraph, an emergency is a situation that presents an imminent and continuing threat to the health and safety of students or other occupants of a facility, requires complete or partial evacuation of a building or part of a building, or consumes one or more of the 5 emergency days built into the adopted calendar of the school or schools or would otherwise be expected to cause such school or schools to fall short of the minimum school calendar requirements.

(b) Whenever any such district determines that it is necessary for energy conservation purposes that any school building or permanent, fixed equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(c) Whenever any such district determines that it is necessary for disabled accessibility purposes and to comply with the school building code that any school building or equipment should be altered or reconstructed and that such alterations or reconstruction will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized under Section 2-3.12 of this Act, the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(d) Whenever any such district determines that it is necessary for school security purposes and the related protection and safety of pupils and school personnel that any school building or property should be altered or reconstructed or that security systems and equipment (including but not limited to intercom, early detection and warning, access control and television monitoring systems) should be purchased and installed, and that such alterations, reconstruction or purchase and installation of equipment will be made with funds not necessary for the completion of approved and recommended projects contained in any safety survey report or amendment thereto authorized by Section 2-3.12 of this Act and will deter and prevent unauthorized entry or activities upon school property by unknown or dangerous persons, assure early detection and advance warning of any such actual or attempted unauthorized entry or activities and help assure the continued safety of pupils and school staff if any such unauthorized entry or activity is attempted or occurs; the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(e) If a school district does not need funds for other fire prevention and safety projects, including the completion of approved and recommended projects contained in any safety survey report or amendments thereto authorized by Section 2-3.12 of this Act, and it is determined after a public hearing (which is preceded by at least one published notice (i) occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district and (ii) setting forth the time, date, place, and general subject matter of the hearing) that there is a substantial, immediate, and otherwise unavoidable threat to the health, safety, or welfare of pupils due to disrepair of school sidewalks, playgrounds, parking lots, or school bus turnarounds and repairs must be made; then the district may levy a tax or issue bonds as provided in subsection (a) of this Section.

(f) For purposes of this Section a school district may replace a school building or build additions to replace portions of a building when it is determined that the effectuation of the recommendations for the existing building will cost more than the replacement costs to be paid for from the proceeds of bonds issued pursuant to this Section. Such determination shall be based on a comparison of estimated costs made by an architect or engineer licensed in the State of Illinois. The portion of the new building or addition paid for from the proceeds of bonds issued pursuant to this Section shall not exceed the be equivalent in area (square feet) of the buildings or additions being replaced, shall be and comparable in purpose and grades served, and may be on the same site or another site. Such replacement may only be done upon order of the regional superintendent of schools and the approval of the State Superintendent of Education.

(g) The filing of a certified copy of the resolution levying the tax when accompanied by the certificates of the regional superintendent of schools and State Superintendent of Education shall be the authority of the county clerk to extend such tax.

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(h) The county clerk of the county in which any school district levying a tax under the authority of this Section is located, in reducing raised levies, shall not consider any such tax as a part of the general levy for school purposes and shall not include the same in the limitation of any other tax rate which may be extended.

Such tax shall be levied and collected in like manner as all other taxes of school districts, subject to the provisions contained in this Section.

(i) The tax rate limit specified in this Section may be increased to .10% upon the approval of a proposition to effect such increase by a majority of the electors voting on that proposition at a regular scheduled election. Such proposition may be initiated by resolution of the school board and shall be certified by the secretary to the proper election authorities for submission in accordance with the general election law.

(j) When taxes are levied by any school district for fire prevention, safety, energy conservation, and school security purposes as specified in this Section, and the purposes for which the taxes have been levied are accomplished and paid in full, and there remain funds on hand in the Fire Prevention and Safety Fund from the proceeds of the taxes levied, including interest earnings thereon, the school board by resolution shall use such excess and other board restricted funds, excluding bond proceeds and earnings from such proceeds, as follows:

(1) for other authorized fire prevention, safety, energy conservation, and school security purposes; or

(2) for transfer to the Operations and Maintenance Fund for the purpose of abating an equal amount of operations and maintenance purposes taxes.

(k) If any transfer is made to the Operation and Maintenance Fund, the secretary of the school board shall within 30 days notify the county clerk of the amount of that transfer and direct the clerk to abate the taxes to be extended for the purposes of operations and maintenance authorized under Section 17-2 of this Act by an amount equal to such transfer.

(l) If the proceeds from the tax levy authorized by this Section are insufficient to complete the work approved under this Section, the school board is authorized to sell bonds without referendum under the provisions of this Section in an amount that, when added to the proceeds of the tax levy authorized by this Section, will allow completion of the approved work.

(m) Any bonds issued pursuant to this Section shall bear interest at a rate not to exceed the maximum rate authorized by law at the time of the making of the contract, shall mature within 20 years from date, and shall be signed by the president of the school board and the treasurer of the school district.

(n) In order to authorize and issue such bonds, the school board shall adopt a resolution fixing the amount of bonds, the date thereof, the maturities thereof, rates of interest thereof, place of payment and denomination, which shall be in denominations of not less than \$100 and not more than \$5,000, and provide for the levy and collection of a direct annual tax upon all the taxable property in the school district sufficient to pay the principal and interest on such bonds to maturity. Upon the filing in the office of the county clerk of the county in which the school district is located of a certified copy of the resolution, it is the duty of the county clerk to extend the tax therefor in addition to and in excess of all other taxes heretofore or hereafter authorized to be levied by such school district.

(o) After the time such bonds are issued as provided for by this Section, if additional alterations or reconstructions are required to be made because of surveys conducted by an architect or engineer licensed in the State of Illinois, the district may levy a tax at a rate not to exceed .05% per year upon all the taxable property of the district or issue additional bonds, whichever action shall be the most feasible.

(p) This Section is cumulative and constitutes complete authority for the issuance of bonds as provided in this Section notwithstanding any other statute or law to the contrary.

(q) With respect to instruments for the payment of money issued under this Section either before, on, or after the effective date of Public Act 86-004 (June 6, 1989), it is, and always has been, the intention of the General Assembly (i) that the Omnibus Bond Acts are, and always have been, supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Acts, (ii) that the provisions of this Section are not a limitation on the supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Section within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Acts.

(r) When the purposes for which the bonds are issued have been accomplished and paid for in full and there remain funds on hand from the proceeds of the bond sale and interest earnings therefrom, the board shall, by resolution, use such excess funds in accordance with the provisions of Section 10-22.14 of this Act.

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(s) Whenever any tax is levied or bonds issued for fire prevention, safety, energy conservation, and school security purposes, such proceeds shall be deposited and accounted for separately within the Fire Prevention and Safety Fund.

(Source: P.A. 95-675, eff. 10-11-07; 95-793, eff. 1-1-09; 96-252, eff. 8-11-09.)

(105 ILCS 5/19-1)

Sec. 19-1. Debt limitations of school districts.

(a) School districts shall not be subject to the provisions limiting their indebtedness prescribed in "An Act to limit the indebtedness of counties having a population of less than 500,000 and townships, school districts and other municipal corporations having a population of less than 300,000", approved February 15, 1928, as amended.

No school districts maintaining grades K through 8 or 9 through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 6.9% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No school districts maintaining grades K through 12 shall become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding 13.8% on the value of the taxable property therein to be ascertained by the last assessment for State and county taxes or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979, previous to the incurring of such indebtedness.

No partial elementary unit district, as defined in Article 11E of this Code, shall become indebted in any manner or for any purpose in an amount, including existing indebtedness, in the aggregate exceeding 6.9% of the value of the taxable property of the entire district, to be ascertained by the last assessment for State and county taxes, plus an amount, including existing indebtedness, in the aggregate exceeding 6.9% of the value of the taxable property of that portion of the district included in the elementary and high school classification, to be ascertained by the last assessment for State and county taxes. Moreover, no partial elementary unit district, as defined in Article 11E of this Code, shall become indebted on account of bonds issued by the district for high school purposes in the aggregate exceeding 6.9% of the value of the taxable property of the entire district, to be ascertained by the last assessment for State and county taxes, nor shall the district become indebted on account of bonds issued by the district for elementary purposes in the aggregate exceeding 6.9% of the value of the taxable property for that portion of the district included in the elementary and high school classification, to be ascertained by the last assessment for State and county taxes.

Notwithstanding the provisions of any other law to the contrary, in any case in which the voters of a school district have approved a proposition for the issuance of bonds of such school district at an election held prior to January 1, 1979, and all of the bonds approved at such election have not been issued, the debt limitation applicable to such school district during the calendar year 1979 shall be computed by multiplying the value of taxable property therein, including personal property, as ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness, by the percentage limitation applicable to such school district under the provisions of this subsection (a).

(b) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, additional indebtedness may be incurred in an amount not to exceed the estimated cost of acquiring or improving school sites or constructing and equipping additional building facilities under the following conditions:

(1) Whenever the enrollment of students for the next school year is estimated by the board of education to increase over the actual present enrollment by not less than 35% or by not less than 200 students or the actual present enrollment of students has increased over the previous school year by not less than 35% or by not less than 200 students and the board of education determines that additional school sites or building facilities are required as a result of such increase in enrollment; and

(2) When the Regional Superintendent of Schools having jurisdiction over the school district and the State Superintendent of Education concur in such enrollment projection or increase and approve the need for such additional school sites or building facilities and the estimated cost thereof; and

(3) When the voters in the school district approve a proposition for the issuance of bonds for the purpose of acquiring or improving such needed school sites or constructing and equipping such needed additional building facilities at an election called and held for that purpose. Notice of such an election shall state that the amount of indebtedness proposed to be incurred would

exceed the debt limitation otherwise applicable to the school district. The ballot for such proposition shall state what percentage of the equalized assessed valuation will be outstanding in bonds if the proposed issuance of bonds is approved by the voters; or

(4) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection

(b), if the school board determines that additional facilities are needed to provide a quality educational program and not less than 2/3 of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose; or

(5) Notwithstanding the provisions of paragraphs (1) through (3) of this subsection

(b), if (i) the school district has previously availed itself of the provisions of paragraph (4) of this subsection (b) to enable it to issue bonds, (ii) the voters of the school district have not defeated a proposition for the issuance of bonds since the referendum described in paragraph (4) of this subsection (b) was held, (iii) the school board determines that additional facilities are needed to provide a quality educational program, and (iv) a majority of those voting in an election called by the school board on the question approve the issuance of bonds for the construction of such facilities, the school district may issue bonds for this purpose.

In no event shall the indebtedness incurred pursuant to this subsection (b) and the existing indebtedness of the school district exceed 15% of the value of the taxable property therein to be ascertained by the last assessment for State and county taxes, previous to the incurring of such indebtedness or, until January 1, 1983, if greater, the sum that is produced by multiplying the school district's 1978 equalized assessed valuation by the debt limitation percentage in effect on January 1, 1979.

The indebtedness provided for by this subsection (b) shall be in addition to and in excess of any other debt limitation.

(c) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, in any case in which a public question for the issuance of bonds of a proposed school district maintaining grades kindergarten through 12 received at least 60% of the valid ballots cast on the question at an election held on or prior to November 8, 1994, and in which the bonds approved at such election have not been issued, the school district pursuant to the requirements of Section 11A-10 (now repealed) may issue the total amount of bonds approved at such election for the purpose stated in the question.

(d) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) and (2) of this subsection (d) may incur an additional indebtedness in an amount not to exceed \$4,500,000, even though the amount of the additional indebtedness authorized by this subsection (d), when incurred and added to the aggregate amount of indebtedness of the district existing immediately prior to the district incurring the additional indebtedness authorized by this subsection (d), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable to that district under subsection (a):

(1) The additional indebtedness authorized by this subsection (d) is incurred by the

school district through the issuance of bonds under and in accordance with Section 17-2.11a for the purpose of replacing a school building which, because of mine subsidence damage, has been closed as provided in paragraph (2) of this subsection (d) or through the issuance of bonds under and in accordance with Section 19-3 for the purpose of increasing the size of, or providing for additional functions in, such replacement school buildings, or both such purposes.

(2) The bonds issued by the school district as provided in paragraph (1) above are

issued for the purposes of construction by the school district of a new school building pursuant to Section 17-2.11, to replace an existing school building that, because of mine subsidence damage, is closed as of the end of the 1992-93 school year pursuant to action of the regional superintendent of schools of the educational service region in which the district is located under Section 3-14.22 or are issued for the purpose of increasing the size of, or providing for additional functions in, the new school building being constructed to replace a school building closed as the result of mine subsidence damage, or both such purposes.

(e) (Blank).

(f) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds in not to exceed the aggregate amount of \$5,500,000 and issued by a school district meeting the following criteria shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness:

(1) At the time of the sale of such bonds, the board of education of the district shall

have determined by resolution that the enrollment of students in the district is projected to increase by

not less than 7% during each of the next succeeding 2 school years.

(2) The board of education shall also determine by resolution that the improvements to be financed with the proceeds of the bonds are needed because of the projected enrollment increases.

(3) The board of education shall also determine by resolution that the projected increases in enrollment are the result of improvements made or expected to be made to passenger rail facilities located in the school district.

Notwithstanding the provisions of subsection (a) of this Section or of any other law, a school district that has availed itself of the provisions of this subsection (f) prior to July 22, 2004 (the effective date of Public Act 93-799) may also issue bonds approved by referendum up to an amount, including existing indebtedness, not exceeding 25% of the equalized assessed value of the taxable property in the district if all of the conditions set forth in items (1), (2), and (3) of this subsection (f) are met.

(g) Notwithstanding the provisions of subsection (a) of this Section or any other law, bonds in not to exceed an aggregate amount of 25% of the equalized assessed value of the taxable property of a school district and issued by a school district meeting the criteria in paragraphs (i) through (iv) of this subsection shall not be considered indebtedness for purposes of any statutory limitation and may be issued pursuant to resolution of the school board in an amount or amounts, including existing indebtedness, in excess of any statutory limitation of indebtedness heretofore or hereafter imposed:

(i) The bonds are issued for the purpose of constructing a new high school building to replace two adjacent existing buildings which together house a single high school, each of which is more than 65 years old, and which together are located on more than 10 acres and less than 11 acres of property.

(ii) At the time the resolution authorizing the issuance of the bonds is adopted, the cost of constructing a new school building to replace the existing school building is less than 60% of the cost of repairing the existing school building.

(iii) The sale of the bonds occurs before July 1, 1997.

(iv) The school district issuing the bonds is a unit school district located in a county of less than 70,000 and more than 50,000 inhabitants, which has an average daily attendance of less than 1,500 and an equalized assessed valuation of less than \$29,000,000.

(h) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27.6% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$24,000,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which buildings were originally constructed not less than 40 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after March 19, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(i) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1998, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$44,600,000;

(ii) The bonds are issued for the capital improvement, renovation, rehabilitation, or replacement of existing school buildings of the district, all of which existing buildings were originally constructed not less than 80 years ago;

(iii) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after December 31, 1996; and

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(j) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 of less than \$140,000,000 and a best 3 months average daily attendance for the 1995-96 school year of at least 2,800;

(ii) The bonds are issued to purchase a site and build and equip a new high school, and the school district's existing high school was originally constructed not less than 35 years prior to the sale of the bonds;

(iii) At the time of the sale of the bonds, the board of education determines by resolution that a new high school is needed because of projected enrollment increases;

(iv) At least 60% of those voting in an election held after December 31, 1996 approve a proposition for the issuance of the bonds; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(k) Notwithstanding the debt limitation prescribed in subsection (a) of this Section, a school district that meets all the criteria set forth in paragraphs (1) through (4) of this subsection (k) may issue bonds to incur an additional indebtedness in an amount not to exceed \$4,000,000 even though the amount of the additional indebtedness authorized by this subsection (k), when incurred and added to the aggregate amount of indebtedness of the school district existing immediately prior to the school district incurring such additional indebtedness, causes the aggregate indebtedness of the school district to exceed or increases the amount by which the aggregate indebtedness of the district already exceeds the debt limitation otherwise applicable to that school district under subsection (a):

(1) the school district is located in 2 counties, and a referendum to authorize the additional indebtedness was approved by a majority of the voters of the school district voting on the proposition to authorize that indebtedness;

(2) the additional indebtedness is for the purpose of financing a multi-purpose room addition to the existing high school;

(3) the additional indebtedness, together with the existing indebtedness of the school district, shall not exceed 17.4% of the value of the taxable property in the school district, to be ascertained by the last assessment for State and county taxes; and

(4) the bonds evidencing the additional indebtedness are issued, if at all, within 120 days of the effective date of this amendatory Act of 1998.

(l) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 2000, a school district maintaining grades kindergarten through 8 may issue bonds up to an amount, including existing indebtedness, not exceeding 15% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) the district has an equalized assessed valuation for calendar year 1996 of less than \$10,000,000;

(ii) the bonds are issued for capital improvement, renovation, rehabilitation, or replacement of one or more school buildings of the district, which buildings were originally constructed not less than 70 years ago;

(iii) the voters of the district approve a proposition for the issuance of the bonds at a referendum held on or after March 17, 1998; and

(iv) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(m) Notwithstanding any other provisions of this Section or the provisions of any other law, until January 1, 1999, an elementary school district maintaining grades K through 8 may issue bonds up to an amount, excluding existing indebtedness, not exceeding 18% of the equalized assessed value of the taxable property in the district, if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 1995 or less than \$7,700,000;

(ii) The school district operates 2 elementary attendance centers that until 1976 were operated as the attendance centers of 2 separate and distinct school districts;

(iii) The bonds are issued for the construction of a new elementary school building to replace an existing multi-level elementary school building of the school district that is not handicapped accessible at all levels and parts of which were constructed more than 75 years ago;

(iv) The voters of the school district approve a proposition for the issuance of the bonds at a referendum held after July 1, 1998; and

(v) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(n) Notwithstanding the debt limitation prescribed in subsection (a) of this Section or any other provisions of this Section or of any other law, a school district that meets all of the criteria set forth in paragraphs (i) through (vi) or paragraphs (i), (ii), and (iv) of this subsection (n) may incur additional indebtedness by the issuance of bonds or the execution of a lease with a public commission in an amount not exceeding the amount certified by the Capital Development Board to the school district as provided in paragraph (iii) of this subsection (n), even though the amount of the additional indebtedness so authorized, when incurred and added to the aggregate amount of indebtedness of the district existing

immediately prior to the district incurring the additional indebtedness authorized by this subsection (n), causes the aggregate indebtedness of the district to exceed the debt limitation otherwise applicable by law to that district:

(i) The school district applies to the State Board of Education for a school construction project grant and submits a district facilities plan in support of its application pursuant to Section 5-20 of the School Construction Law.

(ii) The school district's application and facilities plan are approved by, and the district receives a grant entitlement for a school construction project issued by, the State Board of Education under the School Construction Law.

(iii) The school district has exhausted its bonding capacity or the unused bonding capacity of the district is less than the amount certified by the Capital Development Board to the district under Section 5-15 of the School Construction Law as the dollar amount of the school construction project's cost that the district will be required to finance with non-grant funds in order to receive a school construction project grant under the School Construction Law.

(iv) The bonds are issued for a "school construction project", as that term is defined in Section 5-5 of the School Construction Law, in an amount that does not exceed the dollar amount certified, as provided in paragraph (iii) of this subsection (n), by the Capital Development Board to the school district under Section 5-15 of the School Construction Law.

(v) The voters of the district approve a proposition for the issuance of the bonds at a referendum held after the criteria specified in paragraphs (i) and (iii) of this subsection (n) are met.

(vi) The bonds are issued pursuant to Sections 19-2 through 19-7 of the School Code.

(vii) The school district will lease the school construction project from a public building commission pursuant to the Public Building Commission Act.

The indebtedness incurred on any lease under this subsection (n) shall not be indebtedness for purposes of any statutory debt limitation.

(o) Notwithstanding any other provisions of this Section or the provisions of any other law, until November 1, 2007, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including existing indebtedness, not exceeding 20% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) the school district has an equalized assessed valuation for calendar year 2001 of at least \$737,000,000 and an enrollment for the 2002-2003 school year of at least 8,500;

(ii) the bonds are issued to purchase school sites, build and equip a new high school, build and equip a new junior high school, build and equip 5 new elementary schools, and make technology and other improvements and additions to existing schools;

(iii) at the time of the sale of the bonds, the board of education determines by resolution that the sites and new or improved facilities are needed because of projected enrollment increases;

(iv) at least 57% of those voting in a general election held prior to January 1, 2003 approved a proposition for the issuance of the bonds; and

(v) the bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p) Notwithstanding any other provisions of this Section or the provisions of any other law, a community unit school district maintaining grades K through 12 may issue bonds up to an amount, including indebtedness, not exceeding 27% of the equalized assessed value of the taxable property in the district if all of the following conditions are met:

(i) The school district has an equalized assessed valuation for calendar year 2001 of at least \$295,741,187 and a best 3 months' average daily attendance for the 2002-2003 school year of at least 2,394.

(ii) The bonds are issued to build and equip 3 elementary school buildings; build and equip one middle school building; and alter, repair, improve, and equip all existing school buildings in the district.

(iii) At the time of the sale of the bonds, the board of education determines by resolution that the project is needed because of expanding growth in the school district and a projected enrollment increase.

(iv) The bonds are issued pursuant to Sections 19-2 through 19-7 of this Code.

(p-5) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community unit school district maintaining grades K through 12 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

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(i) For each of the 4 most recent years, residential property comprises more than 80% of the equalized assessed valuation of the district.

(ii) At least 2 school buildings that were constructed 40 or more years prior to the issuance of the bonds will be demolished and will be replaced by new buildings or additions to one or more existing buildings.

(iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.

(iv) At the time of the sale of the bonds, the school board determines by resolution that the new buildings or building additions are needed because of an increase in enrollment projected by the school board.

(v) The principal amount of the bonds, including existing indebtedness, does not exceed 25% of the equalized assessed value of the taxable property in the district.

(vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(p-10) Notwithstanding any other provisions of this Section or the provisions of any other law, bonds issued by a community consolidated school district maintaining grades K through 8 shall not be considered indebtedness for purposes of any statutory limitation and may be issued in an amount or amounts, including existing indebtedness, in excess of any heretofore or hereafter imposed statutory limitation as to indebtedness, if all of the following conditions are met:

(i) For each of the 4 most recent years, residential and farm property comprises more than 80% of the equalized assessed valuation of the district.

(ii) The bond proceeds are to be used to acquire and improve school sites and build and equip a school building.

(iii) Voters of the district approve a proposition for the issuance of the bonds at a regularly scheduled election.

(iv) At the time of the sale of the bonds, the school board determines by resolution that the school sites and building additions are needed because of an increase in enrollment projected by the school board.

(v) The principal amount of the bonds, including existing indebtedness, does not exceed 20% of the equalized assessed value of the taxable property in the district.

(vi) The bonds are issued prior to January 1, 2007, pursuant to Sections 19-2 through 19-7 of this Code.

(p-15) In addition to all other authority to issue bonds, the Oswego Community Unit School District Number 308 may issue bonds with an aggregate principal amount not to exceed \$450,000,000, but only if all of the following conditions are met:

(i) The voters of the district have approved a proposition for the bond issue at the general election held on November 7, 2006.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that: (A) the building and equipping of the new high school building, new junior high school buildings, new elementary school buildings, early childhood building, maintenance building, transportation facility, and additions to existing school buildings, the altering, repairing, equipping, and provision of technology improvements to existing school buildings, and the acquisition and improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by legislation that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before November 7, 2011, but the aggregate principal amount issued in all such bond issues combined must not exceed \$450,000,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used only to accomplish those projects approved by the voters at the general election held on November 7, 2006.

The debt incurred on any bonds issued under this subsection (p-15) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-20) In addition to all other authority to issue bonds, the Lincoln-Way Community High School District Number 210 may issue bonds with an aggregate principal amount not to exceed \$225,000,000, but only if all of the following conditions are met:

(i) The voters of the district have approved a proposition for the bond issue at the general primary election held on March 21, 2006.

(ii) At the time of the sale of the bonds, the school board determines, by resolution,

that: (A) the building and equipping of the new high school buildings, the altering, repairing, and equipping of existing school buildings, and the improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by legislation that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before March 21, 2011, but the aggregate principal amount issued in all such bond issues combined must not exceed \$225,000,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used only to accomplish those projects approved by the voters at the primary election held on March 21, 2006.

The debt incurred on any bonds issued under this subsection (p-20) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-25) In addition to all other authority to issue bonds, Rochester Community Unit School District 3A may issue bonds with an aggregate principal amount not to exceed \$18,500,000, but only if all of the following conditions are met:

(i) The voters of the district approve a proposition for the bond issuance at the general primary election held in 2008.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that: (A) the building and equipping of a new high school building; the addition of classrooms and support facilities at the high school, middle school, and elementary school; the altering, repairing, and equipping of existing school buildings; and the improvement of school sites, as the case may be, are required as a result of a projected increase in the enrollment of students in the district; and (B) the sale of bonds for these purposes is authorized by a law that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(iii) The bonds are issued, in one or more bond issues, on or before December 31, 2012, but the aggregate principal amount issued in all such bond issues combined must not exceed \$18,500,000.

(iv) The bonds are issued in accordance with this Article 19.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at the primary election held in 2008.

The debt incurred on any bonds issued under this subsection (p-25) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-30) In addition to all other authority to issue bonds, Prairie Grove Consolidated School District 46 may issue bonds with an aggregate principal amount not to exceed \$30,000,000, but only if all of the following conditions are met:

(i) The voters of the district approve a proposition for the bond issuance at an election held in 2008.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that (A) the building and equipping of a new school building and additions to existing school buildings are required as a result of a projected increase in the enrollment of students in the district and (B) the altering, repairing, and equipping of existing school buildings are required because of the age of the existing school buildings.

(iii) The bonds are issued, in one or more bond issuances, on or before December 31, 2012; however, the aggregate principal amount issued in all such bond issuances combined must not exceed \$30,000,000.

(iv) The bonds are issued in accordance with this Article.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at an election held in 2008.

The debt incurred on any bonds issued under this subsection (p-30) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-35) In addition to all other authority to issue bonds, Prairie Hill Community Consolidated School District 133 may issue bonds with an aggregate principal amount not to exceed \$13,900,000, but only if all of the following conditions are met:

(i) The voters of the district approved a proposition for the bond issuance at an election held on April 17, 2007.

(ii) At the time of the sale of the bonds, the school board determines, by resolution, that (A) the improvement of the site of and the building and equipping of a school building are required as a result of a projected increase in the enrollment of students in the district and (B) the

repairing and equipping of the Prairie Hill Elementary School building is required because of the age of that school building.

(iii) The bonds are issued, in one or more bond issuances, on or before December 31, 2011, but the aggregate principal amount issued in all such bond issuances combined must not exceed \$13,900,000.

(iv) The bonds are issued in accordance with this Article.

(v) The proceeds of the bonds are used to accomplish only those projects approved by the voters at an election held on April 17, 2007.

The debt incurred on any bonds issued under this subsection (p-35) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-40) In addition to all other authority to issue bonds, Mascoutah Community Unit District 19 may issue bonds with an aggregate principal amount not to exceed \$55,000,000, but only if all of the following conditions are met:

(1) The voters of the district approve a proposition for the bond issuance at a regular election held on or after November 4, 2008.

(2) At the time of the sale of the bonds, the school board determines, by resolution, that (i) the building and equipping of a new high school building is required as a result of a projected increase in the enrollment of students in the district and the age and condition of the existing high school building, (ii) the existing high school building will be demolished, and (iii) the sale of bonds is authorized by statute that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(3) The bonds are issued, in one or more bond issuances, on or before December 31, 2011, but the aggregate principal amount issued in all such bond issuances combined must not exceed \$55,000,000.

(4) The bonds are issued in accordance with this Article.

(5) The proceeds of the bonds are used to accomplish only those projects approved by the voters at a regular election held on or after November 4, 2008.

The debt incurred on any bonds issued under this subsection (p-40) shall not be considered indebtedness for purposes of any statutory debt limitation.

(p-45) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds issued pursuant to Section 19-3.5 of this Code shall not be considered indebtedness for purposes of any statutory limitation if the bonds are issued in an amount or amounts, including existing indebtedness of the school district, not in excess of 18.5% of the value of the taxable property in the district to be ascertained by the last assessment for State and county taxes.

(p-50) Notwithstanding the provisions of subsection (a) of this Section or of any other law, bonds issued pursuant to Section 19-3.10 of this Code shall not be considered indebtedness for purposes of any statutory limitation if the bonds are issued in an amount or amounts, including existing indebtedness of the school district, not in excess of 43% of the value of the taxable property in the district to be ascertained by the last assessment for State and county taxes.

(p-55) ~~(p-45)~~ In addition to all other authority to issue bonds, Belle Valley School District 119 may issue bonds with an aggregate principal amount not to exceed \$47,500,000, but only if all of the following conditions are met:

(1) The voters of the district approve a proposition for the bond issuance at an election held on or after April 7, 2009.

(2) Prior to the issuance of the bonds, the school board determines, by resolution, that (i) the building and equipping of a new school building is required as a result of mine subsidence in an existing school building and because of the age and condition of another existing school building and (ii) the issuance of bonds is authorized by statute that exempts the debt incurred on the bonds from the district's statutory debt limitation.

(3) The bonds are issued, in one or more bond issuances, on or before March 31, 2014, but the aggregate principal amount issued in all such bond issuances combined must not exceed \$47,500,000.

(4) The bonds are issued in accordance with this Article.

(5) The proceeds of the bonds are used to accomplish only those projects approved by the voters at an election held on or after April 7, 2009.

The debt incurred on any bonds issued under this subsection (p-55) ~~(p-45)~~ shall not be considered indebtedness for purposes of any statutory debt limitation. Bonds issued under this subsection (p-55) ~~(p-45)~~ must mature within not to exceed 30 years from their date, notwithstanding any other law to the contrary.

(q) A school district must notify the State Board of Education prior to issuing any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in this Section or any other provision of law.

(Source: P.A. 95-331, eff. 8-21-07; 95-594, eff. 9-10-07; 95-792, eff. 1-1-09; 96-63, eff. 7-23-09; 96-273, eff. 8-11-09; 96-517, eff. 8-14-09; revised 9-15-09.)

Section 10. The School Construction Law is amended by changing Sections 5-25 and 5-35 as follows:  
(105 ILCS 230/5-25)

Sec. 5-25. Eligibility and project standards.

(a) The State Board of Education shall establish eligibility standards for school construction project grants and debt service grants. These standards shall include minimum enrollment requirements for eligibility for school construction project grants of 200 students for elementary districts, 200 students for high school districts, and 400 students for unit districts. The State Board of Education shall approve a district's eligibility for a school construction project grant or a debt service grant pursuant to the established standards.

For purposes only of determining a Type 40 area vocational center's eligibility for an entity included in a school construction project grant or a school maintenance project grant, an area vocational center shall be deemed eligible if one or more of its member school districts satisfy the grant index criteria set forth in this Law. A Type 40 area vocational center that makes application for school construction funds after August 25, 2009 (the effective date of Public Act 96-731) ~~this amendatory Act of the 96th General Assembly~~ shall be placed on the respective application cycle list. Type 40 area vocational centers must be placed last on the priority listing of eligible entities for the applicable fiscal year.

(b) The Capital Development Board shall establish project standards for all school construction project grants provided pursuant to this Article. These standards shall include space and capacity standards as well as the determination of recognized project costs that shall be eligible for State financial assistance and enrichment costs that shall not be eligible for State financial assistance.

(c) The State Board of Education and the Capital Development Board shall not establish standards that disapprove or otherwise establish limitations that restrict the eligibility of (i) a school district ~~with a population exceeding 500,000~~ for a school construction project grant based on the fact that any or all of the school construction project grant will be used to pay debt service or to make lease payments, as authorized by subsection (b) of Section 5-35 of this Law, or (ii) a school district located in whole or in part in a county that imposes a tax for school facility purposes pursuant to Section 5-1006.7 of the Counties Code or based on the fact that all or a part of the school construction project is owned by a public building commission and leased to the school.

(Source: P.A. 96-37, eff. 7-13-09; 96-731, eff. 8-25-09; revised 9-15-09.)

(105 ILCS 230/5-35)

Sec. 5-35. School construction project grant amounts; permitted use; prohibited use.

(a) The product of the district's grant index and the recognized project cost, as determined by the Capital Development Board, for an approved school construction project shall equal the amount of the grant the Capital Development Board shall provide to the eligible district. The grant index shall not be used in cases where the General Assembly and the Governor approve appropriations designated for specifically identified school district construction projects.

The average of the grant indexes of the member districts in a joint agreement shall be used to calculate the amount of a school construction project grant awarded to an eligible Type 40 area vocational center.

(b) In each fiscal year in which school construction project grants are awarded, 20% of the total amount awarded statewide shall be awarded to a school district with a population exceeding 500,000, provided such district complies with the provisions of this Article.

In addition to the uses otherwise authorized by this Law, any school district ~~with a population exceeding 500,000~~ is authorized to use any or all of the school construction project grants (i) to pay debt service, as defined in the Local Government Debt Reform Act, on bonds, as defined in the Local Government Debt Reform Act, issued to finance one or more school construction projects and (ii) to the extent that any such bond is a lease or other installment or financing contract between the school district and a public building commission that has issued bonds to finance one or more qualifying school construction projects, to make lease payments under the lease.

(c) No portion of a school construction project grant awarded by the Capital Development Board shall be used by a school district for any on-going operational costs.

(Source: P.A. 96-731, eff. 8-25-09.)"

The motion prevailed.

[October 15, 2009]

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Koehler, **Senate Bill No. 616**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 39; NAYS 14.

The following voted in the affirmative:

Althoff	Haine	Link	Sandoval
Bond	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	Meeks	Steans
Crotty	Hutchinson	Muñoz	Sullivan
DeLeo	Jacobs	Noland	Trotter
Demuzio	Jones, E.	Radogno	Viverito
Forby	Koehler	Raoul	Wilhelmi
Frerichs	Kotowski	Righter	Mr. President
Garrett	Lightford	Risinger	

The following voted in the negative:

Bivins	Dahl	Lauzen	Pankau
Bomke	Duffy	McCarter	Syverson
Burzynski	Hultgren	Millner	
Cronin	Jones, J.	Murphy	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 728** was recalled from the order of third reading to the order of second reading.

Senator Haine offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 728

AMENDMENT NO. 1. Amend Senate Bill 728 by replacing everything after the enacting clause with the following:

"Section 5. The Professional Engineering Practice Act of 1989 is amended by changing Sections 8, 10, and 11 as follows:

(225 ILCS 325/8) (from Ch. 111, par. 5208)

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

Sec. 8. Applications for licensure.

(a) Applications for licensure shall (1) be on forms prescribed and furnished by the Department, (2) contain statements made under oath showing the applicant's education and a detailed summary of the applicant's technical work, and (3) contain references as required by the Department.

(b) Applicants shall have obtained the education and experience as required in Section 10 or Section

[October 15, 2009]

11 prior to submittal of application for ~~licensure examination, except as provided in subsection (b) of Section 11.~~ Allowable experience shall commence at the date of the baccalaureate degree, except:

(1) Credit for one year of experience shall be given for a graduate of a baccalaureate curriculum providing a cooperative program, which is supervised industrial or field experience of at least one academic year which alternates with periods of full-time academic training, when such program is certified by the university, or

(2) Partial credit may be given for professional engineering experience as defined by rule for employment prior to receipt of a baccalaureate degree if the employment is full-time while the applicant is a part-time student taking fewer than 12 hours per semester or 8 hours per quarter to earn the degree concurrent with the full-time engineering experience.

(3) If an applicant files an application and supporting documents containing a material misstatement of information or a misrepresentation for the purpose of obtaining licensure or enrollment or if an applicant performs any fraud or deceit in taking any examination to qualify for licensure or enrollment under this Act, the Department may issue a rule of intent to deny licensure or enrollment and may conduct a hearing in accordance with Sections 26 through 33 and Sections 37 and 38 of this Act.

The Board may conduct oral interviews of any applicant under Sections 10, 11, or 19 to assist in the evaluation of the qualifications of the applicant.

It is the responsibility of the applicant to supplement the application, when requested by the Board, by provision of additional documentation of education, including transcripts, course content and credentials of the engineering college or college granting related science degrees, or of work experience to permit the Board to determine the qualifications of the applicant. The Department may require an applicant, at the applicant's expense, to have an evaluation of the applicant's education in a foreign country by a nationally recognized evaluating service approved by the Department.

An applicant who graduated from an engineering program outside the United States or its territories and whose first language is not English shall submit certification of passage of the Test of English as a Foreign Language (TOEFL) and a test of spoken English as defined by rule.

(Source: P.A. 96-626, eff. 8-24-09.)

(225 ILCS 325/10) (from Ch. 111, par. 5210)

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

Sec. 10. Minimum standards ~~for examination~~ for licensure as professional engineer. To qualify for licensure as a professional engineer each applicant shall be:

(a) A graduate of an approved engineering curriculum of at least 4 years who submits acceptable evidence to the Board of an additional 4 years or more of experience in engineering work of a grade and character which indicate that the individual may be competent to practice professional engineering, and who ~~has passed then passes~~ a nominal 8-hour written examination in the fundamentals of engineering, and a nominal 8-hour written examination in the principles and practice of engineering. Upon ~~submitting an application with proof of~~ passing both examinations, the applicant, if otherwise qualified, shall be granted a license to practice professional engineering in this State; or

(b) A graduate of a non-approved engineering curriculum or a related science curriculum of at least 4 years and ~~which meets meeting~~ the requirements as set forth by rule ~~by submitting an application to the Department for its review and approval~~, who submits acceptable evidence to the Board of an additional 8 years or more of experience in engineering work of a grade and character which indicate that the individual may be competent to practice professional engineering, and who ~~has passed then passes~~ a nominal 8-hour written examination in the fundamentals of engineering and a nominal 8-hour written examination in the principles and practice of engineering. Upon ~~submitting the application with proof of~~ passing both examinations, the applicant, if otherwise qualified, shall be granted a license to practice professional engineering in this State; or

(c) An Illinois engineer intern, by application and payment of the required fee, may then take the nominal 8-hour written examination in the principles and practice of engineering. If the applicant passes that examination and submits evidence to the Board that meets the experience qualification of subsection (a) or (b) of this Section, the applicant, if otherwise qualified, shall be granted a license to practice professional engineering in this State.

(d) When considering an applicant's qualifications for licensure under this Act, the Department may take into consideration whether an applicant has engaged in conduct or actions that would constitute a violation of the Standards of Professional Conduct for this Act as provided for by administrative rules.

(Source: P.A. 96-626, eff. 8-24-09.)

(225 ILCS 325/11) (from Ch. 111, par. 5211)

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

[October 15, 2009]

Sec. 11. Minimum standards for examination for enrollment as engineer intern. Each of the following is considered a minimum standard that an applicant must satisfy to qualify for enrollment as an engineer intern.

(a) A graduate of an approved engineering curriculum of at least 4 years, who has passed a nominal 8-hour written examination in the fundamentals of engineering, shall be enrolled as an engineer intern, if the applicant is otherwise qualified; or

(b) An applicant in the last year of an approved engineering curriculum who passes a nominal 8-hour written examination in the fundamentals of engineering and furnishes proof that the applicant graduated within a 12 month period following the examination shall be enrolled as an engineer intern, if the applicant is otherwise qualified; or

(c) A graduate of a non-approved engineering curriculum or a related science curriculum, of at least 4 years and which meets meeting the requirements as set forth by rule by submitting an application to the Department for its review and approval, who submits acceptable evidence to the Board of an additional 4 years or more of progressive experience in engineering work, and who has passed then passes a nominal 8-hour written examination in the fundamentals of engineering shall be enrolled as an engineer intern, if the applicant is otherwise qualified.

(Source: P.A. 96-626, eff. 8-24-09)."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

#### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 728**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Harmon	McCarter	Steans
Burzynski	Hendon	Meeks	Sullivan
Clayborne	Holmes	Millner	Syverson
Collins	Hultgren	Muñoz	Trotter
Cronin	Hutchinson	Murphy	Viverito
Crotty	Jacobs	Noland	Wilhelmi
Dahl	Jones, E.	Pankau	Mr. President
DeLeo	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	
Duffy	Lightford	Risinger	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

SENATE BILL RECALLED

[October 15, 2009]

On motion of Senator Muñoz, **Senate Bill No. 747** was recalled from the order of third reading to the order of second reading.

Senator Muñoz offered the following amendment and moved its adoption:

**AMENDMENT NO. 1 TO SENATE BILL 747**

AMENDMENT NO. 1. Amend Senate Bill 747 by replacing everything after the enacting clause with the following:

"Section 5. The Liquor Control Act of 1934 is amended by changing Section 6-11 as follows:  
(235 ILCS 5/6-11)

Sec. 6-11. Sale near churches, schools, and hospitals.

(a) No license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where sale of alcoholic liquors is not the principal business carried on if the place of business so exempted is not located in a municipality of more than 500,000 persons, unless required by local ordinance; nor to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where the church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(b) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor to a restaurant, the primary business of which is the sale of goods baked on the premises if (i) the restaurant is newly constructed and located on a lot of not less than 10,000 square feet, (ii) the restaurant costs at least \$1,000,000 to construct, (iii) the licensee is the titleholder to the premises and resides on the premises, and (iv) the construction of the restaurant is completed within 18 months of the effective date of this amendatory Act of 1998.

(c) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor incidental to a restaurant if (1) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food and the applicant is a completely new owner of the restaurant, (2) the immediately prior owner or operator of the premises where the restaurant is located operated the premises as a restaurant and held a valid retail license authorizing the sale of alcoholic liquor at the restaurant for at least part of the 24 months before the change of ownership, and (3) the restaurant is located 75 or more feet from a school.

(d) In the interest of further developing Illinois' economy in the area of commerce, tourism, convention, and banquet business, nothing in this Section shall prohibit issuance of a retail license authorizing the sale of alcoholic beverages to a restaurant, banquet facility, grocery store, or hotel having not fewer than 150 guest room accommodations located in a municipality of more than 500,000 persons, notwithstanding the proximity of such hotel, restaurant, banquet facility, or grocery store to any church or school, if the licensed premises described on the license are located within an enclosed mall or building of a height of at least 6 stories, or 60 feet in the case of a building that has been registered as a national landmark, or in a grocery store having a minimum of 56,010 square feet of floor space in a single story building in an open mall of at least 3.96 acres that is adjacent to a public school that opened as a boys technical high school in 1934, or in a grocery store having a minimum of 31,000 square feet of floor space in a single story building located a distance of more than 90 feet but less than 100 feet from a high school that opened in 1928 as a junior high school and became a senior high school in 1933, and in each of these cases if the sale of alcoholic liquors is not the principal business carried on by the licensee.

For purposes of this Section, a "banquet facility" is any part of a building that caters to private parties and where the sale of alcoholic liquors is not the principal business.

(e) Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(f) Nothing in this Section shall prohibit a church or church affiliated school located in a home rule municipality or in a municipality with 75,000 or more inhabitants from locating within 100 feet of a property for which there is a preexisting license to sell alcoholic liquor at retail. In these instances, the local zoning authority may, by ordinance adopted simultaneously with the granting of an initial special use zoning permit for the church or church affiliated school, provide that the 100-foot restriction in this

Section shall not apply to that church or church affiliated school and future retail liquor licenses.

(g) Nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at premises within 100 feet, but not less than 90 feet, of a public school if (1) the premises have been continuously licensed to sell alcoholic liquor for a period of at least 50 years, (2) the premises are located in a municipality having a population of over 500,000 inhabitants, (3) the licensee is an individual who is a member of a family that has held the previous 3 licenses for that location for more than 25 years, (4) the principal of the school and the alderman of the ward in which the school is located have delivered a written statement to the local liquor control commissioner stating that they do not object to the issuance of a license under this subsection (g), and (5) the local liquor control commissioner has received the written consent of a majority of the registered voters who live within 200 feet of the premises.

(h) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within premises and at an outdoor patio area attached to premises that are located in a municipality with a population in excess of 300,000 inhabitants and that are within 100 feet of a church if:

- (1) the sale of alcoholic liquor at the premises is incidental to the sale of food,
- (2) the sale of liquor is not the principal business carried on by the licensee at the premises,

- (3) the premises are less than 1,000 square feet,

- (4) the premises are owned by the University of Illinois,

- (5) the premises are immediately adjacent to property owned by a church and are not less than 20 nor more than 40 feet from the church space used for worship services, and

- (6) the principal religious leader at the place of worship has indicated his or her support for the issuance of the license in writing.

(i) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license to sell alcoholic liquor at a premises that is located within a municipality with a population in excess of 300,000 inhabitants and is within 100 feet of a church, synagogue, or other place of worship if:

- (1) the primary entrance of the premises and the primary entrance of the church, synagogue, or other place of worship are at least 100 feet apart, on parallel streets, and separated by an alley; and

- (2) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(j) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance of a retail license authorizing the sale of alcoholic liquor at a theater that is within 100 feet of a church if (1) the church owns the theater, (2) the church leases the theater to one or more entities, and (3) the theater is used by at least 5 different not-for-profit theater groups.

(k) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

- (1) the primary entrance of the premises and the primary entrance of the school are parallel, on different streets, and separated by an alley;

- (2) the southeast corner of the premises are at least 350 feet from the southwest corner of the school;

- (3) the school was built in 1978;

- (4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

- (5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

- (6) the applicant is the owner of the restaurant and has held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises at a different location for more than 7 years; and

- (7) the premises is at least 2,300 square feet and sits on a lot that is between 6,100 and 6,150 square feet.

(l) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church or school if:

- (1) the primary entrance of the premises and the closest entrance of the church or

school is at least 90 feet apart and no greater than 95 feet apart;

(2) the shortest distance between the premises and the church or school is at least 80 feet apart and no greater than 85 feet apart;

(3) the applicant is the owner of the restaurant and on November 15, 2006 held a valid license authorizing the sale of alcoholic liquor for the business to be conducted on the premises for at least 14 different locations;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(5) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(6) the premises is at least 3,200 square feet and sits on a lot that is between 7,150 and 7,200 square feet; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(m) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a church if:

(1) the premises and the church are perpendicular, and the primary entrance of the premises faces South while the primary entrance of the church faces West and the distance between the two entrances is more than 100 feet;

(2) the shortest distance between the premises lot line and the exterior wall of the church is at least 80 feet;

(3) the church was established at the current location in 1916 and the present structure was erected in 1925;

(4) the premises is a single story, single use building with at least 1,750 square feet and no more than 2,000 square feet;

(5) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(6) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises; and

(7) the principal religious leader at the place of worship has not indicated his or her opposition to the issuance or renewal of the license in writing.

(n) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and is within 100 feet of a school if:

(1) the school is a City of Chicago School District 299 school;

(2) the school is located within subarea E of City of Chicago Residential Business Planned Development Number 70;

(3) the sale of alcoholic liquor is not the principal business carried on by the licensee on the premises;

(4) the sale of alcoholic liquor at the premises is incidental to the sale of food; and

(5) the administration of City of Chicago School District 299 has expressed, in writing, its support for the issuance of the license.

(o) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a retail license authorizing the sale of alcoholic liquor at a premises that is located within a municipality in excess of 1,000,000 inhabitants and within 100 feet of a church if:

(1) the sale of alcoholic liquor at the premises is incidental to the sale of food;

(2) the sale of alcoholic liquor is not the principal business carried on by the licensee at the premises;

(3) the premises is located on a street that runs perpendicular to the street on which the church is located;

(4) the primary entrance of the premises is at least 100 feet from the primary entrance of the church;

(5) the shortest distance between any part of the premises and any part of the church is at least 60 feet;

(6) the premises is between 3,600 and 4,000 square feet and sits on a lot that is between 3,600 and 4,000 square feet; and

(7) the premises was built in the year 1909.

For purposes of this subsection (o), "premises" means a place of business together with a privately

owned outdoor location that is adjacent to the place of business.

(p) Notwithstanding any provision in this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the shortest distance between the backdoor of the premises, which is used as an emergency exit, and the church is at least 80 feet;
- (2) the church was established at the current location in 1889; and
- (3) liquor has been sold on the premises since at least 1985.

(q) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance or renewal of a license authorizing the sale of alcoholic liquor within a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church-owned property church if:

- (1) the premises is located within a larger building operated as a grocery store;
- (2) the area of the premises does not exceed 720 square feet and the area of the larger building exceeds 18,000 square feet;
- (3) the larger building containing the premises is within more than 100 feet of ~~from~~ the nearest property line of a church-owned property on which a ~~church and a~~ church-affiliated school is ~~are~~ located;
- (4) the sale of liquor is not the principal business carried on within the larger building;
- (5) the primary entrance of the larger building and the premises and the primary entrance of the church-affiliated school are on different, parallel streets, and the distance between the 2 primary entrances is more than 100 feet;
- (6) the larger building is separated from ~~and~~ the church-owned property church and church-affiliated school ~~property are separated~~ by an alley;
- (7) the larger building containing the premises and the church building front are on perpendicular streets and are separated by a street; and
- (8) ~~(Blank) the primary entrance of the larger building and the premises faces North while the primary entrance of the church building faces East and the distance between the 2 entrances is more than 100 feet.~~

(r) Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit the issuance, renewal, or maintenance of a license authorizing the sale of alcoholic liquor incidental to the sale of food within a restaurant established in a premises that is located in a municipality with a population in excess of 1,000,000 inhabitants and within 100 feet of a church if:

- (1) the primary entrance of the church and the primary entrance of the restaurant are at least 100 feet apart;
- (2) the restaurant has operated on the ground floor and lower level of a multi-story, multi-use building for more than 40 years;
- (3) the primary business of the restaurant consists of the sale of food where the sale of liquor is incidental to the sale of food;
- (4) the sale of alcoholic liquor is conducted primarily in the below-grade level of the restaurant to which the only public access is by a staircase located inside the restaurant; and
- (5) the restaurant has held a license authorizing the sale of alcoholic liquor on the premises for more than 40 years.

(s) ~~(r)~~ Notwithstanding any provision of this Section to the contrary, nothing in this Section shall prohibit renewal of a license authorizing the sale of alcoholic liquor at a premises that is located within a municipality with a population more than 5,000 and less than 10,000 and is within 100 feet of a church if:

- (1) the church was established at the location within 100 feet of the premises after a license for the sale of alcoholic liquor at the premises was first issued;
- (2) a license for sale of alcoholic liquor at the premises was first issued before January 1, 2007; and
- (3) a license for the sale of alcoholic liquor on the premises has been continuously in effect since January 1, 2007, except for interruptions between licenses of no more than 90 days.

(Source: P.A. 95-331, eff. 8-21-07; 95-752, eff. 1-1-09; 96-283, eff. 8-11-09; 96-744, eff. 8-25-09; revised 9-15-09.)

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

[October 15, 2009]

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

### READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Muñoz, **Senate Bill No. 747**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS 2.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bomke	Haine	Maloney	Sandoval
Bond	Harmon	Martinez	Schoenberg
Brady	Hendon	McCarter	Silverstein
Clayborne	Holmes	Meeks	Steans
Collins	Hultgren	Millner	Sullivan
Cronin	Hutchinson	Muñoz	Syverson
Crotty	Jacobs	Murphy	Trotter
Dahl	Jones, E.	Noland	Viverito
DeLeo	Jones, J.	Pankau	Wilhelmi
Demuzio	Koehler	Radogno	Mr. President
Duffy	Kotowski	Raoul	
Forby	Lauzen	Righter	

The following voted in the negative:

Burzynski  
Dillard

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

### SENATE BILL RECALLED

On motion of Senator Wilhelmi, **Senate Bill No. 931** was recalled from the order of third reading to the order of second reading.

Senator Wilhelmi offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO SENATE BILL 931

AMENDMENT NO. 1. Amend Senate Bill 931 by replacing everything after the enacting clause with the following:

"Section 5. The Income Withholding for Support Act is amended by changing Sections 20 and 22 as follows:

(750 ILCS 28/20)

Sec. 20. Entry of order for support containing income withholding provisions; income withholding notice.

[October 15, 2009]

(a) In addition to any content required under other laws, every order for support entered on or after July 1, 1997, shall:

(1) Require an income withholding notice to be prepared and served immediately upon any payor of the obligor by the obligee or public office, unless a written agreement is reached between and signed by both parties providing for an alternative arrangement, approved and entered into the record by the court, which ensures payment of support. In that case, the order for support shall provide that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support; and

(2) Contain a dollar amount to be paid until payment in full of any delinquency that accrues after entry of the order for support. The amount for payment of delinquency shall not be less than 20% of the total of the current support amount and the amount to be paid periodically for payment of any arrearage stated in the order for support; and

(3) Include the obligor's Social Security Number, which the obligor shall disclose to the court. If the obligor is not a United States citizen, the obligor shall disclose to the court, and the court shall include in the order for support, the obligor's alien registration number, passport number, and home country's social security or national health number, if applicable.

(b) At the time the order for support is entered, the Clerk of the Circuit Court shall provide a copy of the order to the obligor and shall make copies available to the obligee and public office.

(c) The income withholding notice shall:

(1) be in the standard format prescribed by the federal Department of Health and Human Services; and

(1.1) state the date of entry of the order for support upon which the income withholding notice is based; and

(2) direct any payor to withhold the dollar amount required for current support under the order for support; and

(3) direct any payor to withhold the dollar amount required to be paid periodically under the order for support for payment of the amount of any arrearage stated in the order for support; and

(4) direct any payor or labor union or trade union to enroll a child as a beneficiary of a health insurance plan and withhold or cause to be withheld, if applicable, any required premiums; and

(5) state the amount of the payor income withholding fee specified under this Section; and

(6) state that the amount actually withheld from the obligor's income for support and other purposes, including the payor withholding fee specified under this Section, may not be in excess of the maximum amount permitted under the federal Consumer Credit Protection Act; and

(7) state the duties of the payor and the fines and penalties for failure to withhold and pay over income and for discharging, disciplining, refusing to hire, or otherwise penalizing the obligor because of the duty to withhold and pay over income under this Section; and

(8) state the rights, remedies, and duties of the obligor under this Section; and

(9) include the Social Security number of the obligor; and

(10) include the date that withholding for current support terminates, which shall be the date of termination of the current support obligation set forth in the order for support; and

(11) contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office, except that the failure to contain the signature of the obligee or the printed name and telephone number of the authorized representative of the public office shall not affect the validity of the income withholding notice; and

(12) direct any payor to pay over amounts withheld for payment of support to the State Disbursement Unit.

(d) The accrual of a delinquency as a condition for service of an income withholding notice, under the exception to immediate withholding in subsection (a) of this Section, shall apply only to the initial service of an income withholding notice on a payor of the obligor.

(e) Notwithstanding the exception to immediate withholding contained in subsection (a) of this Section, if the court finds at the time of any hearing that an arrearage has accrued, the court shall order immediate service of an income withholding notice upon the payor.

(f) If the order for support, under the exception to immediate withholding contained in subsection (a) of this Section, provides that an income withholding notice is to be prepared and served only if the obligor becomes delinquent in paying the order for support, the obligor may execute a written waiver of that condition and request immediate service on the payor.

(g) The obligee or public office may serve the income withholding notice on the payor or its superintendent, manager, or other agent by ordinary mail or certified mail return receipt requested, by facsimile transmission or other electronic means, by personal delivery, or by any method provided by law for service of a summons. At the time of service on the payor and as notice that withholding has commenced, the obligee or public office shall serve a copy of the income withholding notice on the obligor by ordinary mail addressed to his or her last known address. A copy of an income withholding notice and proof of service shall be filed with the Clerk of the Circuit Court only when necessary in connection with a petition to contest, modify, suspend, terminate, or correct an income withholding notice, an action to enforce income withholding against a payor, or the resolution of other disputes involving an income withholding notice. The changes made to this subsection by this amendatory Act of the 96th General Assembly apply on and after September 1, 2009. A copy of the income withholding notice together with proofs of service on the payor and the obligor shall be filed with the Clerk of the Circuit Court.

(h) At any time after the initial service of an income withholding notice, any other payor of the obligor may be served with the same income withholding notice without further notice to the obligor. A copy of the income withholding notice together with a proof of service on the other payor shall be filed with the Clerk of the Circuit Court.

(i) New service of an income withholding notice is not required in order to resume withholding of income in the case of an obligor with respect to whom an income withholding notice was previously served on the payor if withholding of income was terminated because of an interruption in the obligor's employment of less than 180 days.

(Source: P.A. 94-43, eff. 1-1-06.)

(750 ILCS 28/22)

Sec. 22. Use of National Medical Support Notice to enforce health insurance coverage.

(a) Notwithstanding the provisions of subdivision (c)(4) of Section 20, when an order for support is being enforced by the Title IV-D Agency under this Act, any requirement for health insurance coverage to be provided through an employer, including withholding of premiums from the income of the obligor, shall be enforced through use of a National Medical Support Notice instead of through provisions in an income withholding notice.

(b) A National Medical Support Notice may be served on the employer in the manner and under the circumstances provided for serving an income withholding notice under this Act, except that an order for support that conditions service of an income withholding notice on the obligor becoming delinquent in paying the order for support, as provided under subdivision (a)(1) of Section 20, shall not prevent immediate service of a National Medical Support Notice by the Title IV-D Agency. The Title IV-D Agency may serve a National Medical Support Notice on an employer in conjunction with service of an income withholding notice. Service of an income withholding notice is not a condition for service of a National Medical Support Notice, however.

(c) At the time of service of a National Medical Support Notice on the employer, the Title IV-D Agency shall serve a copy of the Notice on the obligor by ordinary mail addressed to the obligor's last known address. A copy of a National Medical Support Notice and proof of service shall be filed with the Clerk of the Circuit Court only when necessary in connection with a petition to contest, modify, suspend, terminate, or correct a National Medical Support Notice, an action to enforce compliance with a National Medical Support Notice, or the resolution of other disputes involving a National Medical Support Notice. The changes made to this subsection by this amendatory Act of the 96th General Assembly apply on and after September 1, 2009. The Title IV D Agency shall file a copy of the National Medical Support Notice, together with proofs of service on the employer and the obligor, with the clerk of the circuit court.

(d) Within 20 business days after the date of a National Medical Support Notice, an employer served with the Notice shall transfer the severable notice to plan administrator to the appropriate group health plan providing any health insurance coverage for which the child is eligible. As required in the part of the National Medical Support Notice directed to the employer, the employer shall withhold any employee premium necessary for coverage of the child and shall send any amount withheld directly to the plan. The employer shall commence the withholding no later than the next payment of income that occurs 14 days following the date the National Medical Support Notice was mailed, sent by facsimile or other electronic means, or placed for personal delivery to or service on the employer.

Notwithstanding the requirement to withhold premiums from the obligor's income, if the plan administrator informs the employer that the child is enrolled in an option under the plan for which the employer has determined that the obligor's premium exceeds the amount that may be withheld from the obligor's income due to the withholding limitation or prioritization contained in Section 35 of this Act,

[October 15, 2009]

the employer shall complete the appropriate item in the part of the National Medical Support Notice directed to the employer according to the instructions in the Notice and shall return that part to the Title IV-D Agency.

(e) If one of the following circumstances exists, an employer served with a National Medical Support Notice shall complete the part of the Notice directed to the employer in accordance with the instructions in the Notice and shall return that part to the Title IV-D Agency within 20 business days after the date of the Notice:

(1) The employer does not maintain or contribute to plans providing dependent or family health insurance coverage.

(2) The obligor is among a class of employees that is not eligible for family health insurance coverage under any group health plan maintained by the employer or to which the employer contributes.

(3) Health insurance coverage is not available because the obligor is no longer employed by the employer.

(f) The administrator of a health insurance plan to whom an employer has transferred the severable notice to plan administrator part of a National Medical Support Notice shall complete that part with the health insurance coverage information required under the instructions in the Notice and shall return that part to the Title IV-D Agency within 40 business days after the date of the Notice.

(g) The obligor may contest withholding under this Section based only on a mistake of fact and may contest withholding by filing a petition with the clerk of the circuit court within 20 days after service of a copy of the National Medical Support Notice on the obligor. The obligor must serve a copy of the petition on the Title IV-D Agency at the address stated in the National Medical Support Notice. The National Medical Support Notice, including the requirement to withhold any required premium, shall continue to be binding on the employer until the employer is served with a court order resolving the contest or until notified by the Title IV-D Agency.

(h) Whenever the obligor is no longer receiving income from the employer, the employer shall return a copy of the National Medical Support Notice to the Title IV-D Agency and shall provide information for the purpose of enforcing health insurance coverage under this Section.

(i) The Title IV-D Agency shall promptly notify the employer when there is no longer a current order for health insurance coverage in effect which the Title IV-D Agency is responsible for enforcing.

(j) Unless stated otherwise in this Section, all of the provisions of this Act relating to income withholding for support shall pertain to income withholding for health insurance coverage under a National Medical Support Notice, including but not limited to the duties of the employer and obligor, and the penalties contained in Section 35 and Section 50. In addition, an employer who willfully fails to transfer the severable notice to plan administrator part of a National Medical Support Notice to the appropriate group health plan providing health insurance coverage for which the child is eligible, within 20 business days after the date of the Notice, is liable for the full amount of medical expenses incurred by or on behalf of the child which would have been paid or reimbursed by the health insurance coverage had the severable notice to plan administrator part of the Notice been timely transferred to the group health insurance plan. This penalty may be collected in a civil action that may be brought against the employer in favor of the obligee or the Title IV-D Agency.

(k) To the extent that any other State or local law may be construed to limit or prevent compliance by an employer or health insurance plan administrator with the requirements of this Section and federal law and regulations pertaining to the National Medical Support Notice, that State or local law shall not apply.

(l) As the Title IV-D Agency, the Department of Healthcare and Family Services shall adopt any rules necessary for use of and compliance with the National Medical Support Notice.

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

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

**READING BILL OF THE SENATE A THIRD TIME**

[October 15, 2009]

On motion of Senator Wilhelm, **Senate Bill No. 931**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

#### **CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK**

On motion of Senator Bond, **Senate Bill No. 1421**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Bond moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

[October 15, 2009]

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1421**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Crotty, **Senate Bill No. 1833**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Crotty moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1833**.

Ordered that the Secretary inform the House of Representatives thereof.

#### HOUSE BILL RECALLED

On motion of Senator Harmon, **House Bill No. 2239** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 2239

AMENDMENT NO. 1. Amend House Bill 2239 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 203 as follows:  
(35 ILCS 5/203) (from Ch. 120, par. 2-203)

Sec. 203. Base income defined.

(a) Individuals.

(1) In general. In the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by paragraph (2).

(2) Modifications. The adjusted gross income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of

adjusted gross income, except stock dividends of qualified public utilities described in Section 305(e) of the Internal Revenue Code;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of adjusted gross income for the taxable year;

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real property taxes paid with respect to the taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of adjusted gross income;

(D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned on the account in the taxable year of a withdrawal pursuant to subsection (b) of Section 20 of the Medical Care Savings Account Act or subsection (b) of Section 20 of the Medical Care Savings Account Act of 2000;

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a credit under subsection (l) of Section 201;

(D-15) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-16) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (Z) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (Z), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-17) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-18) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between

the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred,

directly or indirectly, from a transaction with a person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-19) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(a)(2)(D-17) or Section 203(a)(2)(D-18) of this Act.

(D-20) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2006, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B). For taxable years beginning on or after January 1, 2007, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act, (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, or (iii) a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code that (I) adopts and determines that its offering materials comply with the College Savings Plans Network's disclosure principles and (II) has made reasonable efforts to inform in-state residents of the existence of in-state qualified tuition programs by informing Illinois residents directly and, where applicable, to inform financial intermediaries distributing the program to inform in-state residents of the existence of in-state qualified tuition programs at least annually, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B).

For the purposes of this subparagraph (D-20), a qualified tuition program has made reasonable efforts if it makes disclosures (which may use the term "in-state program" or "in-state plan" and need not specifically refer to Illinois or its qualified programs by name) (i) directly to prospective participants in its offering materials or makes a public disclosure, such as a website posting; and (ii) where applicable, to intermediaries selling the out-of-state program in the same manner that the out-of-state program distributes its offering materials;

(D-21) For taxable years beginning on or after January 1, 2007, in the case of transfer of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code that is administered by the State to an out-of-state program, an amount equal to the amount of moneys previously deducted from base income under subsection (a)(2)(Y) of this Section;

(D-22) For taxable years beginning on or after January 1, 2009, in the case of a nonqualified withdrawal or refund of moneys from a qualified tuition program under Section 529 of the Internal Revenue Code administered by the State that is not used for qualified expenses at an eligible education institution, an amount equal to the contribution component of the nonqualified withdrawal or refund that was previously deducted from base income under subsection (a)(2)(y) of this Section, provided that the withdrawal or refund did not result from the beneficiary's death or disability; -

~~(D-23)~~ (D-22) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act; - and by deducting from the total so obtained the sum of the following amounts:

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being

on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard or, beginning with taxable years ending on or after December 31, 2007, the National Guard of any other state. The provisions of this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

(F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(G) The valuation limitation amount;

(H) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(I) An amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income;

(J) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act, and conducts substantially all of its operations in an Enterprise Zone or zones or a River Edge Redevelopment Zone or zones. This subparagraph (J) is exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (J) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (K);

(L) For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code;

(M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(O) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) An amount equal to any amounts included in such total, received by the taxpayer

as an acceleration in the payment of life, endowment or annuity benefits in advance of the time they would otherwise be payable as an indemnity for a terminal illness;

(R) An amount equal to the amount of any federal or State bonus paid to veterans of the Persian Gulf War;

(S) An amount, to the extent included in adjusted gross income, equal to the amount of a contribution made in the taxable year on behalf of the taxpayer to a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the account administrator as provided in that Act;

(T) An amount, to the extent included in adjusted gross income, equal to the amount of interest earned in the taxable year on a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);

(U) For one taxable year beginning on or after January 1, 1994, an amount equal to the total amount of tax imposed and paid under subsections (a) and (b) of Section 201 of this Act on grant amounts received by the taxpayer under the Nursing Home Grant Assistance Act during the taxpayer's taxable years 1992 and 1993;

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

(W) For taxable years beginning on or after January 1, 1998, all amounts included in the taxpayer's federal gross income in the taxable year from amounts converted from a regular IRA to a Roth IRA. This paragraph is exempt from the provisions of Section 250;

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January 1, 2002 and ending on or before December 31, 2004, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For taxable years beginning on or after January 1, 2005, a maximum of \$10,000 contributed in the taxable year to (i) a College Savings Pool account under

Section 16.5 of the State Treasurer Act or (ii) the Illinois Prepaid Tuition Trust Fund, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). For purposes of this subparagraph, contributions made by an employer on behalf of an employee, or matching contributions made by an employee, shall be treated as made by the employee. This subparagraph (Y) is exempt from the provisions of Section 250;

(Z) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (Z) is exempt from the provisions of Section 250;

(AA) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (AA) is exempt from the provisions of Section 250;

(BB) Any amount included in adjusted gross income, other than salary, received by a driver in a ridesharing arrangement using a motor vehicle;

(CC) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of that addition modification, and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of that addition modification. This subparagraph (CC) is exempt from the provisions of Section 250;

(DD) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-17) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (DD) is exempt from the provisions of Section 250; and

(EE) An amount equal to the income from intangible property taken into account for

the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(a)(2)(D-18) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (EE) is exempt from the provisions of Section 250.

(b) Corporations.

(1) In general. In the case of a corporation, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest and all distributions received from regulated investment companies during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(C) In the case of a regulated investment company, an amount equal to the excess of (i) the net long-term capital gain for the taxable year, over (ii) the amount of the capital gain dividends designated as such in accordance with Section 852(b)(3)(C) of the Internal Revenue Code and any amount designated under Section 852(b)(3)(D) of the Internal Revenue Code, attributable to the taxable year (this amendatory Act of 1995 (Public Act 89-89) is declarative of existing law and is not a new enactment);

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(E-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the corporation deducted in computing adjusted gross income and for which the corporation claims a credit under subsection (l) of Section 201;

(E-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(E-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (T), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(E-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or (iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(E-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts

included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between

the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred,

directly or indirectly, from a transaction with a person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(E-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(b)(2)(E-12) or Section 203(b)(2)(E-13) of this Act;

(E-15) For taxable years beginning after December 31, 2008, any deduction for dividends paid by a captive real estate investment trust that is allowed to a real estate investment trust under Section 857(b)(2)(B) of the Internal Revenue Code for dividends paid;

(E-16) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act; -

and by deducting from the total so obtained the sum of the following amounts:

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to any amount included in such total under Section 78 of the

## Internal Revenue Code;

(H) In the case of a regulated investment company, an amount equal to the amount of exempt interest dividends as defined in subsection (b) (5) of Section 852 of the Internal Revenue Code, paid to shareholders for the taxable year;

(I) With the exception of any amounts subtracted under subparagraph (J), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(a)(2) and amounts disallowed as interest expense by Section 291(a)(3) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(J) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or zones or a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

(L) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph 2 of this subsection shall not be eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit or the River Edge Redevelopment Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the Enterprise Zone or the River Edge Redevelopment Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence. This subparagraph (M) is exempt from the provisions of Section 250;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(h) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(h) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois. No taxpayer that is eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible for the deduction provided under this subparagraph (M-1). The subtraction modification available to taxpayers in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(N) Two times any contribution made during the taxable year to a designated zone organization to the extent that the contribution (i) qualifies as a charitable contribution under subsection (c) of Section 170 of the Internal Revenue Code and (ii) must, by its terms, be used for a project approved by the Department of Commerce and Economic Opportunity under Section 11 of

the Illinois Enterprise Zone Act or under Section 10-10 of the River Edge Redevelopment Zone Act. This subparagraph (N) is exempt from the provisions of Section 250;

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends, and including, for taxable years ending on or after December 31, 2008, dividends received from a captive real estate investment trust; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code and including, for taxable years ending on or after December 31, 2008, dividends received from a captive real estate investment trust, from any such corporation specified in clause (i) that would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends. This subparagraph (O) is exempt from the provisions of Section 250 of this Act;

(P) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(Q) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(R) On and after July 20, 1999, in the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C. 835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year; the provisions of this subparagraph are exempt from the provisions of Section 250;

(S) For taxable years ending on or after December 31, 1997, in the case of a Subchapter S corporation, an amount equal to all amounts of income allocable to a shareholder subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act, including amounts allocable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. This subparagraph (S) is exempt from the provisions of Section 250;

(T) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (T) is exempt from the provisions of Section 250;

(U) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (U) is exempt from the provisions of Section 250;

(V) The amount of: (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification, (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification, and (iii) any insurance premium income (net of deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-19), Section 203(b)(2)(E-14), Section 203(c)(2)(G-14), or Section 203(d)(2)(D-9), but not to exceed the amount of that addition modification. This subparagraph (V) is exempt from the provisions of Section 250;

(W) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (W) is exempt from the provisions of Section 250; and

(X) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(b)(2)(E-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (X) is exempt from the provisions of Section 250.

(3) Special rule. For purposes of paragraph (2) (A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, shall mean the gross investment income for the taxable year.

(c) Trusts and estates.

(1) In general. In the case of a trust or estate, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. Subject to the provisions of paragraph (3), the taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) In the case of (i) an estate, \$600; (ii) a trust which, under its governing instrument, is required to distribute all of its income currently, \$300; and (iii) any other trust, \$100, but in each such case, only to the extent such amount was deducted in the computation of taxable income;

(C) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(F) For taxable years ending on or after January 1, 1989, an amount equal to the tax deducted pursuant to Section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit under Section 601 of this Act;

(G) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(G-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the trust or estate deducted in computing adjusted gross income and for which the trust or estate claims a credit under subsection (l) of Section 201;

(G-10) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code; and

(G-11) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (R) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (R), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(G-12) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for

the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(G-13) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes: (1) expenses, losses, and costs for or related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by

net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, from a transaction with a person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(G-14) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(c)(2)(G-12) or Section 203(c)(2)(G-13) of this Act; -

(G-15) An amount equal to the credit allowable to the taxpayer under Section 218(a) of this Act, determined without regard to Section 218(c) of this Act; -

and by deducting from the total so obtained the sum of the following amounts:

(H) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the Internal Revenue Code or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

(J) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(K) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C), (D), (E), (F) and (G) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a)(2) and 265(a)(2) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(M) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones or a River Edge Redevelopment Zone or zones. This subparagraph (M) is exempt from the provisions of Section 250;

(N) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(O) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (O);

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (R) is exempt from the provisions of Section 250;

(S) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for

which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (S) is exempt from the provisions of Section 250;

(T) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification. This subparagraph (T) is exempt from the provisions of Section 250;

(U) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-12) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (U) is exempt from the provisions of Section 250; and

(V) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(c)(2)(G-13) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same foreign person. This subparagraph (V) is exempt from the provisions of Section 250.

(3) Limitation. The amount of any modification otherwise required under this subsection shall, under regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for charitable purposes pursuant to Internal Revenue Code Section 642(c) during the taxable year.

(d) Partnerships.

(1) In general. In the case of a partnership, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income for the taxable year;

(C) The amount of deductions allowed to the partnership pursuant to Section 707 (c) of the Internal Revenue Code in calculating its taxable income; ~~provided that no addition shall be required under this subparagraph (C) for taxable years ending on or after December 31, 2009, for deductions allowed for guaranteed payments to an individual partner for personal services by that partner;~~

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable

income;

(D-5) For taxable years 2001 and thereafter, an amount equal to the bonus depreciation deduction taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code;

(D-6) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (O) with respect to that property.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was allowed in any taxable year to make a subtraction modification under subparagraph (O), then an amount equal to that subtraction modification.

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

(D-7) An amount equal to the amount otherwise allowed as a deduction in computing base income for interest paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact the foreign person's business activity outside the United States is 80% or more of the foreign person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the interest was paid, accrued, or incurred.

This paragraph shall not apply to the following:

(i) an item of interest paid, accrued, or incurred, directly or indirectly, to a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such interest; or

(ii) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person, during the same taxable year, paid, accrued, or incurred, the interest to a person that is not a related member, and

(b) the transaction giving rise to the interest expense between the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects an arm's-length interest rate and terms; or

(iii) the taxpayer can establish, based on clear and convincing evidence, that

the interest paid, accrued, or incurred relates to a contract or agreement entered into at arm's-length rates and terms and the principal purpose for the payment is not federal or Illinois tax avoidance; or

(iv) an item of interest paid, accrued, or incurred, directly or indirectly, to a person if the taxpayer establishes by clear and convincing evidence that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f).

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act; and

(D-8) An amount equal to the amount of intangible expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, (i) for taxable years ending on or after December 31, 2004, to a foreign person who would be a member of the same unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity

and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income pursuant to Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the intangible expenses and costs were directly or indirectly paid, incurred or accrued. The preceding sentence shall not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) of this Act. As used in this subparagraph, the term "intangible expenses and costs" includes (1) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property; (2) losses incurred, directly or indirectly, from factoring transactions or discounting transactions; (3) royalty, patent, technical, and copyright fees; (4) licensing fees; and (5) other similar expenses and costs. For purposes of this subparagraph, "intangible property" includes patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets;

This paragraph shall not apply to the following:

(i) any item of intangible expenses or costs paid, accrued, or incurred, directly or indirectly, from a transaction with a person who is subject in a foreign country or state, other than a state which requires mandatory unitary reporting, to a tax on or measured by net income with respect to such item; or

(ii) any item of intangible expense or cost paid, accrued, or incurred, directly or indirectly, if the taxpayer can establish, based on a preponderance of the evidence, both of the following:

(a) the person during the same taxable year paid, accrued, or incurred, the intangible expense or cost to a person that is not a related member, and

(b) the transaction giving rise to the intangible expense or cost between

the taxpayer and the person did not have as a principal purpose the avoidance of Illinois income tax, and is paid pursuant to a contract or agreement that reflects arm's-length terms; or

(iii) any item of intangible expense or cost paid, accrued, or incurred,

directly or indirectly, from a transaction with a person if the taxpayer establishes by clear and convincing evidence, that the adjustments are unreasonable; or if the taxpayer and the Director agree in writing to the application or use of an alternative method of apportionment under Section 304(f);

Nothing in this subsection shall preclude the Director from making any other adjustment otherwise allowed under Section 404 of this Act for any tax year beginning after the effective date of this amendment provided such adjustment is made pursuant to regulation adopted by the Department and such regulations provide methods and standards by which the Department will utilize its authority under Section 404 of this Act;

(D-9) For taxable years ending on or after December 31, 2008, an amount equal to the amount of insurance premium expenses and costs otherwise allowed as a deduction in computing base income, and that were paid, accrued, or incurred, directly or indirectly, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304. The addition modification required by this subparagraph shall be reduced to the extent that dividends were included in base income of the unitary group for the same taxable year and received by the taxpayer or by a member of the taxpayer's unitary business group (including amounts included in gross income under Sections 951 through 964 of the Internal Revenue Code and amounts included in gross income under Section 78 of the Internal Revenue Code) with respect to the stock of the same person to whom the premiums and costs were directly or indirectly paid, incurred, or accrued. The preceding sentence does not apply to the extent that the same dividends caused a reduction to the addition modification required under Section 203(d)(2)(D-7) or Section 203(d)(2)(D-8) of this Act. -

(D-10) An amount equal to the credit allowable to the taxpayer under Section 218(a)

of this Act, determined without regard to Section 218(c) of this Act; -  
and by deducting from the total so obtained the following amounts:

(E) The valuation limitation amount;

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(H) ~~Any~~ For taxable years ending before December 31, 2009, income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater;

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code, provided that the deduction under this subparagraph (I) shall not be allowed to a publicly traded partnership under Section 7704 of the Internal Revenue Code for any taxable year ending on or after December 31, 2009;

(J) With the exception of any amounts subtracted under subparagraph (G), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, enacted by the 82nd General Assembly, or a River Edge Redevelopment Zone or zones created under the River Edge Redevelopment Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones or from a River Edge Redevelopment Zone or zones. This subparagraph (K) is exempt from the provisions of Section 250;

(L) An amount equal to any contribution made to a job training project established pursuant to the Real Property Tax Increment Allocation Redevelopment Act;

(M) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (M);

(N) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(O) For taxable years 2001 and thereafter, for the taxable year in which the bonus depreciation deduction is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each applicable taxable year thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable

year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction;

(2) for taxable years ending on or before December 31, 2005, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429); and

(3) for taxable years ending after December 31, 2005:

(i) for property on which a bonus depreciation deduction of 30% of the

adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y"

multiplied by 0.429); and

- (ii) for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code. This subparagraph (O) is exempt from the provisions of Section 250;

(P) If the taxpayer sells, transfers, abandons, or otherwise disposes of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

If the taxpayer continues to own property through the last day of the last tax year for which the taxpayer may claim a depreciation deduction for federal income tax purposes and for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

This subparagraph (P) is exempt from the provisions of Section 250;

(Q) The amount of (i) any interest income (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-17), 203(b)(2)(E-12), 203(c)(2)(G-12), or 203(d)(2)(D-7), but not to exceed the amount of such addition modification and (ii) any income from intangible property (net of the deductions allocable thereto) taken into account for the taxable year with respect to a transaction with a taxpayer that is required to make an addition modification with respect to such transaction under Section 203(a)(2)(D-18), 203(b)(2)(E-13), 203(c)(2)(G-13), or 203(d)(2)(D-8), but not to exceed the amount of such addition modification. This subparagraph (Q) is exempt from Section 250;

(R) An amount equal to the interest income taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-7) for interest paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (R) is exempt from Section 250; and

(S) An amount equal to the income from intangible property taken into account for the taxable year (net of the deductions allocable thereto) with respect to transactions with (i) a foreign person who would be a member of the taxpayer's unitary business group but for the fact that the foreign person's business activity outside the United States is 80% or more of that person's total business activity and (ii) for taxable years ending on or after December 31, 2008, to a person who would be a member of the same unitary business group but for the fact that the person is prohibited under Section 1501(a)(27) from being included in the unitary business group because he or she is ordinarily required to apportion business income under different subsections of Section 304, but not to exceed the addition modification required to be made for the same taxable year under Section 203(d)(2)(D-8) for intangible expenses and costs paid, accrued, or incurred, directly or indirectly, to the same person. This subparagraph (S) is exempt from Section 250.

(e) Gross income; adjusted gross income; taxable income.

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction

modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (c) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

(2) Special rule. For purposes of paragraph (1) of this subsection, the taxable income properly reportable for federal income tax purposes shall mean:

(A) Certain life insurance companies. In the case of a life insurance company subject to the tax imposed by Section 801 of the Internal Revenue Code, life insurance company taxable income, plus the amount of distribution from pre-1984 policyholder surplus accounts as calculated under Section 815a of the Internal Revenue Code;

(B) Certain other insurance companies. In the case of mutual insurance companies subject to the tax imposed by Section 831 of the Internal Revenue Code, insurance company taxable income;

(C) Regulated investment companies. In the case of a regulated investment company subject to the tax imposed by Section 852 of the Internal Revenue Code, investment company taxable income;

(D) Real estate investment trusts. In the case of a real estate investment trust subject to the tax imposed by Section 857 of the Internal Revenue Code, real estate investment trust taxable income;

(E) Consolidated corporations. In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, taxable income determined as if such corporation had filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group. For purposes of this subparagraph, the taxpayer's separate taxable income shall be determined as if the election provided by Section 243(b) (2) of the Internal Revenue Code had been in effect for all such years;

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

(H) Partnerships. In the case of a partnership, taxable income determined in accordance with Section 703 of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 703(a)(1) to be separately stated but which would be taken into account by an individual in calculating his taxable income.

(3) Recapture of business expenses on disposition of asset or business. Notwithstanding any other law to the contrary, if in prior years income from an asset or business has been classified as business income and in a later year is demonstrated to be non-business income, then all expenses, without limitation, deducted in such later year and in the 2 immediately preceding taxable years related to that asset or business that generated the non-business income shall be added back and recaptured as business income in the year of the disposition of the asset or business. Such amount shall be apportioned to Illinois using the greater of the apportionment fraction computed for the business under Section 304 of this Act for the taxable year or the average of the apportionment fractions computed for the business under Section 304 of this Act for the taxable year and for the 2 immediately preceding taxable years.

## (f) Valuation limitation amount.

(1) In general. The valuation limitation amount referred to in subsections (a) (2) (G),

(c) (2) (I) and (d)(2) (E) is an amount equal to:

(A) The sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of gain reportable under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

(B) The lesser of (i) the sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of capital gain) for all property in respect of which such gain was reported for federal income tax purposes for the taxable year, or (ii) the net capital gain for the taxable year, reduced in either case by any amount of such gain included in the amount determined under subsection (a) (2) (F) or (c) (2) (H).

(2) Pre-August 1, 1969 appreciation amount.

(A) If the fair market value of property referred to in paragraph (1) was readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the lesser of (i) the excess of such fair market value over the taxpayer's basis (for determining gain) for such property on that date (determined under the Internal Revenue Code as in effect on that date), or (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, exchange or other disposition of such property.

(B) If the fair market value of property referred to in paragraph (1) was not readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is that amount which bears the same ratio to the total gain reported in respect of the property for federal income tax purposes for the taxable year, as the number of full calendar months in that part of the taxpayer's holding period for the property ending July 31, 1969 bears to the number of full calendar months in the taxpayer's entire holding period for the property.

(C) The Department shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

(g) Double deductions. Unless specifically provided otherwise, nothing in this Section shall permit the same item to be deducted more than once.

(h) Legislative intention. Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

(Source: P.A. 95-23, eff. 8-3-07; 95-233, eff. 8-16-07; 95-286, eff. 8-20-07; 95-331, eff. 8-21-07; 95-707, eff. 1-11-08; 95-876, eff. 8-21-08; 96-45, eff. 7-15-09; 96-120, eff. 8-4-09; 96-198, eff. 8-10-09; 96-328, eff. 8-11-09; 96-520, eff. 8-14-09; revised 9-25-09.)

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

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill was ordered to a third reading.

### READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Harmon, **House Bill No. 2239**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 57; NAYS None.

The following voted in the affirmative:

[October 15, 2009]

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

#### MOTION IN WRITING

Senator Lauzen submitted the following Motion in Writing:

I move that Senate Bill 2090 do pass, notwithstanding the specific recommendations of the Governor.

10/15/09  
DATE

s/Chris Lauzen  
SENATOR

The foregoing Motion in Writing was filed with the Secretary and ordered placed on the Senate Calendar.

At the hour of 4:37 o'clock p.m., Senator Schoenberg, presiding.

#### REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

Executive:           **Senate Floor Amendment No. 2 to Senate Bill 354; HOUSE BILL 4625.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, to which was referred **Senate Bill No. 354** on August 15, 2009, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 354** was returned to the order of third reading.

Senator Clayborne, Chairperson of the Committee on Assignments, during its October 15, 2009 meeting, reported that the following Legislative Measures have been approved for consideration:

[October 15, 2009]

**Senate Floor Amendment No. 1 to House Bill 806**  
**Senate Floor Amendment No. 2 to House Bill 806**

The foregoing floor amendments were placed on the Secretary's Desk.

**CONSIDERATION OF GOVERNOR'S VETO MESSAGES**

Pursuant to the Motion in Writing filed on Thursday, October 15, 2009 and journalized Thursday, October 15, 2009, Senator Clayborne moved that **Senate Bill No. 1391** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 53; NAY 1.

The following voted in the affirmative:

Althoff	Frerichs	Link	Rutherford
Bivins	Garrett	Luechtefeld	Sandoval
Bomke	Haine	Maloney	Schoenberg
Bond	Harmon	Martinez	Silverstein
Brady	Hendon	McCarter	Steans
Burzynski	Holmes	Meeks	Sullivan
Clayborne	Hultgren	Millner	Syverson
Collins	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Noland	Viverito
Dahl	Jones, E.	Pankau	Wilhelmi
DeLeo	Koehler	Radogno	Mr. President
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	
Forby	Lightford	Risinger	

The following voted in the negative:

Cronin

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Thursday, October 15, 2009 and journalized Thursday, October 15, 2009, Senator Sullivan moved that **Senate Bill No. 1685** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan

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Collins	Hultgren	Millner	Syverson
Cronin	Hutchinson	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Laufen	Righter	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

Pursuant to the Motion in Writing filed on Thursday, October 15, 2009 and journalized Thursday, October 15, 2009, Senator Laufen moved that **Senate Bill No. 2090** do pass, the specific recommendations of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 49; NAYS 7.

The following voted in the affirmative:

Althoff	Frerichs	Laufen	Sandoval
Bivins	Garrett	Link	Schoenberg
Bomke	Haine	Maloney	Silverstein
Bond	Harmon	Martinez	Steans
Burzynski	Hendon	Meeks	Sullivan
Clayborne	Holmes	Muñoz	Syverson
Collins	Hultgren	Murphy	Trotter
Cronin	Hutchinson	Noland	Viverito
Crotty	Jacobs	Pankau	Wilhelmi
DeLeo	Jones, E.	Radogno	Mr. President
Demuzio	Jones, J.	Raoul	
Duffy	Koehler	Risinger	
Forby	Kotowski	Rutherford	

The following voted in the negative:

Brady	Dillard	McCarter	Righter
Dahl	Luechtefeld	Millner	

This bill, having received the vote of three-fifths of the members elected, was declared passed, the specific recommendations of the Governor to the contrary notwithstanding.

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence therein.

#### HOUSE BILL RECALLED

On motion of Senator Harmon, **House Bill No. 806** was recalled from the order of third reading to the order of second reading.

Senator Harmon offered the following amendment and moved its adoption:

#### AMENDMENT NO. 1 TO HOUSE BILL 806

AMENDMENT NO. 1. Amend House Bill 806 by replacing everything after the enacting clause with the following:

[October 15, 2009]

"Section 3. The Department of Human Services Act is amended by adding Section 10-65 as follows:  
(20 ILCS 1305/10-65 new)

Sec. 10-65. Gateways to Opportunity.

(a) Subject to the availability of funds, the Department of Human Services shall operate a Gateways to Opportunity program, a comprehensive professional development system. The goal of Gateways to Opportunity is to support a diverse, stable, and quality workforce for settings serving children and youth, specifically to:

(1) enhance the quality of services;

(2) increase positive outcomes for children and youth; and

(3) advance the availability of coursework and training related to quality services for children and youth.

(b) The Department shall award Gateways to Opportunity credentials to early care and education, school-age, and youth development practitioners. The credentials shall validate an individual's qualifications and shall be issued based on a variety of professional achievements in field experience, knowledge and skills, educational attainment, and training accomplishments. The Department shall adopt rules outlining the framework for awarding credentials.

(c) The Gateways to Opportunity program shall identify professional knowledge guidelines for practitioners serving children and youth. The professional knowledge guidelines shall define what all adults who work with children and youth need to know, understand, and be able to demonstrate to support children's and youth's development, school readiness, and school success. The Department shall adopt rules to identify content areas, alignment with other professional standards, and competency levels.

Section 5. The School Code is amended by changing Sections 10-20.12 and 34-19 as follows:  
(105 ILCS 5/10-20.12) (from Ch. 122, par. 10-20.12)

Sec. 10-20.12. School year - School age. To establish and keep in operation in each year during a school term of at least the minimum length required by Section 10-19, a sufficient number of free schools for the accommodation of all persons in the district who are 5 years of age or older but under 21 years of age, and to secure for all such persons the right and opportunity to an equal education in such schools; provided that (i) children who will attain the age of 5 years on or before September 1 of the year of the 1990-1991 school term and each school term thereafter may attend school upon the commencement of such term and (ii) children who have attended a non-public preschool and continued their education at that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain the age of 6 years on or before December 31 of the year of the 2009-2010 school term and each school term thereafter may attend first grade upon commencement of such term. Based upon an assessment of a child's readiness to attend school, a school district may permit a child to attend school prior to the dates contained in this Section. In any school district operating on a full year school basis children who will attain age 5 within 30 days after the commencement of a term may attend school upon the commencement of such term and children who have attended a non-public preschool and continued their education at that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain age 6 within 4 months after the commencement of a term may attend first grade upon the commencement of such term. The school district may, by resolution of its board, allow for a full year school plan.

(Source: P.A. 87-359.)

(105 ILCS 5/34-19) (from Ch. 122, par. 34-19)

Sec. 34-19. By-laws, rules and regulations; business transacted at regular meetings; voting; records. The board shall, subject to the limitations in this Article, establish by-laws, rules and regulations, which shall have the force of ordinances, for the proper maintenance of a uniform system of discipline for both employees and pupils, and for the entire management of the schools, and may fix the school age of pupils, the minimum of which in kindergartens shall not be under 4 years, except that children who have attended a non-public preschool and continued their education at that school through kindergarten, were taught in kindergarten by an appropriately certified teacher, and will attain the age of 6 years on or before December 31 of the year of the 2009-2010 school term and each school term thereafter may attend first grade upon commencement of such term, and in grade schools shall not be under 6 years. It may expel, suspend or, subject to the limitations of all policies established or adopted under Section 14-8.05, otherwise discipline any pupil found guilty of gross disobedience, misconduct or other violation of the by-laws, rules and regulations. The bylaws, rules and regulations of the board shall be enacted, money shall be appropriated or expended, salaries shall be fixed or changed, and textbooks and courses of instruction shall be adopted or changed only at the regular meetings of the board and by a vote of a

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majority of the full membership of the board; provided that notwithstanding any other provision of this Article or the School Code, neither the board or any local school council may purchase any textbook for use in any public school of the district from any textbook publisher that fails to furnish any computer diskettes as required under Section 28-21. The board shall be further encouraged to provide opportunities for public hearing and testimony before the adoption of bylaws, rules and regulations. Upon all propositions requiring for their adoption at least a majority of all the members of the board the yeas and nays shall be taken and reported. The by-laws, rules and regulations of the board shall not be repealed, amended or added to, except by a vote of 2/3 of the full membership of the board. The board shall keep a record of all its proceedings. Such records and all by-laws, rules and regulations, or parts thereof, may be proved by a copy thereof certified to be such by the secretary of the board, but if they are printed in book or pamphlet form which are purported to be published by authority of the board they need not be otherwise published and the book or pamphlet shall be received as evidence, without further proof, of the records, by-laws, rules and regulations, or any part thereof, as of the dates thereof as shown in such book or pamphlet, in all courts and places where judicial proceedings are had.

Notwithstanding any other provision in this Article or in the School Code, the board may delegate to the general superintendent or to the attorney the authorities granted to the board in the School Code, provided such delegation and appropriate oversight procedures are made pursuant to board by-laws, rules and regulations, adopted as herein provided, except that the board may not delegate its authorities and responsibilities regarding (1) budget approval obligations; (2) rule-making functions; (3) desegregation obligations; (4) real estate acquisition, sale or lease in excess of 10 years as provided in Section 34-21; (5) the levy of taxes; or (6) any mandates imposed upon the board by "An Act in relation to school reform in cities over 500,000, amending Acts herein named", approved December 12, 1988 (P.A. 85-1418).

(Source: P.A. 88-45; 89-15, eff. 5-30-95.)

Section 99. Effective date. This Act takes effect July 1, 2009."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Harmon offered the following amendment and moved its adoption:

**AMENDMENT NO. 2 TO HOUSE BILL 806**

AMENDMENT NO. 2. Amend House Bill 806, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, as follows:

on page 3, line 10, after "(ii)", by inserting "based upon an assessment of the child's readiness"; and

on page 3, line 22, after "and", by inserting "based upon an assessment of the child's readiness"; and

on page 4, line 13, after "that", by inserting "based upon an assessment of the child's readiness".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the bill was ordered to a third reading.

**READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME**

On motion of Senator Harmon, **House Bill No. 806**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

YEAS 54; NAYS None.

The following voted in the affirmative:

Allthoff

Duffy

Lightford

Righter

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Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Jacobs	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Koehler	Pankau	Mr. President
Demuzio	Kotowski	Radogno	
Dillard	Lauzen	Raoul	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

### MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 327

A bill for AN ACT concerning finance.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 327

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

### AMENDMENT NO. 1 TO SENATE BILL 327

AMENDMENT NO. 1. Amend Senate Bill 327 by replacing everything after the enacting clause with the following:

"Section 5. The Architectural, Engineering, and Land Surveying Qualifications Based Selection Act is amended by changing Section 30 as follows:

(30 ILCS 535/30) (from Ch. 127, par. 4151-30)

Sec. 30. Evaluation procedure. A State agency shall evaluate the firms submitting letters of interest and other prequalified firms, taking into account qualifications; and the State agency may consider, but shall not be limited to considering, ability of professional personnel, past record and experience, performance data on file, willingness to meet time requirements, location, workload of the firm and any other qualifications based factors as the State agency may determine in writing are applicable. The State agency may conduct discussions with and require public presentations by firms deemed to be the most qualified regarding their qualifications, approach to the project and ability to furnish the required services.

A State agency shall establish a committee to select firms to provide architectural, engineering, and land surveying services. A selection committee may include at least one public member nominated by a statewide association of the profession affected. The public member may not be employed or associated with any firm holding a contract with the State agency nor may the public member's firm be considered for a contract with that State agency while he or she is serving as a public member of the committee.

In addition, the Department of Transportation may appoint public members to selection committees that represent the geographic, ethnic, and cultural diversity of the population of the State, including persons nominated by associations representing minority and female-owned business associations. Public members shall be licensed in or have received a degree from an accredited college or university in

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~~one of the professions the profession~~ affected and shall not be employed by, associated with, or have an ownership interest in any firm holding or seeking to hold a contract while serving as a public member of the committee.

In no case shall a State agency, prior to selecting a firm for negotiation under Section 40, seek formal or informal submission of verbal or written estimates of costs or proposals in terms of dollars, hours required, percentage of construction cost, or any other measure of compensation.

(Source: P.A. 96-37, eff. 7-13-09.)

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

Under the rules, the foregoing **Senate Bill No. 327**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1371

A bill for AN ACT concerning regulation.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1371

Passed the House, as amended, October 15, 2009.

MARK MAHONEY, Clerk of the House

#### AMENDMENT NO. 1 TO SENATE BILL 1371

AMENDMENT NO. 1. Amend Senate Bill 1371 by replacing everything after the enacting clause with the following:

"Section 5. The Physical Fitness Facility Medical Emergency Preparedness Act is amended by changing Sections 5.25 and 15 as follows:

(210 ILCS 74/5.25)

Sec. 5.25. Physical fitness facility.

(a) "Physical fitness facility" means the following:

(1) Any of the following indoor ~~or outdoor~~ facilities that is (i) owned or operated by a park district, municipality, or other unit of local government, including a home rule unit, or by a public or private elementary or secondary school, college, university, or technical or trade school and (ii) supervised by one or more persons, other than maintenance or security personnel, employed by the unit of local government, school, college, or university for the purpose of directly supervising the physical fitness activities taking place at any of these indoor facilities: a swimming pool; stadium; athletic field; football stadium; soccer field; baseball diamond; track and field facility; tennis court; basketball court; or volleyball court; or similar facility as defined by Department rule ~~; or such facilities located adjacent thereto.~~

(1.5) Any of the following outdoor facilities that is (i) owned by a municipality, township, or other unit of local government, including a home rule unit, or by a public or private elementary or secondary school, college, university, or technical or trade school and (ii) supervised by one or more persons, other than maintenance or security personnel, employed by the unit of local government, school, college, or university for the purpose of directly supervising the physical fitness activities taking place at any of these facilities: a swimming pool; athletic field; football stadium; soccer field; baseball diamond; track and field facility; tennis court; basketball court; or volleyball court; or similar facility as defined by Department rule.

The term does not include any facility during any activity or program organized by a private or not-for-profit organization and organized and supervised by a person or persons other than the employees of the unit of local government, school, college, or university.

(2) Except as provided in subsection (b), any other indoor or outdoor establishment, whether public or private, that provides services or facilities focusing ~~primarily~~ on cardiovascular exertion or gaming as defined by Department rule.

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(b) "Physical fitness facility" does not include a facility serving less than a total of 100 individuals. For purposes of this Act, "individuals" includes only those persons actively engaged in physical exercise that uses large muscle groups and that substantially increases the heart rate, ~~as further defined by Department rule.~~ In addition, the term does not include (i) a facility located in a hospital or in a hotel or motel, (ii) any outdoor facility owned or operated by a park district organized under the Park District Code, the Chicago Park District Act, or the Metro-East Park and Recreation District Act, or (iii) any facility owned or operated by a forest preserve district organized under the Downstate Forest Preserve District Act or the Cook County Forest Preserve District Act or a conservation district organized under the Conservation District Act. The term also does not include any facility that does not employ any persons to provide instruction, training, or assistance for persons using the facility.  
(Source: P.A. 95-712, eff. 1-1-09.)

(210 ILCS 74/15)

Sec. 15. Automated external defibrillator required.

(a) By the dates specified in Section 50, every physical fitness facility must have at least one AED on the facility premises. The Department shall adopt rules to ensure coordination with local emergency medical services systems regarding the placement and use of AEDs in physical fitness facilities. The Department may adopt rules requiring a facility to have more than one AED on the premises, based on factors that include the following:

(1) The size of the area or the number of buildings or floors occupied by the facility.

(2) The number of persons using the facility, excluding spectators.

(b) A physical fitness facility must ensure that there is a trained AED user on staff during staffed business hours. For purposes of this Act, "trained AED user" has the meaning ascribed to that term in Section 10 of the Automated External Defibrillator Act.

(b-5) The Department shall adopt rules that encourage any non-employee coach, non-employee instructor, or other similarly situated non-employee anticipated rescuer who uses a physical fitness facility in conjunction with the supervision of physical fitness activities to complete a course of instruction that would qualify such a person as a trained AED user, as defined in Section 10 of the Automated External Defibrillator Act.

(b-10) In the case of an outdoor physical fitness facility, the AED must be housed in a building, if any, that is within 300 feet of the outdoor facility where an event or activity is being conducted. If there is such a building within the required distance, the building must provide unimpeded and open access to the housed AED, and the building's entrances shall further provide marked directions to the housed AED. If there is no such building, the person responsible for supervising the activity at the outdoor physical fitness facility shall ensure that an AED is available at the outdoor facility during the time that the event or activity at the facility is being conducted.

(b-15) Facilities described in paragraph (1.5) of Section 5.25 must have an AED on site as well as a trained AED user available only during activities or events sponsored and conducted or supervised by a person or persons employed by the unit of local government, school, college, or university.

(c) Every physical fitness facility must ensure that every AED on the facility's premises is properly tested and maintained in accordance with rules adopted by the Department.

(Source: P.A. 95-712, eff. 1-1-09; 96-748, eff. 1-1-10.)

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

Under the rules, the foregoing **Senate Bill No. 1371**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1812

A bill for AN ACT concerning criminal law.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1812

Passed the House, as amended, October 15, 2009.

[October 15, 2009]

**AMENDMENT NO. 1 TO SENATE BILL 1812**

AMENDMENT NO. 1. Amend Senate Bill 1812 by replacing everything after the enacting clause with the following:

"Section 5. The Criminal Code of 1961 is amended by changing Section 24-1.6 and by adding Section 24-1.8 as follows:

(720 ILCS 5/24-1.6)

Sec. 24-1.6. Aggravated unlawful use of a weapon.

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; or

(2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode, legal dwelling, or fixed place of business, or on the land or in the legal dwelling of another person as an invitee with that person's permission, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense; or

(C) the person possessing the firearm has not been issued a currently valid Firearm Owner's Identification Card; or

(D) the person possessing the weapon was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony; or

(E) the person possessing the weapon was engaged in a misdemeanor violation of the Cannabis Control Act, in a misdemeanor violation of the Illinois Controlled Substances Act, or in a misdemeanor violation of the Methamphetamine Control and Community Protection Act; or

(F) ~~(blank) the person possessing the weapon is a member of a street gang or is engaged in street gang related activity, as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act; or~~

(G) the person possessing the weapon had a order of protection issued against him or her within the previous 2 years; or

(H) the person possessing the weapon was engaged in the commission or attempted commission of a misdemeanor involving the use or threat of violence against the person or property of another; or

(I) the person possessing the weapon was under 21 years of age and in possession of a handgun as defined in Section 24-3, unless the person under 21 is engaged in lawful activities under the Wildlife Code or described in subsection 24-2(b)(1), (b)(3), or 24-2(f).

(b) "Stun gun or taser" as used in this Section has the same definition given to it in Section 24-1 of this Code.

(c) This Section does not apply to or affect the transportation or possession of weapons that:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

(d) Sentence. Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years. Aggravated unlawful use of a weapon by a person who has been previously convicted of a felony in this State or another jurisdiction is a Class 2 felony for which the person shall be sentenced to a term of imprisonment of not less than 3 years and not more than 7 years. Aggravated unlawful use of a weapon while wearing or in possession of body armor as defined in Section 33F-1 by a person who has not been issued a valid Firearms Owner's Identification Card in

accordance with Section 5 of the Firearm Owners Identification Card Act is a Class X felony. The possession of each firearm in violation of this Section constitutes a single and separate violation. (Source: P.A. 95-331, eff. 8-21-07; 96-742, eff. 8-25-09.)

(720 ILCS 5/24-1.8 new)

Sec. 24-1.8. Unlawful possession of a firearm by a street gang member.

(a) A person commits unlawful possession of a firearm by a street gang member when he or she knowingly:

(1) possesses, carries, or conceals on or about his or her person a firearm and firearm ammunition while on any street, road, alley, gangway, sidewalk, or any other lands, except when inside his or her own abode or inside his or her fixed place of business, and has not been issued a currently valid Firearm Owner's Identification Card and is a member of a street gang; or

(2) possesses or carries in any vehicle a firearm and firearm ammunition which are both immediately accessible at the time of the offense while on any street, road, alley, or any other lands, except when inside his or her own abode or garage, and has not been issued a currently valid Firearm Owner's Identification Card and is a member of a street gang.

(b) Unlawful possession of a firearm by a street gang member is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to no less than 3 years and no more than 10 years. A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the offense of unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition and the court shall sentence the offender to not less than the minimum term of imprisonment authorized for the Class 2 felony.

(c) For purposes of this Section:

"Street gang" or "gang" means any combination, confederation, alliance, network, conspiracy in law or in fact, of 3 or more persons with an established hierarchy that, through its membership or through the agency of any member, engages in a course or pattern of criminal activity.

"Street gang member" or "gang member" means any person who actually and in fact belongs to a gang.

"Firearm" means any pistol, revolver, rifle, shotgun, or any device by whatever name which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas, or escape of gas.

"Firearm ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable for use in a firearm.

Section 10. The Unified Code of Corrections is amended by changing Section 5-5-3 as follows:

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) (Blank-) .

(b) (Blank-) .

~~(10) If the defendant is convicted of arson, aggravated arson, residential arson, or place of worship arson, an order directing the offender to reimburse the local emergency response department for the costs of responding to the fire that the offender was convicted of setting in accordance with the Emergency Services Response Reimbursement for Criminal Convictions Act.~~

(c) (1) (Blank-) .

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

(A) First degree murder where the death penalty is not imposed.

(B) Attempted first degree murder.

(C) A Class X felony.

(D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1), (c)(1.5), or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin, cocaine, fentanyl, or an analog thereof.

(E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony, including any state or federal conviction for an offense that contained, at the time it was committed, the same elements as an offense now (the date of the offense committed after the prior Class 2 or greater felony) classified as a Class 2 or greater felony, within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as

otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(F-5) A violation of Section 24-1, 24-1.1, or 24-1.6 of the Criminal Code of 1961 for which imprisonment is prescribed in those Sections.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.

(M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.

(N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.

(O) A violation of Section 12-6.1 of the Criminal Code of 1961.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal Code of 1961.

(S) (Blank).

(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act.

(U) A second or subsequent violation of Section 6-303 of the Illinois Vehicle Code committed while his or her driver's license, permit, or privilege was revoked because of a violation of Section 9-3 of the Criminal Code of 1961, relating to the offense of reckless homicide, or a similar provision of a law of another state.

(V) A violation of paragraph (4) of subsection (c) of Section 11-20.3 of the Criminal Code of 1961.

(W) A violation of Section 24-3.5 of the Criminal Code of 1961.

(X) A violation of subsection (a) of Section 31-1a of the Criminal Code of 1961.

(Y) A conviction for unlawful possession of a firearm by a street gang member when the firearm was loaded or contained firearm ammunition.

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraphs (4.3) and (4.8) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraphs (4.5), (4.6), and (4.9) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation

of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) Except as provided in paragraph (4.10) of this subsection (c), a minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.7) A minimum term of imprisonment of not less than 30 consecutive days, or 300 hours of community service, shall be imposed for a violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (b-5) of that Section.

(4.8) A mandatory prison sentence shall be imposed for a second violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (c-5) of that Section. The person's driving privileges shall be revoked for a period of not less than 5 years from the date of his or her release from prison.

(4.9) A mandatory prison sentence of not less than 4 and not more than 15 years shall be imposed for a third violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-2.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(4.10) A mandatory prison sentence for a Class 1 felony shall be imposed, and the person shall be eligible for an extended term sentence, for a fourth or subsequent violation of subsection (a-5) of Section 6-303 of the Illinois Vehicle Code, as provided in subsection (d-3.5) of that Section. The person's driving privileges shall be revoked for the remainder of his or her life.

(5) The court may sentence a corporation or unincorporated association convicted of any offense to:

(A) a period of conditional discharge;

(B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(5.1) In addition to any other penalties imposed, and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any other penalties imposed, and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any other penalties imposed, a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(5.4) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 3 months and until he or she has paid a reinstatement fee of \$100.

(5.5) In addition to any other penalties imposed, a person convicted of violating Section 3-707 of the Illinois Vehicle Code during a period in which his or her driver's license, permit, or privileges were suspended for a previous violation of that Section shall have his or her driver's license, permit, or privileges suspended for an additional 6 months after the expiration of the original 3-month suspension and until he or she has paid a reinstatement fee of \$100.

(6) (Blank-) \_

(7) (Blank-) \_

(8) (Blank-) \_

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

(12) A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.

(13) A person convicted of or placed on court supervision for an assault or aggravated assault when the victim and the offender are family or household members as defined in Section 103 of the Illinois Domestic Violence Act of 1986 or convicted of domestic battery or aggravated domestic battery may be required to attend a Partner Abuse Intervention Program under protocols set forth by the Illinois Department of Human Services under such terms and conditions imposed by the court. The costs of such classes shall be paid by the offender.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) (Blank) \_

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or

legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his

or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) (Blank) \_

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (l) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, or 16-1.3 of the Criminal Code of 1961 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse program licensed under that Act.

(o) Whenever a person is convicted of a sex offense as defined in Section 2 of the Sex Offender Registration Act, the defendant's driver's license or permit shall be subject to renewal on an annual basis in accordance with the provisions of license renewal established by the Secretary of State.

(Source: P.A. 95-188, eff. 8-16-07; 95-259, eff. 8-17-07; 95-331, eff. 8-21-07; 95-377, eff. 1-1-08; 95-579, eff. 6-1-08; 95-876, eff. 8-21-08; 95-882, eff. 1-1-09; 95-1052, eff. 7-1-09; 96-348, eff. 8-12-09; 96-400, eff. 8-13-09; revised 9-4-09.)

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

[October 15, 2009]

Under the rules, the foregoing **Senate Bill No. 1812**, with House Amendment No. 1, was referred to the Secretary's Desk.

**MESSAGE FROM THE PRESIDENT**

**OFFICE OF THE SENATE PRESIDENT  
STATE OF ILLINOIS**

JOHN J. CULLERTON  
SENATE PRESIDENT

327 STATE CAPITOL  
SPRINGFIELD, ILLINOIS 62706

October 15, 2009

Ms. Jillayne Rock  
Secretary of the Senate  
Room 403 State House  
Springfield, IL 62706

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish December 31, 2009 as the 3<sup>rd</sup> Reading deadline for SB 354 & HB 4625.

Sincerely,  
s/John J. Cullerton  
Senate President

cc: Senate Republican Leader Christine Radogno

At the hour of 5:10 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, October 16, 2009, at 10:00 o'clock a.m.

[October 15, 2009]