



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5256

by Rep. Mark Batinick

SYNOPSIS AS INTRODUCED:

225 ILCS 407/10-30
225 ILCS 441/5-30
225 ILCS 454/1-10
225 ILCS 454/5-15
225 ILCS 454/5-20
225 ILCS 454/5-50
225 ILCS 454/5-70
225 ILCS 454/5-80
225 ILCS 454/10-15
225 ILCS 454/10-20
225 ILCS 454/20-20
225 ILCS 458/5-45
225 ILCS 458/15-15

Amends the Auction License Act, the Home Inspector License Act, and the Real Estate Appraiser Licensing Act of 2002. Makes changes to the deadlines for completion of continuing education for renewal of a license. Amends the Real Estate License Act of 2000. In the definitions of "broker" and "person", includes an entity, corporation, foreign or domestic partnership, or other business entity. Makes conforming changes throughout the Act. Makes changes in provisions concerning licensing requirements for ownership. Makes changes to the deadline for completion of continuing education for renewal of a managing broker, broker, leasing agent, or instructor license. Makes other changes. Effective immediately.

LRB100 16043 SMS 31162 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning regulation.

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

4 Section 5. The Auction License Act is amended by changing
5 Section 10-30 as follows:

6 (225 ILCS 407/10-30)

7 (Section scheduled to be repealed on January 1, 2020)

8 Sec. 10-30. Expiration, renewal, and continuing education.

9 (a) License expiration dates, renewal periods, renewal
10 fees, and procedures for renewal of licenses issued under this
11 Act shall be set by rule of the Department. An entity may renew
12 its license by paying the required fee and by meeting the
13 renewal requirements adopted by the Department under this
14 Section.

15 (b) All renewal applicants must provide proof as determined
16 by the Department of having met the continuing education
17 requirements by the deadline set forth by the Department by
18 rule. At a minimum, the rules shall require an applicant for
19 renewal licensure as an auctioneer to provide proof of the
20 completion of at least 12 hours of continuing education during
21 the pre-renewal period established by the Department for
22 completion of continuing education ~~preceding the expiration~~
23 ~~date of the license~~ from schools approved by the Department, as

1 established by rule.

2 (c) The Department, in its discretion, may waive
3 enforcement of the continuing education requirements of this
4 Section and shall adopt rules defining the standards and
5 criteria for such waiver.

6 (d) (Blank).

7 (Source: P.A. 95-572, eff. 6-1-08; 96-730, eff. 8-25-09.)

8 Section 10. The Home Inspector License Act is amended by
9 changing Section 5-30 as follows:

10 (225 ILCS 441/5-30)

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

12 Sec. 5-30. Continuing education renewal requirements. The
13 continuing education requirements for a person to renew a
14 license as a home inspector shall be established by rule. The
15 Department shall establish a continuing education completion
16 deadline for home inspector licensees and require evidence of
17 compliance with continuing education requirements in a manner
18 established by rule before the renewal of a license.

19 (Source: P.A. 92-239, eff. 8-3-01.)

20 Section 15. The Real Estate License Act of 2000 is amended
21 by changing Sections 1-10, 5-15, 5-20, 5-50, 5-70, 5-80, 10-15,
22 10-20, and 20-20 as follows:

1 (225 ILCS 454/1-10)

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

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

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

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

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

17 "Applicant" means any person, as defined in this Section,
18 who applies to the Department for a valid license as a managing
19 broker, broker, or leasing agent.

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

1 firm.

2 "Board" means the Real Estate Administration and
3 Disciplinary Board of the Department as created by Section
4 25-10 of this Act.

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

7 "Broker" means an individual, entity, corporation, foreign
8 or domestic partnership, limited liability company,
9 corporation, ~~or~~ registered limited liability partnership, or
10 other business entity other than a leasing agent who, whether
11 in person or through any media or technology, for another and
12 for compensation, or with the intention or expectation of
13 receiving compensation, either directly or indirectly:

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

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

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

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

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

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

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

4 (8) Assists or directs in procuring or referring of
5 leads or prospects, intended to result in the sale,
6 exchange, lease, or rental of real estate.

7 (9) Assists or directs in the negotiation of any
8 transaction intended to result in the sale, exchange,
9 lease, or rental of real estate.

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

12 (11) Sells, rents, leases, or offers for sale or lease
13 real estate at auction.

14 (12) Prepares or provides a broker price opinion or
15 comparative market analysis as those terms are defined in
16 this Act, pursuant to the provisions of Section 10-45 of
17 this Act.

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

26 "Broker price opinion" means an estimate or analysis of the

1 probable selling price of a particular interest in real estate,
2 which may provide a varying level of detail about the
3 property's condition, market, and neighborhood and information
4 on comparable sales. The activities of a real estate broker or
5 managing broker engaging in the ordinary course of business as
6 a broker, as defined in this Section, shall not be considered a
7 broker price opinion if no compensation is paid to the broker
8 or managing broker, other than compensation based upon the sale
9 or rental of real estate.

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

12 "Comparative market analysis" is an analysis or opinion
13 regarding pricing, marketing, or financial aspects relating to
14 a specified interest or interests in real estate that may be
15 based upon an analysis of comparative market data, the
16 expertise of the real estate broker or managing broker, and
17 such other factors as the broker or managing broker may deem
18 appropriate in developing or preparing such analysis or
19 opinion. The activities of a real estate broker or managing
20 broker engaging in the ordinary course of business as a broker,
21 as defined in this Section, shall not be considered a
22 comparative market analysis if no compensation is paid to the
23 broker or managing broker, other than compensation based upon
24 the sale or rental of real estate.

25 "Compensation" means the valuable consideration given by
26 one person or entity to another person or entity in exchange

1 for the performance of some activity or service. Compensation
2 shall include the transfer of valuable consideration,
3 including without limitation the following:

4 (1) commissions;

5 (2) referral fees;

6 (3) bonuses;

7 (4) prizes;

8 (5) merchandise;

9 (6) finder fees;

10 (7) performance of services;

11 (8) coupons or gift certificates;

12 (9) discounts;

13 (10) rebates;

14 (11) a chance to win a raffle, drawing, lottery, or
15 similar game of chance not prohibited by any other law or
16 statute;

17 (12) retainer fee; or

18 (13) salary.

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

26 (1) the client permits the disclosure of information

1 given by that client by word or conduct;

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

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

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

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

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

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

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

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

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

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

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

8 "Education provider" means a school licensed by the
9 Department offering courses in pre-license, post-license, or
10 continuing education required by this Act.

11 "Employee" or other derivative of the word "employee", when
12 used to refer to, describe, or delineate the relationship
13 between a sponsoring broker and a managing broker, broker, or a
14 leasing agent, shall be construed to include an independent
15 contractor relationship, provided that a written agreement
16 exists that clearly establishes and states the relationship.
17 All responsibilities of a broker shall remain.

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

1 for which the security deposit is being held.

2 "Electronic means of proctoring" means a methodology
3 providing assurance that the person taking a test and
4 completing the answers to questions is the person seeking
5 licensure or credit for continuing education and is doing so
6 without the aid of a third party or other device.

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

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

19 "Interactive delivery method" means delivery of a course by
20 an instructor through a medium allowing for 2-way communication
21 between the instructor and a student in which either can
22 initiate or respond to questions.

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

25 "Leasing Agent" means a person who is employed by a broker
26 to engage in licensed activities limited to leasing residential

1 real estate who has obtained a license as provided for in
2 Section 5-5 of this Act.

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

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

8 "Licensee" means any person, as defined in this Section,
9 who holds a valid unexpired license as a managing broker,
10 broker, or leasing agent.

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

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

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

22 "Ministerial acts" means those acts that a licensee may
23 perform for a consumer that are informative or clerical in
24 nature and do not rise to the level of active representation on
25 behalf of a consumer. Examples of these acts include without
26 limitation (i) responding to phone inquiries by consumers as to

1 the availability and pricing of brokerage services, (ii)
2 responding to phone inquiries from a consumer concerning the
3 price or location of property, (iii) attending an open house
4 and responding to questions about the property from a consumer,
5 (iv) setting an appointment to view property, (v) responding to
6 questions of consumers walking into a licensee's office
7 concerning brokerage services offered or particular
8 properties, (vi) accompanying an appraiser, inspector,
9 contractor, or similar third party on a visit to a property,
10 (vii) describing a property or the property's condition in
11 response to a consumer's inquiry, (viii) completing business or
12 factual information for a consumer on an offer or contract to
13 purchase on behalf of a client, (ix) showing a client through a
14 property being sold by an owner on his or her own behalf, or
15 (x) referral to another broker or service provider.

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

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

26 "Personal assistant" means a licensed or unlicensed person

1 who has been hired for the purpose of aiding or assisting a
2 sponsored licensee in the performance of the sponsored
3 licensee's job.

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

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

10 "Proctor" means any person, including, but not limited to,
11 an instructor, who has a written agreement to administer
12 examinations fairly and impartially with a licensed education
13 provider.

14 "Real estate" means and includes leaseholds as well as any
15 other interest or estate in land, whether corporeal,
16 incorporeal, freehold, or non-freehold and whether the real
17 estate is situated in this State or elsewhere. "Real estate"
18 does not include property sold, exchanged, or leased as a
19 timeshare or similar vacation item or interest, vacation club
20 membership, or other activity formerly regulated under the Real
21 Estate Timeshare Act of 1999 (repealed).

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

1 the twenty factor test.

2 "Secretary" means the Secretary of the Department of
3 Financial and Professional Regulation, or a person authorized
4 by the Secretary to act in the Secretary's stead.

5 "Sponsoring broker" means the broker who has issued a
6 sponsor card to a licensed managing broker, broker, or a
7 leasing agent.

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

13 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18;
14 100-534, eff. 9-22-17; revised 10-2-17.)

15 (225 ILCS 454/5-15)

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

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

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

1 (b) No corporation shall be granted a license or engage in
2 the business or capacity, either directly or indirectly, of a
3 broker, unless every officer of the corporation who actively
4 participates in the real estate activities of the corporation
5 holds a license as a managing broker or broker and unless every
6 employee who acts as a managing broker, broker, or leasing
7 agent for the corporation holds a license as a managing broker,
8 broker, or leasing agent. All nonparticipating owners or
9 officers shall submit an affidavit of nonparticipation as may
10 be required by the Department.

11 (c) No partnership shall be granted a license or engage in
12 the business or serve in the capacity, either directly or
13 indirectly, of a broker, unless every ~~general~~ partner in the
14 partnership who actively participates in the real estate
15 activities of the partnership holds a license as a managing
16 broker or broker and unless every employee who acts as a
17 managing broker, broker, or leasing agent for the partnership
18 holds a license as a managing broker, broker, or leasing agent.
19 All nonparticipating partners shall submit an affidavit of
20 nonparticipation as may be required by the Department. In the
21 case of a registered limited liability partnership (LLP), every
22 partner in the LLP that actively participates in the real
23 estate activities of the limited liability partnership must
24 hold a license as a managing broker or broker and every
25 employee who acts as a managing broker, broker, or leasing
26 agent must hold a license as a managing broker, broker, or

1 leasing agent. All nonparticipating limited liability partners
2 shall submit an affidavit of nonparticipation as may be
3 required by the Department.

4 (d) No limited liability company shall be granted a license
5 or engage in the business or serve in the capacity, either
6 directly or indirectly, of a broker unless every member or
7 manager in the limited liability company that actively
8 participates in the real estate activities of the limited
9 liability company ~~or every member in a member managed limited~~
10 ~~liability company~~ holds a license as a managing broker or
11 broker and unless every other member and employee who acts as a
12 managing broker, broker, or leasing agent for the limited
13 liability company holds a license as a managing broker, broker,
14 or leasing agent. All nonparticipating members or managers
15 shall submit an affidavit of nonparticipation as may be
16 required by the Department.

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

23 (f) No person shall be granted a license if an owner,
24 officer, director, partner, limited liability partner, member,
25 manager, or any other participating or nonparticipating
26 individual has been denied a real estate license or is

1 otherwise barred from real estate practice because of a
2 suspension or revocation.

3 (Source: P.A. 99-227, eff. 8-3-15.)

4 (225 ILCS 454/5-20)

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

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

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

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

1 attorney at law.

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

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

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

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

18 (7) Any multiple listing service or other similar
19 information exchange that is engaged in the collection and
20 dissemination of information concerning real estate
21 available for sale, purchase, lease, or exchange for the
22 purpose of providing licensees with a system by which
23 licensees may cooperatively share information along with
24 which no other licensed activities, as defined in Section
25 1-10 of this Act, are provided.

26 (8) Railroads and other public utilities regulated by

1 the State of Illinois, or the officers or full time
2 employees thereof, unless the performance of any licensed
3 activities is in connection with the sale, purchase, lease,
4 or other disposition of real estate or investment therein
5 not needing the approval of the appropriate State
6 regulatory authority.

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

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

26 (11) The purchase, sale, or transfer of a timeshare or

1 similar vacation item or interest, vacation club
2 membership, or other activity formerly regulated under the
3 Real Estate Timeshare Act of 1999 (repealed).

4 (12) (Blank).

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

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

12 (B) that person verifies to the Department that he
13 or she has sold real estate at auction for a period of
14 5 years prior to licensure as an auctioneer;

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

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

22 (14) A person who holds a valid license under the
23 Auction License Act and a valid real estate auction
24 certification and conducts auctions for the sale of real
25 estate under Section 5-32 of this Act.

26 (15) A hotel operator who is registered with the

1 Illinois Department of Revenue and pays taxes under the
2 Hotel Operators' Occupation Tax Act and rents a room or
3 rooms in a hotel as defined in the Hotel Operators'
4 Occupation Tax Act for a period of not more than 30
5 consecutive days and not more than 60 days in a calendar
6 year.

7 (Source: P.A. 99-227, eff. 8-3-15; 100-534, eff. 9-22-17.)

8 (225 ILCS 454/5-50)

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

10 Sec. 5-50. Expiration and renewal of managing broker,
11 broker, or leasing agent license; sponsoring broker; register
12 of licensees; pocket card.

13 (a) The expiration date and renewal period for each license
14 issued under this Act shall be set by rule. Except as otherwise
15 provided in this Section, the holder of a license may renew the
16 license within 90 days preceding the expiration date thereof by
17 completing the continuing education required by this Act during
18 the period established by the Department and paying the fees
19 specified by rule.

20 (b) An individual whose first license is that of a broker
21 received on or after the effective date of this amendatory Act
22 of the 100th General Assembly, must provide evidence of having
23 completed 30 hours of post-license education in courses
24 recommended by the Board and approved by the Department, 15
25 hours of which must consist of situational and case studies

1 presented in a classroom or a live, interactive webinar, online
2 distance education course, or home study course. Credit for
3 courses taken through a home study course shall require passage
4 of an examination approved by the Department prior to the first
5 renewal of their broker's license.

6 (c) Any managing broker, broker, or leasing agent whose
7 license under this Act has expired shall be eligible to renew
8 the license during the 2-year period following the expiration
9 date, provided the managing broker, broker, or leasing agent
10 pays the fees as prescribed by rule and completes continuing
11 education and other requirements provided for by the Act or by
12 rule. Beginning on May 1, 2012, a managing broker licensee,
13 broker, or leasing agent whose license has been expired for
14 more than 2 years but less than 5 years may have it restored by
15 (i) applying to the Department, (ii) paying the required fee,
16 (iii) completing the continuing education requirements for the
17 most recent pre-renewal period that ended prior to the date of
18 the application for reinstatement, and (iv) filing acceptable
19 proof of fitness to have his or her license restored, as set by
20 rule. A managing broker, broker, or leasing agent whose license
21 has been expired for more than 5 years shall be required to
22 meet the requirements for a new license.

23 (d) Notwithstanding any other provisions of this Act to the
24 contrary, any managing broker, broker, or leasing agent whose
25 license expired while he or she was (i) on active duty with the
26 Armed Forces of the United States or called into service or

1 training by the state militia, (ii) engaged in training or
2 education under the supervision of the United States
3 preliminary to induction into military service, or (iii)
4 serving as the Coordinator of Real Estate in the State of
5 Illinois or as an employee of the Department may have his or
6 her license renewed, reinstated or restored without paying any
7 lapsed renewal fees if within 2 years after the termination of
8 the service, training or education by furnishing the Department
9 with satisfactory evidence of service, training, or education
10 and it has been terminated under honorable conditions.

11 (e) The Department shall establish and maintain a register
12 of all persons currently licensed by the State and shall issue
13 and prescribe a form of pocket card. Upon payment by a licensee
14 of the appropriate fee as prescribed by rule for engagement in
15 the activity for which the licensee is qualified and holds a
16 license for the current period, the Department shall issue a
17 pocket card to the licensee. The pocket card shall be
18 verification that the required fee for the current period has
19 been paid and shall indicate that the person named thereon is
20 licensed for the current renewal period as a managing broker,
21 broker, or leasing agent as the case may be. The pocket card
22 shall further indicate that the person named thereon is
23 authorized by the Department to engage in the licensed activity
24 appropriate for his or her status (managing broker, broker, or
25 leasing agent). Each licensee shall carry on his or her person
26 his or her pocket card or, if such pocket card has not yet been

1 issued, a properly issued sponsor card when engaging in any
2 licensed activity and shall display the same on demand.

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

8 (g) Upon request from the sponsoring broker, the Department
9 shall make available to the sponsoring broker, either by mail
10 or by an electronic means at the discretion of the Department,
11 a listing of licensees under this Act who, according to the
12 records of the Department, are sponsored by that broker. Every
13 licensee associated with or employed by a broker whose license
14 is revoked, suspended, terminated, or expired shall be
15 considered as inoperative until such time as the sponsoring
16 broker's license is reinstated or renewed, or the licensee
17 changes employment as set forth in subsection (c) of Section
18 5-40 of this Act.

19 (Source: P.A. 99-227, eff. 8-3-15; 100-188, eff. 1-1-18.)

20 (225 ILCS 454/5-70)

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

22 Sec. 5-70. Continuing education requirement; managing
23 broker or broker.

24 (a) The requirements of this Section apply to all managing
25 brokers and brokers.

1 (b) Except as otherwise provided in this Section, each
2 person who applies for renewal of his or her license as a
3 managing broker or broker must successfully complete 6 hours of
4 real estate continuing education courses recommended by the
5 Board and approved by the Department for each year of the
6 pre-renewal period. The courses shall be completed during the
7 period established by the Department by rule. In addition,
8 beginning with the pre-renewal period for managing broker
9 licensees that begins after the effective date of this Act,
10 those licensees renewing or obtaining a managing broker's
11 license must successfully complete a 12-hour broker management
12 continuing education course approved by the Department each
13 pre-renewal period. The broker management continuing education
14 course must be completed in the classroom or by other
15 interactive delivery method between the instructor and the
16 students and during the period established by the Department by
17 rule. Successful completion of the course shall include
18 achieving a passing score as provided by rule on a test
19 developed and administered in accordance with rules adopted by
20 the Department. No license may be renewed except upon the
21 successful completion of the required courses or their
22 equivalent or upon a waiver of those requirements for good
23 cause shown as determined by the Secretary with the
24 recommendation of the Board. The requirements of this Article
25 are applicable to all managing brokers and brokers except those
26 managing brokers and brokers who, during the pre-renewal

1 period:

2 (1) serve in the armed services of the United States;

3 (2) serve as an elected State or federal official;

4 (3) serve as a full-time employee of the Department; or

5 (4) are admitted to practice law pursuant to Illinois
6 Supreme Court rule.

7 (c) (Blank).

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

12 (e) The continuing education requirement for brokers and
13 managing brokers shall consist of a single core curriculum and
14 an elective curriculum, to be recommended by the Board and
15 approved by the Department in accordance with this subsection.
16 The core curriculum shall not be further divided into
17 subcategories or divisions of instruction. The core curriculum
18 shall consist of 4 hours per 2-year pre-renewal period on
19 subjects that may include, but are not limited to, advertising,
20 agency, disclosures, escrow, fair housing, leasing agent
21 management, and license law. The amount of time allotted to
22 each of these subjects shall be recommended by the Board and
23 determined by the Department. The Department, upon the
24 recommendation of the Board, shall review the core curriculum
25 every 4 years, at a minimum, and shall revise the curriculum if
26 necessary. However, the core curriculum's total hourly

1 requirement shall only be subject to change by amendment of
2 this subsection, and any change to the core curriculum shall
3 not be effective for a period of 6 months after such change is
4 made by the Department. The Department shall provide notice to
5 all approved education providers of any changes to the core
6 curriculum. When determining whether revisions of the core
7 curriculum's subjects or specific time requirements are
8 necessary, the Board shall consider recent changes in
9 applicable laws, new laws, and areas of the license law and the
10 Department policy that the Board deems appropriate, and any
11 other subject areas the Board deems timely and applicable in
12 order to prevent violations of this Act and to protect the
13 public. In establishing a recommendation to the Department
14 regarding the elective curriculum, the Board shall consider
15 subjects that cover the various aspects of the practice of real
16 estate that are covered under the scope of this Act.

17 (f) The subject areas of continuing education courses
18 recommended by the Board and approved by the Department shall
19 be meant to protect the professionalism of the industry, the
20 consumer, and the public and prevent violations of this Act and
21 may include without limitation the following:

22 (1) license law and escrow;

23 (2) antitrust;

24 (3) fair housing;

25 (4) agency;

26 (5) appraisal;

- 1 (6) property management;
- 2 (7) residential brokerage;
- 3 (8) farm property management;
- 4 (9) rights and duties of sellers, buyers, and brokers;
- 5 (10) commercial brokerage and leasing;
- 6 (11) real estate financing;
- 7 (12) disclosures;
- 8 (13) leasing agent management; and
- 9 (14) advertising.

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

16 (h) Credit hours may be earned for self-study programs
17 approved by the Department.

18 (i) A managing broker or broker may earn credit for a
19 specific continuing education course only once during the
20 pre-renewal period.

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

23 (k) To promote the offering of a uniform and consistent
24 course content, the Department may provide for the development
25 of a single broker management course to be offered by all
26 education providers who choose to offer the broker management

1 continuing education course. The Department may contract for
2 the development of the 12-hour broker management continuing
3 education course with an outside vendor or consultant and, if
4 the course is developed in this manner, the Department or the
5 outside consultant shall license the use of that course to all
6 approved education providers who wish to provide the course.

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

16 (Source: P.A. 99-227, eff. 8-3-15; 99-728, eff. 1-1-17;
17 100-188, eff. 1-1-18.)

18 (225 ILCS 454/5-80)

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

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

22 (a) Each renewal applicant shall certify, on his or her
23 renewal application, full compliance with continuing education
24 requirements set forth in Section 5-70. The education provider
25 shall retain and submit to the Department after the completion

1 of each course evidence of those successfully completing the
2 course as provided by rule.

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

7 (c) Notwithstanding any other provision to the contrary,
8 the Department shall establish a continuing education
9 completion deadline for leasing agents, brokers, managing
10 brokers, and instructors and require evidence of compliance
11 with the continuing education requirements before the renewal
12 of a license.

13 (Source: P.A. 100-188, eff. 1-1-18.)

14 (225 ILCS 454/10-15)

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

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

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

21 (b) No action or suit shall be instituted, nor recovery
22 therein be had, in any court of this State by any person,
23 ~~partnership, registered limited liability partnership, limited~~
24 ~~liability company, or corporation~~ for compensation for any act
25 done or service performed, the doing or performing of which is

1 prohibited by this Act to other than licensed managing brokers,
2 brokers, or leasing agents unless the person, ~~partnership,~~
3 ~~registered limited liability partnership, limited liability~~
4 ~~company, or corporation~~ was duly licensed hereunder as a
5 managing broker, broker, or leasing agent under this Act at the
6 time that any such act was done or service performed that would
7 give rise to a cause of action for compensation.

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

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

23 (Source: P.A. 99-227, eff. 8-3-15.)

24 (225 ILCS 454/10-20)

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

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

2 (a) A licensee may perform activities as a licensee only
3 for his or her sponsoring broker. A licensee must have only one
4 sponsoring broker at any one time.

5 (b) Every broker who employs licensees or has an
6 independent contractor relationship with a licensee shall have
7 a written employment agreement with each such licensee. The
8 broker having this written employment agreement with the
9 licensee must be that licensee's sponsoring broker.

10 (c) Every sponsoring broker must have a written employment
11 agreement with each licensee the broker sponsors. The agreement
12 shall address the employment or independent contractor
13 relationship terms, including without limitation supervision,
14 duties, compensation, and termination.

15 (d) Every sponsoring broker must have a written employment
16 agreement with each licensed personal assistant who assists a
17 licensee sponsored by the sponsoring broker. This requirement
18 applies to all licensed personal assistants whether or not they
19 perform licensed activities in their capacity as a personal
20 assistant. The agreement shall address the employment or
21 independent contractor relationship terms, including without
22 limitation supervision, duties, compensation, and termination.

23 (e) Notwithstanding the fact that a sponsoring broker has
24 an employment agreement with a licensee, a sponsoring broker
25 may pay compensation directly to a business entity ~~corporation~~
26 solely owned by that licensee that has been formed for the

1 purpose of receiving compensation earned by the licensee. A
2 business entity ~~corporation~~ formed for the purpose ~~herein~~
3 stated in this subsection (e) shall not be required to be
4 licensed under this Act so long as the person that ~~who~~ is the
5 sole owner ~~shareholder~~ of the business entity corporation is
6 licensed.

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

8 (225 ILCS 454/20-20)

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

10 Sec. 20-20. Grounds for discipline.

11 (a) The Department may refuse to issue or renew a license,
12 may place on probation, suspend, or revoke any license,
13 reprimand, or take any other disciplinary or non-disciplinary
14 action as the Department may deem proper and impose a fine not
15 to exceed \$25,000 upon any licensee or applicant under this Act
16 or any person who holds himself or herself out as an applicant
17 or licensee or against a licensee in handling his or her own
18 property, whether held by deed, option, or otherwise, for any
19 one or any combination of the following causes:

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

23 (2) The conviction of or plea of guilty or plea of nolo
24 contendere to a felony or misdemeanor in this State or any
25 other jurisdiction; or the entry of an administrative

1 sanction by a government agency in this State or any other
2 jurisdiction. Action taken under this paragraph (2) for a
3 misdemeanor or an administrative sanction is limited to a
4 misdemeanor or administrative sanction that has as an
5 essential element dishonesty or fraud or involves larceny,
6 embezzlement, or obtaining money, property, or credit by
7 false pretenses or by means of a confidence game.

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

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

17 (5) Having been disciplined by another state, the
18 District of Columbia, a territory, a foreign nation, or a
19 governmental agency authorized to impose discipline if at
20 least one of the grounds for that discipline is the same as
21 or the equivalent of one of the grounds for which a
22 licensee may be disciplined under this Act. A certified
23 copy of the record of the action by the other state or
24 jurisdiction shall be prima facie evidence thereof.

25 (6) Engaging in the practice of real estate brokerage
26 without a license or after the licensee's license or

1 temporary permit was expired or while the license was
2 inoperative.

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

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

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

10 (10) Making any substantial misrepresentation or
11 untruthful advertising.

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

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

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

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

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

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

1 others.

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

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

20 (B) deemed abandoned and transferred to the Office
21 of the State Treasurer to be handled as unclaimed
22 property pursuant to the Revised Uniform Unclaimed
23 Property Act. Escrow moneys may be deemed abandoned
24 under this subparagraph (B) only: (i) in the absence of
25 disbursement under subparagraph (A); (ii) in the
26 absence of notice of the filing of any claim in a court

1 of competent jurisdiction; and (iii) if 6 months have
2 elapsed after the receipt of a written demand for the
3 escrow moneys from one of the principals to the
4 transaction or the principal's duly authorized agent.

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

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

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

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

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

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

26 (23) Employing any person on a purely temporary or

1 single deal basis as a means of evading the law regarding
2 payment of commission to nonlicensees on some contemplated
3 transactions.

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

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

11 (26) Displaying a "for rent" or "for sale" sign on any
12 property without the written consent of an owner or his or
13 her duly authorized agent or advertising by any means that
14 any property is for sale or for rent without the written
15 consent of the owner or his or her authorized agent.

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

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

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

24 (A) A "guaranteed sales plan" is any real estate
25 purchase or sales plan whereby a licensee enters into a
26 conditional or unconditional written contract with a

1 seller, prior to entering into a brokerage agreement
2 with the seller, by the terms of which a licensee
3 agrees to purchase a property of the seller within a
4 specified period of time at a specific price in the
5 event the property is not sold in accordance with the
6 terms of a brokerage agreement to be entered into
7 between the sponsoring broker and the seller.

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

11 (C) A licensee offering a guaranteed sales plan
12 shall provide to the party to whom the plan is offered
13 evidence of sufficient financial resources to satisfy
14 the commitment to purchase undertaken by the broker in
15 the plan.

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

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

24 (F) Any licensee who fails to perform on a
25 guaranteed sales plan in strict accordance with its
26 terms shall be subject to all the penalties provided in

1 this Act for violations thereof and, in addition, shall
2 be subject to a civil fine payable to the party injured
3 by the default in an amount of up to \$25,000.

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

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

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

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

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

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

18 (36) (Blank).

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

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

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

1 escrow moneys to that party.

2 (40) Disregarding or violating any provision of this
3 Act or the published rules adopted ~~promulgated~~ by the
4 Department to enforce this Act or aiding or abetting any
5 individual, foreign or domestic partnership, registered
6 limited liability partnership, limited liability company,
7 ~~or~~ corporation, or other business entity in disregarding
8 any provision of this Act or the published rules adopted
9 ~~promulgated~~ by the Department to enforce this Act.

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

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

18 (43) Enabling, aiding, or abetting an auctioneer, as
19 defined in the Auction License Act, to conduct a real
20 estate auction in a manner that is in violation of this
21 Act.

22 (44) Permitting any leasing agent or temporary leasing
23 agent permit holder to engage in activities that require a
24 broker's or managing broker's license.

25 (b) The Department may refuse to issue or renew or may
26 suspend the license of any person who fails to file a return,

1 pay the tax, penalty or interest shown in a filed return, or
2 pay any final assessment of tax, penalty, or interest, as
3 required by any tax Act administered by the Department of
4 Revenue, until such time as the requirements of that tax Act
5 are satisfied in accordance with subsection (g) of Section
6 2105-15 of the Civil Administrative Code of Illinois.

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

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

25 (e) In enforcing this Section, the Department or Board upon
26 a showing of a possible violation may compel an individual

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

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

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

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

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

24 (Source: P.A. 99-227, eff. 8-3-15; 100-22, eff. 1-1-18;
25 100-188, eff. 1-1-18; 100-534, eff. 9-22-17; revised 10-2-17.)

1 Section 20. The Real Estate Appraiser Licensing Act of 2002
2 is amended by changing Sections 5-45 and 15-15 as follows:

3 (225 ILCS 458/5-45)

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

5 Sec. 5-45. Continuing education renewal requirements.

6 (a) The continuing education requirements for a person to
7 renew a license as a State certified general real estate
8 appraiser or a State certified residential real estate
9 appraiser shall be established by rule.

10 (b) The continuing education requirements for a person to
11 renew a license as an associate real estate trainee appraiser
12 shall be established by rule.

13 (c) Notwithstanding any other provision to the contrary,
14 the Department shall establish a continuing education
15 completion deadline for appraisal licensees and require
16 evidence of compliance with the continuing education
17 requirements before the renewal of a license.

18 (Source: P.A. 96-844, eff. 12-23-09.)

19 (225 ILCS 458/15-15)

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

21 Sec. 15-15. Investigation; notice; hearing.

22 (a) Upon the motion of the Department or the Board or upon
23 a complaint in writing of a person setting forth facts that, if
24 proven, would constitute grounds for suspension, revocation,

1 or other disciplinary action against a licensee or applicant
2 for licensure, the Department shall investigate the actions of
3 the licensee or applicant. If, upon investigation, the
4 Department believes that there may be cause for suspension,
5 revocation, or other disciplinary action, the Department shall
6 use the services of a State certified general real estate
7 appraiser, a State certified residential real estate
8 appraiser, or the Real Estate Coordinator to assist in
9 determining whether grounds for disciplinary action exist
10 prior to commencing formal disciplinary proceedings.

11 (b) Formal disciplinary proceedings shall commence upon
12 the issuance of a written complaint describing the charges that
13 are the basis of the disciplinary action and delivery of the
14 detailed complaint to the address of record of the licensee or
15 applicant. The Department shall notify the licensee or
16 applicant to file a verified written answer within 20 days
17 after the service of the notice and complaint. The notification
18 shall inform the licensee or applicant of his or her right to
19 be heard in person or by legal counsel; that the hearing will
20 be afforded not sooner than 30 days after service of the
21 complaint; that failure to file an answer will result in a
22 default being entered against the licensee or applicant; that
23 the license may be suspended, revoked, or placed on
24 probationary status; and that other disciplinary action may be
25 taken pursuant to this Act, including limiting the scope,
26 nature, or extent of the licensee's practice. If the licensee

1 or applicant fails to file an answer after service of notice,
2 his or her license may, at the discretion of the Department, be
3 suspended, revoked, or placed on probationary status and the
4 Department may take whatever disciplinary action it deems
5 proper, including limiting the scope, nature, or extent of the
6 person's practice, without a hearing.

7 (c) At the time and place fixed in the notice, the Board
8 shall conduct hearing of the charges, providing both the
9 accused person and the complainant ample opportunity to present
10 in person or by counsel such statements, testimony, evidence,
11 and argument as may be pertinent to the charges or to a defense
12 thereto.

13 (d) The Board shall present to the Secretary a written
14 report of its findings and recommendations. A copy of the
15 report shall be served upon the licensee or applicant, either
16 personally or by certified mail. Within 20 days after the
17 service, the licensee or applicant may present the Secretary
18 with a motion in writing for either a rehearing, a proposed
19 finding of fact, a conclusion of law, or an alternative
20 sanction, and shall specify the particular grounds for the
21 request. If the accused orders a transcript of the record as
22 provided in this Act, the time elapsing thereafter and before
23 the transcript is ready for delivery to the accused shall not
24 be counted as part of the 20 days. If the Secretary is not
25 satisfied that substantial justice has been done, the Secretary
26 may order a rehearing by the Board or other special committee

1 appointed by the Secretary, may remand the matter to the Board
2 for its reconsideration of the matter based on the pleadings
3 and evidence presented to the Board, or may enter a final order
4 in contravention of the Board's recommendation. ~~In all~~
5 ~~instances under this Act in which the Board has rendered a~~
6 ~~recommendation to the Secretary with respect to a particular~~
7 ~~licensee or applicant, the Secretary, if he or she disagrees~~
8 ~~with the recommendation of the Board, shall file with the Board~~
9 ~~and provide to the licensee or applicant a copy of the~~
10 ~~Secretary's specific written reasons for disagreement with the~~
11 ~~Board. The reasons shall be filed within 60 days of the Board's~~
12 ~~recommendation to the Secretary and prior to any contrary~~
13 ~~action.~~ Notwithstanding a licensee's or applicant's failure to
14 file a motion for rehearing, the Secretary shall have the right
15 to take any of the actions specified in this subsection (d).
16 Upon the suspension or revocation of a license, the licensee
17 shall be required to surrender his or her license to the
18 Department, and upon failure or refusal to do so, the
19 Department shall have the right to seize the license.

20 (e) The Department has the power to issue subpoenas and
21 subpoenas duces tecum to bring before it any person in this
22 State, to take testimony, or to require production of any
23 records relevant to an inquiry or hearing by the Board in the
24 same manner as prescribed by law in judicial proceedings in the
25 courts of this State. In a case of refusal of a witness to
26 attend, testify, or to produce books or papers concerning a

1 matter upon which he or she might be lawfully examined, the
2 circuit court of the county where the hearing is held, upon
3 application of the Department or any party to the proceeding,
4 may compel obedience by proceedings as for contempt.

5 (f) Any license that is suspended indefinitely or revoked
6 may not be restored for a minimum period of 2 years, or as
7 otherwise ordered by the Secretary.

8 (g) In addition to the provisions of this Section
9 concerning the conduct of hearings and the recommendations for
10 discipline, the Department has the authority to negotiate
11 disciplinary and non-disciplinary settlement agreements
12 concerning any license issued under this Act. All such
13 agreements shall be recorded as Consent Orders or Consent to
14 Administrative Supervision Orders.

15 (h) The Secretary shall have the authority to appoint an
16 attorney duly licensed to practice law in the State of Illinois
17 to serve as the hearing officer in any action to suspend,
18 revoke, or otherwise discipline any license issued by the
19 Department. The Hearing Officer shall have full authority to
20 conduct the hearing.

21 (i) The Department, at its expense, shall preserve a record
22 of all formal hearings of any contested case involving the
23 discipline of a license. At all hearings or pre-hearing
24 conferences, the Department and the licensee shall be entitled
25 to have the proceedings transcribed by a certified shorthand
26 reporter. A copy of the transcribed proceedings shall be made

1 available to the licensee by the certified shorthand reporter
2 upon payment of the prevailing contract copy rate.

3 (Source: P.A. 96-844, eff. 12-23-09.)

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