SYNOPSIS AS INTRODUCED:

See Index

Repeals the Genetic Counselor Licensing Act, the Illinois Landscape Architecture Act of 1989, the Illinois Athlete Agents Act, the Electrologist Licensing Act, the Detection of Deception Examiners Act, the Professional Geologist Licensing Act, the Land Sales Registration Act of 1999, and the Real Estate Timeshare Act of 1999. Makes conforming changes in the Regulatory Sunset Act and throughout the statutes. Amends the Auction License Act. Repeals provisions requiring Internet auction listing services to be registered with the Department of Financial and Professional Regulation and makes conforming changes. Moves definitions of "Internet auction listing service" and "interactive computer service" to provisions concerning definitions. Effective immediately.
AN ACT concerning regulation.

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

Section 5. The Regulatory Sunset Act is amended by changing Sections 4.30, 4.32, 4.34, and 4.36 as follows:

(5 ILCS 80/4.30)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

The Auction License Act.

The Community Association Manager Licensing and Disciplinary Act.


The Land Sales Registration Act of 1999.

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.


The Real Estate License Act of 2000.


(Source: P.A. 96-610, eff. 8-24-09; 96-626, eff. 8-24-09; 96-682, eff. 8-25-09; 96-726, eff. 7-1-10; 96-730, eff. 8-25-09; 96-855, eff. 12-31-09; 96-856, eff. 12-31-09;
Sec. 4.32. Acts repealed on January 1, 2022. The following Acts are repealed on January 1, 2022:

- The Boxing and Full-contact Martial Arts Act.
- The Collateral Recovery Act.
- The Detection of Deception Examiners Act.
- The Home Inspector License Act.
- The Interior Design Title Act.
- The Massage Licensing Act.
- The Water Well and Pump Installation Contractor's License Act.

(Source: P.A. 97-24, eff. 6-28-11; 97-119, eff. 7-14-11; 97-168, eff. 7-22-11; 97-226, eff. 7-28-11; 97-428, eff. 8-16-11; 97-514, eff. 8-23-11; 97-576, eff. 7-1-12; 97-598, eff. 8-26-11; 97-602, eff. 8-26-11; 97-813, eff. 7-13-12.)

Sec. 4.34. Acts and Section repealed on January 1, 2024. The following Acts and Section of an Act are repealed on January 1, 2024:

- The Electrologist Licensing Act.
- The Illinois Certified Shorthand Reporters Act of
The Illinois Occupational Therapy Practice Act.
The Illinois Public Accounting Act.
The Registered Surgical Assistant and Registered Surgical Technologist Title Protection Act.
Section 2.5 of the Illinois Plumbing License Law.
The Veterinary Medicine and Surgery Practice Act of 2004.

(Source: P.A. 98-140, eff. 12-31-13; 98-253, eff. 8-9-13; 98-254, eff. 8-9-13; 98-264, eff. 12-31-13; 98-339, eff. 12-31-13; 98-363, eff. 8-16-13; 98-364, eff. 12-31-13; 98-445, eff. 12-31-13; 98-756, eff. 7-16-14.)

(5 ILCS 80/4.36)

Sec. 4.36. Acts repealed on January 1, 2026. The following Acts are repealed on January 1, 2026:
The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985.
The Collection Agency Act.
The Hearing Instrument Consumer Protection Act.
The Illinois Athletic Trainers Practice Act.
The Illinois Dental Practice Act.
The Illinois Roofing Industry Licensing Act.
The Professional Geologist Licensing Act.
The Respiratory Care Practice Act.

(Source: P.A. 99-26, eff. 7-10-15; 99-204, eff. 7-30-15;
99-227, eff. 8-3-15; 99-229, eff. 8-3-15; 99-230, eff. 8-3-15;
99-427, eff. 8-21-15; 99-469, eff. 8-26-15; 99-492, eff.
12-31-15; 99-642, eff. 7-28-16.)

(5 ILCS 80/4.35 rep.)

Section 10. The Regulatory Sunset Act is amended by
repealing Section 4.35.

Section 15. The Park District Code is amended by changing
Section 8-50 as follows:

(70 ILCS 1205/8-50)

Sec. 8-50. Definitions. For the purposes of Sections 8-50
through 8-57, the following terms shall have the following
meanings, unless the context requires a different meaning:

"Delivery system" means the design and construction
approach used to develop and construct a project.

"Design-bid-build" means the traditional delivery system
used on public projects that incorporates the Local Government
Professional Services Selection Act and the principles of
competitive selection.

"Design-build" means a delivery system that provides
responsibility within a single contract for the furnishing of
architecture, engineering, land surveying, and related services as required, and the labor, materials, equipment, and other construction services for the project.

"Design-build contract" means a contract for a public project under this Act between any park district and a design-build entity to furnish architecture, engineering, land surveying, landscape architecture, and related services as required, and to furnish the labor, materials, equipment, and other construction services for the project. The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the park district to make modifications in the project scope without invalidating the design-build contract.

"Design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Act. A design-build entity and associated design-build professionals shall conduct themselves in accordance with the laws of this State and the related provisions of the Illinois Administrative Code, as referenced by the licensed design professionals Acts of this State.

"Design professional" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989, the

"Evaluation criteria" means the requirements for the separate phases of the selection process for design-build proposals as defined in this Act and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors. Price may not be used as a factor in the evaluation of Phase I proposals.

"Landscape architect design professional" means any person, sole proprietorship, or entity including, but not limited to, a partnership, professional service corporation, or corporation that offers landscape architecture services under the Illinois Landscape Architecture Act of 1989.

"Proposal" means the offer to enter into a design-build contract as submitted by a design-build entity in accordance with this Act.

"Request for proposal" means the document used by the park district to solicit proposals for a design-build contract.

"Scope and performance criteria" means the requirements for the public project, including, but not limited to: the intended usage, capacity, size, scope, quality, and performance standards; life-cycle costs; and other programmatic criteria that are expressed in performance
oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.

(Source: P.A. 97-349, eff. 8-12-11.)

Section 20. The Chicago Park District Act is amended by changing Section 26.10-4 as follows:

(70 ILCS 1505/26.10-4)

Sec. 26.10-4. Definitions. The following terms, whenever used or referred to in this Act, have the following meaning unless the context requires a different meaning:

"Delivery system" means the design and construction approach used to develop and construct a project.

"Design-bid-build" means the traditional delivery system used on public projects that incorporates the Local Government Professional Services Selection Act (50 ILCS 510/) and the principles of competitive selection.

"Design-build" means a delivery system that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying and related services as required, and the labor, materials, equipment, and other construction services for the project.

"Design-build contract" means a contract for a public project under this Act between the Chicago Park District and a design-build entity to furnish architecture, engineering, land
surveying, landscape architecture, and related services as required, and to furnish the labor, materials, equipment, and other construction services for the project. The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the Chicago Park District to make modifications in the project scope without invalidating the design-build contract.

"Design-build entity" means any individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Act. A design-build entity and associated design-build professionals shall conduct themselves in accordance with the laws of this State and the related provisions of the Illinois Administrative Code, as referenced by the licensed design professionals Acts of this State.


"Landscape architect design professional" means any person, sole proprietorship, or entity such as a partnership,
professional service corporation, or corporation that offers landscape architecture services under the Illinois Landscape Architecture Act of 1989.

"Evaluation criteria" means the requirements for the separate phases of the selection process for design-build proposals as defined in this Act and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors. Price may not be used as a factor in the evaluation of Phase I proposals.

"Proposal" means the offer to enter into a design-build contract as submitted by a design-build entity in accordance with this Act.

"Request for proposal" means the document used by the Chicago Park District to solicit proposals for a design-build contract.

"Scope and performance criteria" means the requirements for the public project, including but not limited to, the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.

"Guaranteed maximum price" means a form of contract in
which compensation may vary according to the scope of work involved but in any case may not exceed an agreed total amount.
(Source: P.A. 96-777, eff. 8-28-09; 96-1000, eff. 7-2-10.)

Section 25. The Illinois Clinical Laboratory and Blood Bank Act is amended by changing Section 7-101 as follows:

(210 ILCS 25/7-101) (from Ch. 111 1/2, par. 627-101)
Sec. 7-101. Examination of specimens. A clinical laboratory shall examine specimens only at the request of (i) a licensed physician, (ii) a licensed dentist, (iii) a licensed podiatric physician, (iv) a licensed optometrist, (v) a licensed physician assistant, (v-A) a licensed advanced practice nurse, (vi) an authorized law enforcement agency or, in the case of blood alcohol, at the request of the individual for whom the test is to be performed in compliance with Sections 11-501 and 11-501.1 of the Illinois Vehicle Code, or (vii) a genetic counselor with the specific authority from a referral to order a test or tests pursuant to subsection (b) of Section 20 of the Genetic Counselor Licensing Act. If the request to a laboratory is oral, the physician or other authorized person shall submit a written request to the laboratory within 48 hours. If the laboratory does not receive the written request within that period, it shall note that fact in its records. For purposes of this Section, a request made by electronic mail or fax constitutes a written request.
Section 30. The Genetic Counselor Licensing Act is repealed.

Section 35. The Illinois Landscape Architecture Act of 1989 is repealed.

Section 40. The Illinois Athlete Agents Act is repealed.

Section 45. The Auction License Act is amended by changing Sections 5-10 and 10-1 as follows:

"Advertisement" means any written, oral, or electronic communication that contains a promotion, inducement, or offer to conduct an auction or offer to provide an auction service, including but not limited to brochures, pamphlets, radio and television scripts, telephone and direct mail solicitations, electronic media, and other means of promotion.
"Advisory Board" or "Board" means the Auctioneer Advisory Board.

"Associate auctioneer" means a person who conducts an auction, but who is under the direct supervision of, and is sponsored by, a licensed auctioneer or auction firm.

"Auction" means the sale or lease of property, real or personal, by means of exchanges between an auctioneer and prospective purchasers or lessees, which consists of a series of invitations for offers made by the auctioneer and offers by prospective purchasers or lessees for the purpose of obtaining an acceptable offer for the sale or lease of the property, including the sale or lease of property via mail, telecommunications, or the Internet.

"Auction contract" means a written agreement between an auctioneer or auction firm and a seller or sellers.

"Auction firm" means any corporation, partnership, or limited liability company that acts as an auctioneer and provides an auction service.

"Auction school" means any educational institution, public or private, which offers a curriculum of auctioneer education and training approved by the Department.

"Auction service" means the service of arranging, managing, advertising, or conducting auctions.

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission, or any other valuable consideration at auction or with the intention or expectation
of receiving valuable consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

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

"Buyer premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, auction firms, seller, lessor, or other party to the transaction, other than the purchase price.

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

"Goods" means chattels, movable goods, merchandise, or personal property or commodities of any form or type that may be lawfully kept or offered for sale.

"Interactive computer service" means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server,
including specifically a service or system that provides access to the Internet.

"Internet auction listing service" means a website on the Internet, or other interactive computer service, that is designed to allow or advertise as a means of allowing users to offer personal property or services for sale or lease to a prospective buyer or lessee through an on-line bid submission process using that website or interactive computer service and that does not examine, set the price, prepare the description of the personal property or service to be offered, or in any way utilize the services of a natural person as an auctioneer.

"Licensee" means any person licensed under this Act.

"Managing auctioneer" means any person licensed as an auctioneer who manages and supervises licensees sponsored by an auction firm or auctioneer.

"Person" means an individual, association, partnership, corporation, or limited liability company or the officers, directors, or employees of the same.

"Pre-renewal period" means the 24 months prior to the expiration date of a license issued under this Act.

"Real estate" means real estate as defined in Section 1-10 of the Real Estate License Act of 2000 or its successor Acts.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation or his or her designee.

"Sponsoring auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed auctioneer.
"Sponsor card" means the temporary permit issued by the sponsoring auctioneer certifying that the licensee named thereon is employed by or associated with the sponsoring auctioneer and the sponsoring auctioneer shall be responsible for the actions of the sponsored licensee.

(Source: P.A. 98-553, eff. 1-1-14.)

(225 ILCS 407/10-1)

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

Sec. 10-1. Necessity of license; exemptions.

(a) It is unlawful for any person, corporation, limited liability company, partnership, or other entity to conduct an auction, provide an auction service, hold himself or herself out as an auctioneer, or advertise his or her services as an auctioneer in the State of Illinois without a license issued by the Department under this Act, except at:

(1) an auction conducted solely by or for a not-for-profit organization for charitable purposes in which the individual receives no compensation;

(2) an auction conducted by the owner of the property, real or personal;

(3) an auction for the sale or lease of real property conducted by a licensee under the Real Estate License Act, or its successor Acts, in accordance with the terms of that Act;

(4) an auction conducted by a business registered as a
market agency under the federal Packers and Stockyards Act
(7 U.S.C. 181 et seq.) or under the Livestock Auction
Market Law;

(5) an auction conducted by an agent, officer, or
employee of a federal agency in the conduct of his or her
official duties; and

(6) an auction conducted by an agent, officer, or
employee of the State government or any political
subdivision thereof performing his or her official duties.

(b) Nothing in this Act shall be construed to apply to a
new or used vehicle dealer or a vehicle auctioneer licensed by
the Secretary of State of Illinois, or to any employee of the
licensee, who is a resident of the State of Illinois, while the
employee is acting in the regular scope of his or her
employment for the licensee while conducting an auction that is
not open to the public, provided that only new or used vehicle
dealers, rebuilders, automotive parts recyclers, or scrap
processors licensed by the Secretary of State or licensed by
another state or jurisdiction may buy property at the auction,
or to sales by or through the licensee. Out-of-state salvage
vehicle buyers licensed in another state or jurisdiction may
also buy property at the auction.

(c) Nothing in this Act shall be construed to prohibit a
person under the age of 18 from selling property under $250 in
value while under the direct supervision of a licensed
auctioneer.
(d) Nothing in this Act, except Section 10-27, shall be construed to apply to a person while providing an Internet auction listing service as defined in Section 5-10 10-27.

(Source: P.A. 95-572, eff. 6-1-08; 95-783, eff. 1-1-09; 96-730, eff. 8-25-09.)

(225 ILCS 407/10-27 rep.)

Section 50. The Auction License Act is amended by repealing Section 10-27.

(225 ILCS 412/Act rep.)

Section 55. The Electrologist Licensing Act is repealed.

(225 ILCS 430/Act rep.)

Section 60. The Detection of Deception Examiners Act is repealed.

Section 65. The Real Estate License Act of 2000 is amended by changing Sections 1-10, 5-20, 20-20, and 20-85 as follows:

(225 ILCS 454/1-10)

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

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


"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 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 for a valid license as a managing broker, broker, 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.
"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 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, rent, 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, rents, leases, or offers for sale or lease real estate at auction.

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

"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.

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

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

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

"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 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.

"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.

"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 sponsoring broker and a managing broker, 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.

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

"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.

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

"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 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 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 managing broker, broker, or leasing agent.

"Listing presentation" means a communication between a managing broker or broker 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.

"Office" means a 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 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 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. "Real estate" does not include property sold, exchanged, or leased as a timeshare or similar vacation item or interest, vacation club membership, or other activity formerly regulated under the Real Estate Timeshare Act of 1999 (repealed).

"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.
"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 managing broker, broker, or a leasing agent.

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

(Source: P.A. 98-531, eff. 8-23-13; 98-1109, eff. 1-1-15; 99-227, eff. 8-3-15.)

(225 ILCS 454/5-20)

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

Sec. 5-20. Exemptions from managing broker, broker, 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
(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 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) The purchase, sale, or transfer of a timeshare or similar vacation item or interest, vacation club membership, or other activity formerly regulated under the Real Estate Timeshare Act of 1999 (repealed) 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) (Blank). 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 managing broker's or broker'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 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

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

(15) 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. 98-553, eff. 1-1-14; 99-227, eff. 8-3-15.)

(225 ILCS 454/20-20)

Section scheduled to be repealed on January 1, 2020

Sec. 20-20. Grounds for discipline.

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

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

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

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

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

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

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

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

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

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

(10) Making any substantial misrepresentation or untruthful advertising.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(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 (a) 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 (a) 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. 98-553, eff. 1-1-14; 98-756, eff. 7-16-14; 99-227, eff. 8-3-15.)

(225 ILCS 454/20-85)

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

Sec. 20-85. Recovery from Real Estate Recovery Fund. The
Department shall maintain a Real Estate Recovery Fund from which any person aggrieved by an act, representation, transaction, or conduct of a licensee or unlicensed employee of a licensee that is in violation of this Act or the rules promulgated pursuant thereto, constitutes embezzlement of money or property, or results in money or property being unlawfully obtained from any person by false pretenses, artifice, trickery, or forgery or by reason of any fraud, misrepresentation, discrimination, or deceit by or on the part of any such licensee or the unlicensed employee of a licensee and that results in a loss of actual cash money, as opposed to losses in market value, may recover. The aggrieved person may recover, by a post-judgment order of the circuit court of the county where the violation occurred in a proceeding described in Section 20-90 of this Act, an amount of not more than $25,000 from the Fund for damages sustained by the act, representation, transaction, or conduct, together with costs of suit and attorney's fees incurred in connection therewith of not to exceed 15% of the amount of the recovery ordered paid from the Fund. However, no person may recover from the Fund unless the court finds that the person suffered a loss resulting from intentional misconduct. The post-judgment order shall not include interest on the judgment. The maximum liability against the Fund arising out of any one act shall be as provided in this Section, and the post-judgment order shall spread the award equitably among all co-owners or otherwise
aggrieved persons, if any. The maximum liability against the
Fund arising out of the activities of any one licensee or one
unlicensed employee of a licensee, since January 1, 1974, shall
be $100,000. Nothing in this Section shall be construed to
authorize recovery from the Fund unless the loss of the
aggrieved person results from an act or omission of a licensee
under this Act who was at the time of the act or omission
acting in such capacity or was apparently acting in such
capacity or their unlicensed employee and unless the aggrieved
person has obtained a valid judgment and post-judgment order of
the court as provided for in Section 20-90 of this Act. No
person aggrieved by an act, representation, or transaction that
is in violation of the Illinois Real Estate Time-Share Act or
the Land Sales Registration Act of 1989 may recover from the
Fund.
(Source: P.A. 99-227, eff. 8-3-15.)

(225 ILCS 745/Act rep.)

Section 70. The Professional Geologist Licensing Act is
repealed.

Section 75. The Tattoo and Body Piercing Establishment
Registration Act is amended by changing Section 10 as follows:

(410 ILCS 54/10)

Sec. 10. Definitions. In this Act:
"Aseptic technique" means a practice that prevents and hinders the transmission of disease-producing microorganisms from one person or place to another.

"Body piercing" means penetrating the skin to make a hole, mark, or scar that is generally permanent in nature. "Body piercing" does not include practices that are considered medical procedures or the puncturing of the outer perimeter or lobe of the ear using a pre-sterilized, single-use stud and clasp ear piercing system.

"Client" means the person, customer, or patron whose skin will be tattooed or pierced.

"Communicable disease" means a disease that can be transmitted from person to person directly or indirectly, including diseases transmitted via blood or body fluids.

"Department" means the Department of Public Health or other health authority designated as its agent.

"Director" means the Director of Public Health or his or her designee.

"Establishment" means a body-piercing operation, a tattooing operation, or a combination of both operations in a multiple-type establishment.

"Ink cup" means a small container for an individual portion of pigment that may be installed in a holder or palette and in which a small amount of pigment of a given color is placed.

"Multi-type establishment" means an operation encompassing both body piercing and tattooing on the same premises and under
"Person" means any individual, group of individuals, association, trust, partnership, corporation, or limited liability company.

"Procedure area" means the immediate area where instruments and supplies are placed during a procedure.

"Operator" means an individual, partnership, corporation, association, or other entity engaged in the business of owning, managing, or offering services of body piercing or tattooing.

"Sanitation" means the effective bactericidal and veridical treatment of clean equipment surfaces by a process that effectively destroys pathogens.

"Single use" means items that are intended for one time and one person use only and are to then be discarded.

"Sterilize" means to destroy all living organisms including spores.

"Tattooing" means making permanent marks on the skin of a live human being by puncturing the skin and inserting indelible colors. "Tattooing" includes imparting permanent makeup on the skin, such as permanent lip coloring and permanent eyeliner.

"Tattooing" does not include any of the following:

(1) The practice of electrology (the practice or teaching of services for permanent hair removal utilizing only solid probe electrode type epilation, which may include thermolysis (shortwave, high frequency), electrolysis (galvanic), or a combination of both
(superimposed or sequential blend)) as defined in the Electrology Licensing Act.

(2) The practice of acupuncture as defined in the Acupuncture Licensing Act.

(3) The use, by a physician licensed to practice medicine in all its branches, of colors, dyes, or pigments for the purpose of obscuring scar tissue or imparting color to the skin for cosmetic, medical, or figurative purposes.

(Source: P.A. 99-117, eff. 1-1-16.)

Section 80. The Genetic Information Privacy Act is amended by changing Sections 10 and 25 as follows:

(410 ILCS 513/10)
Sec. 10. Definitions. As used in this Act:
"Authority" means the Illinois Health Information Exchange Authority established pursuant to the Illinois Health Information Exchange and Technology Act.
"Business associate" has the meaning ascribed to it under HIPAA, as specified in 45 CFR 160.103.
"Covered entity" has the meaning ascribed to it under HIPAA, as specified in 45 CFR 160.103.
"De-identified information" means health information that is not individually identifiable as described under HIPAA, as specified in 45 CFR 164.514(b).
"Disclosure" has the meaning ascribed to it under HIPAA, as
"Employer" means the State of Illinois, any unit of local government, and any board, commission, department, institution, or school district, any party to a public contract, any joint apprenticeship or training committee within the State, and every other person employing employees within the State.

"Employment agency" means both public and private employment agencies and any person, labor organization, or labor union having a hiring hall or hiring office regularly undertaking, with or without compensation, to procure opportunities to work, or to procure, recruit, refer, or place employees.

"Family member" means, with respect to an individual, (i) the spouse of the individual; (ii) a dependent child of the individual, including a child who is born to or placed for adoption with the individual; (iii) any other person qualifying as a covered dependent under a managed care plan; and (iv) all other individuals related by blood or law to the individual or the spouse or child described in subsections (i) through (iii) of this definition.

"Genetic information" has the meaning ascribed to it under HIPAA, as specified in 45 CFR 160.103.

"Genetic monitoring" means the periodic examination of employees to evaluate acquired modifications to their genetic material, such as chromosomal damage or evidence of increased
occurrence of mutations that may have developed in the course
of employment due to exposure to toxic substances in the
workplace in order to identify, evaluate, and respond to
effects of or control adverse environmental exposures in the
workplace.

"Genetic services" has the meaning ascribed to it under
HIPAA, as specified in 45 CFR 160.103.

"Genetic testing" and "genetic test" have the meaning
ascribed to "genetic test" under HIPAA, as specified in 45 CFR
160.103.

"Health care operations" has the meaning ascribed to it
under HIPAA, as specified in 45 CFR 164.501.

"Health care professional" means (i) a licensed physician,
(ii) a licensed physician assistant, (iii) a licensed advanced
practice nurse, (iv) a licensed dentist, (v) a licensed
podiatrist, (vi) a licensed genetic counselor, or (vii) an
individual certified to provide genetic testing by a state or
local public health department.

"Health care provider" has the meaning ascribed to it under
HIPAA, as specified in 45 CFR 160.103.

"Health facility" means a hospital, blood bank, blood
center, sperm bank, or other health care institution, including
any "health facility" as that term is defined in the Illinois
Finance Authority Act.

"Health information exchange" or "HIE" means a health
information exchange or health information organization that
exchanges health information electronically that (i) is established pursuant to the Illinois Health Information Exchange and Technology Act, or any subsequent amendments thereto, and any administrative rules promulgated thereunder; (ii) has established a data sharing arrangement with the Authority; or (iii) as of August 16, 2013, was designated by the Authority Board as a member of, or was represented on, the Authority Board's Regional Health Information Exchange Workgroup; provided that such designation shall not require the establishment of a data sharing arrangement or other participation with the Illinois Health Information Exchange or the payment of any fee. In certain circumstances, in accordance with HIPAA, an HIE will be a business associate.

"Health oversight agency" has the meaning ascribed to it under HIPAA, as specified in 45 CFR 164.501.

"HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended by the Health Information Technology for Economic and Clinical Health Act of 2009, Public Law 111-05, and any subsequent amendments thereto and any regulations promulgated thereunder.

"Insurer" means (i) an entity that is subject to the jurisdiction of the Director of Insurance and (ii) a managed care plan.

"Labor organization" includes any organization, labor union, craft union, or any voluntary unincorporated association designed to further the cause of the rights of
union labor that is constituted for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or apprenticeships or applications for apprenticeships, or of other mutual aid or protection in connection with employment, including apprenticeships or applications for apprenticeships.

"Licensing agency" means a board, commission, committee, council, department, or officers, except a judicial officer, in this State or any political subdivision authorized to grant, deny, renew, revoke, suspend, annul, withdraw, or amend a license or certificate of registration.

"Limited data set" has the meaning ascribed to it under HIPAA, as described in 45 CFR 164.514(e)(2).

"Managed care plan" means a plan that establishes, operates, or maintains a network of health care providers that have entered into agreements with the plan to provide health care services to enrollees where the plan has the ultimate and direct contractual obligation to the enrollee to arrange for the provision of or pay for services through:

(1) organizational arrangements for ongoing quality assurance, utilization review programs, or dispute resolution; or

(2) financial incentives for persons enrolled in the plan to use the participating providers and procedures covered by the plan.

A managed care plan may be established or operated by any
entity including a licensed insurance company, hospital or
medical service plan, health maintenance organization, limited
health service organization, preferred provider organization,
third party administrator, or an employer or employee
organization.

"Minimum necessary" means HIPAA's standard for using,
disclosing, and requesting protected health information found
in 45 CFR 164.502(b) and 164.514(d).

"Nontherapeutic purpose" means a purpose that is not
intended to improve or preserve the life or health of the
individual whom the information concerns.

"Organized health care arrangement" has the meaning
ascribed to it under HIPAA, as specified in 45 CFR 160.103.

"Patient safety activities" has the meaning ascribed to it
under 42 CFR 3.20.

"Payment" has the meaning ascribed to it under HIPAA, as
specified in 45 CFR 164.501.

"Person" includes any natural person, partnership,
association, joint venture, trust, governmental entity, public
or private corporation, health facility, or other legal entity.

"Protected health information" has the meaning ascribed to
it under HIPAA, as specified in 45 CFR 164.103.

"Research" has the meaning ascribed to it under HIPAA, as
specified in 45 CFR 164.501.

"State agency" means an instrumentality of the State of
Illinois and any instrumentality of another state which
pursuant to applicable law or a written undertaking with an
instrumentality of the State of Illinois is bound to protect
the privacy of genetic information of Illinois persons.

"Treatment" has the meaning ascribed to it under HIPAA, as
specified in 45 CFR 164.501.

"Use" has the meaning ascribed to it under HIPAA, as
specified in 45 CFR 160.103, where context dictates.

(Source: P.A. 98-1046, eff. 1-1-15; 99-173, eff. 7-29-15.)

(410 ILCS 513/25)

Sec. 25. Use of genetic testing information by employers.

(a) An employer, employment agency, labor organization,
and licensing agency shall treat genetic testing and genetic
information in such a manner that is consistent with the
requirements of federal law, including but not limited to the
Genetic Information Nondiscrimination Act of 2008, the
Americans with Disabilities Act, Title VII of the Civil Rights
Act of 1964, the Family and Medical Leave Act of 1993, the
Occupational Safety and Health Act of 1970, the Federal Mine
Safety and Health Act of 1977, or the Atomic Energy Act of
1954.

(b) An employer may release genetic testing information
only in accordance with this Act.

(c) An employer, employment agency, labor organization,
and licensing agency shall not directly or indirectly do any of
the following:
(1) solicit, request, require or purchase genetic testing or genetic information of a person or a family member of the person, or administer a genetic test to a person or a family member of the person as a condition of employment, preemployment application, labor organization membership, or licensure;

(2) affect the terms, conditions, or privileges of employment, preemployment application, labor organization membership, or licensure, or terminate the employment, labor organization membership, or licensure of any person because of genetic testing or genetic information with respect to the employee or family member, or information about a request for or the receipt of genetic testing by such employee or family member of such employee;

(3) limit, segregate, or classify employees in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee because of genetic testing or genetic information with respect to the employee or a family member, or information about a request for or the receipt of genetic testing or genetic information by such employee or family member of such employee; and

(4) retaliate through discharge or in any other manner against any person alleging a violation of this Act or participating in any manner in a proceeding under this Act.

(d) An agreement between a person and an employer,
prospective employer, employment agency, labor organization, or licensing agency, or its employees, agents, or members offering the person employment, labor organization membership, licensure, or any pay or benefit in return for taking a genetic test is prohibited.

(e) An employer shall not use genetic information or genetic testing in furtherance of a workplace wellness program benefiting employees unless (1) health or genetic services are offered by the employer, (2) the employee provides written authorization in accordance with Section 30 of this Act, (3) only the employee or family member if the family member is receiving genetic services and the licensed health care professional or licensed genetic counselor involved in providing such services receive individually identifiable information concerning the results of such services, and (4) any individually identifiable information is only available for purposes of such services and shall not be disclosed to the employer except in aggregate terms that do not disclose the identity of specific employees.

(f) Nothing in this Act shall be construed to prohibit genetic testing of an employee who requests a genetic test and who provides written authorization, in accordance with Section 30 of this Act, from taking a genetic test for the purpose of initiating a workers' compensation claim under the Workers' Compensation Act.

(g) A purchase of commercially and publicly available
documents, including newspapers, magazines, periodicals, and
books but not including medical databases or court records or
inadvertently requesting family medical history by an
employer, employment agency, labor organization, and licensing
agency does not violate this Act.

(h) Nothing in this Act shall be construed to prohibit an
employer that conducts DNA analysis for law enforcement
purposes as a forensic laboratory and that includes such
analysis in the Combined DNA Index System pursuant to the
federal Violent Crime Control and Law Enforcement Act of 1994
from requesting or requiring genetic testing or genetic
information of such employer's employees, but only to the
extent that such genetic testing or genetic information is used
for analysis of DNA identification markers for quality control
to detect sample contamination.

(i) Nothing in this Act shall be construed to prohibit an
employer from requesting or requiring genetic information to be
used for genetic monitoring of the biological effects of toxic
substances in the workplace, but only if (1) the employer
provides written notice of the genetic monitoring to the
employee; (2) the employee provides written authorization
under Section 30 of this Act or the genetic monitoring is
required by federal or State law; (3) the employee is informed
of individual monitoring results; (4) the monitoring is in
compliance with any federal genetic monitoring regulations or
State genetic monitoring regulations under the authority of the
federal Occupational Safety and Health Act of 1970; and (5) the
employer, excluding any health care provider, health care
professional, or health facility that is involved in the
 genetic monitoring program, receives the results of the
monitoring only in aggregate terms that do not disclose the
identity of specific employees.

(j) Despite lawful acquisition of genetic testing or
genetic information under subsections (e) through (i) of this
Section, an employer, employment agency, labor organization,
and licensing agency still may not use or disclose the genetic
test or genetic information in violation of this Act.

(k) Except as provided in subsections (e), (f), (h), and
(i) of this Section, a person shall not knowingly sell to or
interpret for an employer, employment agency, labor
organization, or licensing agency, or its employees, agents, or
members, a genetic test of an employee, labor organization
member, or license holder, or of a prospective employee,
member, or license holder.

(Source: P.A. 98-1046, eff. 1-1-15.)

Section 85. The Environmental Protection Act is amended by
changing Sections 22.51, 22.51a, 57.2, 57.8, 57.10, 58.2, 58.6,
and 58.7 as follows:

Sec. 22.51. Clean Construction or Demolition Debris Fill
Operations.

(a) No person shall conduct any clean construction or demolition debris fill operation in violation of this Act or any regulations or standards adopted by the Board.

(b)(1)(A) Beginning August 18, 2005 but prior to July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation, unless they have applied for an interim authorization from the Agency for the clean construction or demolition debris fill operation.

(B) The Agency shall approve an interim authorization upon its receipt of a written application for the interim authorization that is signed by the site owner and the site operator, or their duly authorized agent, and that contains the following information: (i) the location of the site where the clean construction or demolition debris fill operation is taking place, (ii) the name and address of the site owner, (iii) the name and address of the site operator, and (iv) the types and amounts of clean construction or demolition debris being used as fill material at the site.

(C) The Agency may deny an interim authorization if the site owner or the site operator, or their duly authorized agent, fails to provide to the Agency the information listed in subsection (b)(1)(B) of this Section. Any denial of an interim authorization shall be subject to appeal to the Board in accordance with the procedures of Section 40 of this Act.
(D) No person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation for which the Agency has denied interim authorization under subsection (b)(1)(C) of this Section. The Board may stay the prohibition of this subsection (D) during the pendency of an appeal of the Agency's denial of the interim authorization brought under subsection (b)(1)(C) of this Section.

(2) Beginning September 1, 2006, owners and operators of clean construction or demolition debris fill operations shall, in accordance with a schedule prescribed by the Agency, submit to the Agency applications for the permits required under this Section. The Agency shall notify owners and operators in writing of the due date for their permit application. The due date shall be no less than 90 days after the date of the Agency's written notification. Owners and operators who do not receive a written notification from the Agency by October 1, 2007, shall submit a permit application to the Agency by January 1, 2008. The interim authorization of owners and operators who fail to submit a permit application to the Agency by the permit application's due date shall terminate on (i) the due date established by the Agency if the owner or operator received a written notification from the Agency prior to October 1, 2007, or (ii) or January 1, 2008, if the owner or operator did not receive a written notification from the Agency by October 1, 2007.
(3) On and after July 1, 2008, no person shall use clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation (i) without a permit granted by the Agency for the clean construction or demolition debris fill operation or in violation of any conditions imposed by such permit, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to assure compliance with this Act and with Board regulations and standards adopted under this Act or (ii) in violation of any regulations or standards adopted by the Board under this Act.

(4) This subsection (b) does not apply to:

(A) the use of clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation located on the site where the clean construction or demolition debris was generated;

(B) the use of clean construction or demolition debris as fill material in an excavation other than a current or former quarry or mine if this use complies with Illinois Department of Transportation specifications; or

(C) current or former quarries, mines, and other excavations that do not use clean construction or demolition debris as fill material.

(c) In accordance with Title VII of this Act, the Board may adopt regulations to promote the purposes of this Section. The Agency shall consult with the mining and construction
industries during the development of any regulations to promote
the purposes of this Section.

(1) No later than December 15, 2005, the Agency shall propose to the Board, and no later than September 1, 2006, the Board shall adopt, regulations for the use of clean construction or demolition debris as fill material in current and former quarries, mines, and other excavations. Such regulations shall include, but shall not be limited to, standards for clean construction or demolition debris fill operations and the submission and review of permits required under this Section.

(2) Until the Board adopts rules under subsection (c)(1) of this Section, all persons using clean construction or demolition debris as fill material in a current or former quarry, mine, or other excavation shall:

(A) Assure that only clean construction or demolition debris is being used as fill material by screening each truckload of material received using a device approved by the Agency that detects volatile organic compounds. Such devices may include, but are not limited to, photo ionization detectors. All screening devices shall be operated and maintained in accordance with manufacturer's specifications. Unacceptable fill material shall be rejected from the site; and

(B) Retain for a minimum of 3 years the following
information:

(i) The name of the hauler, the name of the generator, and place of origin of the debris or soil;

(ii) The approximate weight or volume of the debris or soil; and

(iii) The date the debris or soil was received.

(d) This Section applies only to clean construction or demolition debris that is not considered "waste" as provided in Section 3.160 of this Act.

(e) For purposes of this Section:

(1) The term "operator" means a person responsible for the operation and maintenance of a clean construction or demolition debris fill operation.

(2) The term "owner" means a person who has any direct or indirect interest in a clean construction or demolition debris fill operation or in land on which a person operates and maintains a clean construction or demolition debris fill operation. A "direct or indirect interest" does not include the ownership of publicly traded stock. The "owner" is the "operator" if there is no other person who is operating and maintaining a clean construction or demolition debris fill operation.

(3) The term "clean construction or demolition debris fill operation" means a current or former quarry, mine, or other excavation where clean construction or demolition
debris is used as fill material.

(4) The term "uncontaminated soil" shall have the same meaning as uncontaminated soil under Section 3.160 of this Act.

(f)(1) No later than one year after the effective date of this amendatory Act of the 96th General Assembly, the Agency shall propose to the Board, and, no later than one year after the Board's receipt of the Agency's proposal, the Board shall adopt, rules for the use of clean construction or demolition debris and uncontaminated soil as fill material at clean construction or demolition debris fill operations. The rules must include standards and procedures necessary to protect groundwater, which may include, but shall not be limited to, the following: requirements regarding testing and certification of soil used as fill material, surface water runoff, liners or other protective barriers, monitoring (including, but not limited to, groundwater monitoring), corrective action, recordkeeping, reporting, closure and post-closure care, financial assurance, post-closure land use controls, location standards, and the modification of existing permits to conform to the requirements of this Act and Board rules. The rules may also include limits on the use of recyclable concrete and asphalt as fill material at clean construction or demolition debris fill operations, taking into account factors such as technical feasibility, economic reasonableness, and the availability of markets for such
(2) Until the effective date of the Board rules adopted under subdivision (f)(1) of this Section, and in addition to any other requirements, owners and operators of clean construction or demolition debris fill operations must do all of the following in subdivisions (f)(2)(A) through (f)(2)(D) of this Section for all clean construction or demolition debris and uncontaminated soil accepted for use as fill material. The requirements in subdivisions (f)(2)(A) through (f)(2)(D) of this Section shall not limit any rules adopted by the Board.

(A) Document the following information for each load of clean construction or demolition debris or uncontaminated soil received: (i) the name of the hauler, the address of the site of origin, and the owner and the operator of the site of origin of the clean construction or demolition debris or uncontaminated soil, (ii) the weight or volume of the clean construction or demolition debris or uncontaminated soil, and (iii) the date the clean construction or demolition debris or uncontaminated soil was received.

(B) For all soil, obtain either (i) a certification from the owner or operator of the site from which the soil was removed that the site has never been used for commercial or industrial purposes and is presumed to be uncontaminated soil or (ii) a certification from a licensed Professional Engineer or a professional geologist licensed to practice in this State.
Professional Geologist that the soil is uncontaminated soil. Certifications required under this subdivision (f)(2)(B) must be on forms and in a format prescribed by the Agency.

(C) Confirm that the clean construction or demolition debris or uncontaminated soil was not removed from a site as part of a cleanup or removal of contaminants, including, but not limited to, activities conducted under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; as part of a Closure or Corrective Action under the Resource Conservation and Recovery Act, as amended; or under an Agency remediation program, such as the Leaking Underground Storage Tank Program or Site Remediation Program, but excluding sites subject to Section 58.16 of this Act where there is no presence or likely presence of a release or a substantial threat of a release of a regulated substance at, on, or from the real property.

(D) Document all activities required under subdivision (f)(2) of this Section. Documentation of any chemical analysis must include, but is not limited to, (i) a copy of the lab analysis, (ii) accreditation status of the laboratory performing the analysis, and (iii) certification by an authorized agent of the laboratory that the analysis has been performed in accordance with the Agency's rules for the accreditation of environmental
laboratories and the scope of accreditation.

(3) Owners and operators of clean construction or demolition debris fill operations must maintain all documentation required under subdivision (f)(2) of this Section for a minimum of 3 years following the receipt of each load of clean construction or demolition debris or uncontaminated soil, except that documentation relating to an appeal, litigation, or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. Copies of the documentation must be made available to the Agency and to units of local government for inspection and copying during normal business hours. The Agency may prescribe forms and formats for the documentation required under subdivision (f)(2) of this Section.

Chemical analysis conducted under subdivision (f)(2) of this Section must be conducted in accordance with the requirements of 35 Ill. Adm. Code 742, as amended, and "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as amended.

(g)(1) No person shall use soil other than uncontaminated soil as fill material at a clean construction or demolition debris fill operation.

(2) No person shall use construction or demolition debris other than clean construction or demolition debris as fill material at a clean construction or demolition debris fill
Sec. 22.51a. Uncontaminated Soil Fill Operations.

(a) For purposes of this Section:

(1) The term "uncontaminated soil" shall have the same meaning as uncontaminated soil under Section 3.160 of this Act.

(2) The term "uncontaminated soil fill operation" means a current or former quarry, mine, or other excavation where uncontaminated soil is used as fill material, but does not include a clean construction or demolition debris fill operation.

(b) No person shall use soil other than uncontaminated soil as fill material at an uncontaminated soil fill operation.

(c) Owners and operators of uncontaminated soil fill operations must register the fill operations with the Agency. Uncontaminated soil fill operations that received uncontaminated soil prior to the effective date of this amendatory Act of the 96th General Assembly must be registered with the Agency no later than March 31, 2011. Uncontaminated soil fill operations that first receive uncontaminated soil on or after the effective date of this amendatory Act of the 96th General Assembly must be registered with the Agency prior to the receipt of any uncontaminated soil. Registrations must be
submitted on forms and in a format prescribed by the Agency.

(d)(1) No later than one year after the effective date of this amendatory Act of the 96th General Assembly, the Agency shall propose to the Board, and, no later than one year after the Board's receipt of the Agency's proposal, the Board shall adopt, rules for the use of uncontaminated soil as fill material at uncontaminated soil fill operations. The rules must include standards and procedures necessary to protect groundwater, which shall include, but shall not be limited to, testing and certification of soil used as fill material and requirements for recordkeeping.

(2) Until the effective date of the Board rules adopted under subdivision (d)(1) of this Section, owners and operators of uncontaminated soil fill operations must do all of the following in subdivisions (d)(2)(A) through (d)(2)(F) of this Section for all uncontaminated soil accepted for use as fill material. The requirements in subdivisions (d)(2)(A) through (d)(2)(F) of this Section shall not limit any rules adopted by the Board.

(A) Document the following information for each load of uncontaminated soil received: (i) the name of the hauler, the address of the site of origin, and the owner and the operator of the site of origin of the uncontaminated soil, (ii) the weight or volume of the uncontaminated soil, and (iii) the date the uncontaminated soil was received.

(B) Obtain either (i) a certification from the owner or
operator of the site from which the soil was removed that
the site has never been used for commercial or industrial
purposes and is presumed to be uncontaminated soil or (ii)
a certification from a licensed Professional Engineer or a
professional geologist that the soil is uncontaminated soil. Certifications
required under this subdivision (d)(2)(B) must be on forms
and in a format prescribed by the Agency.

(C) Confirm that the uncontaminated soil was not
removed from a site as part of a cleanup or removal of
contaminants, including, but not limited to, activities
conducted under the Comprehensive Environmental Response,
Compensation, and Liability Act of 1980, as amended; as
part of a Closure or Corrective Action under the Resource
Conservation and Recovery Act, as amended; or under an
Agency remediation program, such as the Leaking
Underground Storage Tank Program or Site Remediation
Program, but excluding sites subject to Section 58.16 of
this Act where there is no presence or likely presence of a
release or a substantial threat of a release of a regulated
substance at, on, or from the real property.

(D) Visually inspect each load to confirm that only
uncontaminated soil is being accepted for use as fill
material.

(E) Screen each load of uncontaminated soil using a
device that is approved by the Agency and detects volatile
organic compounds. Such a device may include, but is not limited to, a photo ionization detector or a flame ionization detector. All screening devices shall be operated and maintained in accordance with the manufacturer's specifications. Unacceptable soil must be rejected from the fill operation.

(F) Document all activities required under subdivision (d)(2) of this Section. Documentation of any chemical analysis must include, but is not limited to, (i) a copy of the lab analysis, (ii) accreditation status of the laboratory performing the analysis, and (iii) certification by an authorized agent of the laboratory that the analysis has been performed in accordance with the Agency's rules for the accreditation of environmental laboratories and the scope of accreditation.

(3) Owners and operators of uncontaminated soil fill operations must maintain all documentation required under subdivision (d)(2) of this Section for a minimum of 3 years following the receipt of each load of uncontaminated soil, except that documentation relating to an appeal, litigation, or other disputed claim must be maintained until at least 3 years after the date of the final disposition of the appeal, litigation, or other disputed claim. Copies of the documentation must be made available to the Agency and to units of local government for inspection and copying during normal business hours. The Agency may prescribe forms and formats for
the documentation required under subdivision (d)(2) of this Section.

Chemical analysis conducted under subdivision (d)(2) of this Section must be conducted in accordance with the requirements of 35 Ill. Adm. Code 742, as amended, and "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", USEPA Publication No. SW-846, as amended.

(Source: P.A. 96-1416, eff. 7-30-10; 97-137, eff. 7-14-11.)

(415 ILCS 5/57.2)

Sec. 57.2. Definitions. As used in this Title:

"Audit" means a systematic inspection or examination of plans, reports, records, or documents to determine the completeness and accuracy of the data and conclusions contained therein.

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death at any time, resulting from a release of petroleum from an underground storage tank.

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing of petroleum from an underground storage tank into groundwater, surface water or subsurface soils.

"Fill material" means non-native or disturbed materials used to bed and backfill around an underground storage tank.

"Fund" means the Underground Storage Tank Fund.

"Heating Oil" means petroleum that is No. 1, No. 2, No. 4 -
light, No. 4 - heavy, No. 5 - light, No. 5 - heavy or No. 6 technical grades of fuel oil; and other residual fuel oils including Navy Special Fuel Oil and Bunker C.

"Indemnification" means indemnification of an owner or operator for the amount of any judgment entered against the owner or operator in a court of law, for the amount of any final order or determination made against the owner or operator by an agency of State government or any subdivision thereof, or for the amount of any settlement entered into by the owner or operator, if the judgment, order, determination, or settlement arises out of bodily injury or property damage suffered as a result of a release of petroleum from an underground storage tank owned or operated by the owner or operator.

"Corrective action" means activities associated with compliance with the provisions of Sections 57.6 and 57.7 of this Title.

"Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a sudden or nonsudden release from an underground storage tank.

When used in connection with, or when otherwise relating to, underground storage tanks, the terms "facility", "owner", "operator", "underground storage tank", "(UST)", "petroleum" and "regulated substance" shall have the meanings ascribed to them in Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616), of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580); provided however that the
term "underground storage tank" shall also mean an underground storage tank used exclusively to store heating oil for consumptive use on the premises where stored and which serves other than a farm or residential unit; provided further however that the term "owner" shall also mean any person who has submitted to the Agency a written election to proceed under this Title and has acquired an ownership interest in a site on which one or more registered tanks have been removed, but on which corrective action has not yet resulted in the issuance of a "no further remediation letter" by the Agency pursuant to this Title.

"Licensed Professional Engineer" means a person, corporation, or partnership licensed under the laws of the State of Illinois to practice professional engineering.

"Licensed Professional Geologist" means a person licensed under the laws of the State of Illinois to practice as a professional geologist.

"Site" means any single location, place, tract of land or parcel of property including contiguous property not separated by a public right-of-way.

"Site investigation" means activities associated with compliance with the provisions of subsection (a) of Section 57.7.

"Property damage" means physical injury to, destruction of, or contamination of tangible property, including all resulting loss of use of that property; or loss of use of
tangible property that is not physically injured, destroyed, or
contaminated, but has been evacuated, withdrawn from use, or
rendered inaccessible because of a release of petroleum from an
underground storage tank.

"Class I Groundwater" means groundwater that meets the
Class I: Potable Resource Groundwater criteria set forth in the
Board regulations adopted pursuant to the Illinois Groundwater
Protection Act.

"Class III Groundwater" means groundwater that meets the
Class III: Special Resource Groundwater criteria set forth in
the Board regulations adopted pursuant to the Illinois
Groundwater Protection Act.

(Source: P.A. 94-274, eff. 1-1-06.)

(415 ILCS 5/57.8)

Sec. 57.8. Underground Storage Tank Fund; payment; options
for State payment; deferred correction election to commence
corrective action upon availability of funds. If an owner or
operator is eligible to access the Underground Storage Tank
Fund pursuant to an Office of State Fire Marshal
eligibility/deductible final determination letter issued in
accordance with Section 57.9, the owner or operator may submit
a complete application for final or partial payment to the
Agency for activities taken in response to a confirmed release.
An owner or operator may submit a request for partial or final
payment regarding a site no more frequently than once every 90
(a) Payment after completion of corrective action measures. The owner or operator may submit an application for payment for activities performed at a site after completion of the requirements of Sections 57.6 and 57.7, or after completion of any other required activities at the underground storage tank site.

(1) In the case of any approved plan and budget for which payment is being sought, the Agency shall make a payment determination within 120 days of receipt of the application. Such determination shall be considered a final decision. The Agency's review shall be limited to generally accepted auditing and accounting practices. In no case shall the Agency conduct additional review of any plan which was completed within the budget, beyond auditing for adherence to the corrective action measures in the proposal. If the Agency fails to approve the payment application within 120 days, such application shall be deemed approved by operation of law and the Agency shall proceed to reimburse the owner or operator the amount requested in the payment application. However, in no event shall the Agency reimburse the owner or operator an amount greater than the amount approved in the plan.

(2) If sufficient funds are available in the Underground Storage Tank Fund, the Agency shall, within 60 days, forward to the Office of the State Comptroller a
voucher in the amount approved under the payment application.

(3) In the case of insufficient funds, the Agency shall form a priority list for payment and shall notify persons in such priority list monthly of the availability of funds and when payment shall be made. Payment shall be made to the owner or operator at such time as sufficient funds become available for the costs associated with site investigation and corrective action and costs expended for activities performed where no proposal is required, if applicable. Such priority list shall be available to any owner or operator upon request. Priority for payment shall be determined by the date the Agency receives a complete request for partial or final payment. Upon receipt of notification from the Agency that the requirements of this Title have been met, the Comptroller shall make payment to the owner or operator of the amount approved by the Agency, if sufficient money exists in the Fund. If there is insufficient money in the Fund, then payment shall not be made. If the owner or operator appeals a final Agency payment determination and it is determined that the owner or operator is eligible for payment or additional payment, the priority date for the payment or additional payment shall be the same as the priority date assigned to the original request for partial or final payment.

(4) Any deductible, as determined pursuant to the
Office of the State Fire Marshal's eligibility and deductibility final determination in accordance with Section 57.9, shall be subtracted from any payment invoice paid to an eligible owner or operator. Only one deductible shall apply per underground storage tank site.

(5) In the event that costs are or will be incurred in addition to those approved by the Agency, or after payment, the owner or operator may submit successive plans containing amended budgets. The requirements of Section 57.7 shall apply to any amended plans.

(6) For purposes of this Section, a complete application shall consist of:

(A) A certification from a Licensed Professional Engineer or a professional geologist Licensed Professional Geologist as required under this Title and acknowledged by the owner or operator.

(B) A statement of the amounts approved in the budget and the amounts actually sought for payment along with a certified statement by the owner or operator that the amounts so sought were expended in conformance with the approved budget.

(C) A copy of the Office of the State Fire Marshal's eligibility and deductibility determination.

(D) Proof that approval of the payment requested will not result in the limitations set forth in subsection (g) of this Section being exceeded.
(E) A federal taxpayer identification number and legal status disclosure certification on a form prescribed and provided by the Agency.

(F) If the Agency determined under subsection (c)(3) of Section 57.7 of this Act that corrective action must include a project labor agreement, a certification from the owner or operator that the corrective action was (i) performed under a project labor agreement that meets the requirements of Section 25 of the Project Labor Agreements Act and (ii) implemented in a manner consistent with the terms and conditions of the Project Labor Agreements Act and in full compliance with all statutes, regulations, and Executive Orders as required under that Act and the Prevailing Wage Act.

(b) Commencement of site investigation or corrective action upon availability of funds. The Board shall adopt regulations setting forth procedures based on risk to human health or the environment under which the owner or operator who has received approval for any budget plan submitted pursuant to Section 57.7, and who is eligible for payment from the Underground Storage Tank Fund pursuant to an Office of the State Fire Marshal eligibility and deductibility determination, may elect to defer site investigation or corrective action activities until funds are available in an amount equal to the amount approved in the budget. The
regulations shall establish criteria based on risk to human
health or the environment to be used for determining on a
site-by-site basis whether deferral is appropriate. The
regulations also shall establish the minimum investigatory
requirements for determining whether the risk based criteria
are present at a site considering deferral and procedures for
the notification of owners or operators of insufficient funds,
Agency review of request for deferral, notification of Agency
final decisions, returning deferred sites to active status, and
earmarking of funds for payment.

(c) When the owner or operator requests indemnification for
payment of costs incurred as a result of a release of petroleum
from an underground storage tank, if the owner or operator has
satisfied the requirements of subsection (a) of this Section,
the Agency shall forward a copy of the request to the Attorney
General. The Attorney General shall review and approve the
request for indemnification if:

   (1) there is a legally enforceable judgment entered
   against the owner or operator and such judgment was entered
   due to harm caused by a release of petroleum from an
   underground storage tank and such judgment was not entered
   as a result of fraud; or

   (2) a settlement with a third party due to a release of
   petroleum from an underground storage tank is reasonable.

(d) Notwithstanding any other provision of this Title, the
Agency shall not approve payment to an owner or operator from
the Fund for costs of corrective action or indemnification incurred during a calendar year in excess of the following aggregate amounts based on the number of petroleum underground storage tanks owned or operated by such owner or operator in Illinois.

<table>
<thead>
<tr>
<th>Amount</th>
<th>Number of Tanks</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,000,000</td>
<td>fewer than 101</td>
</tr>
<tr>
<td>$3,000,000</td>
<td>101 or more</td>
</tr>
</tbody>
</table>

(1) Costs incurred in excess of the aggregate amounts set forth in paragraph (1) of this subsection shall not be eligible for payment in subsequent years.

(2) For purposes of this subsection, requests submitted by any of the agencies, departments, boards, committees or commissions of the State of Illinois shall be acted upon as claims from a single owner or operator.

(3) For purposes of this subsection, owner or operator includes (i) any subsidiary, parent, or joint stock company of the owner or operator and (ii) any company owned by any parent, subsidiary, or joint stock company of the owner or operator.

(e) Costs of corrective action or indemnification incurred by an owner or operator which have been paid to an owner or operator under a policy of insurance, another written agreement, or a court order are not eligible for payment under this Section. An owner or operator who receives payment under a policy of insurance, another written agreement, or a court order...
order shall reimburse the State to the extent such payment covers costs for which payment was received from the Fund. Any monies received by the State under this subsection (e) shall be deposited into the Fund.

(f) (Blank.)

(g) The Agency shall not approve any payment from the Fund to pay an owner or operator:

1. for costs of corrective action incurred by such owner or operator in an amount in excess of $1,500,000 per occurrence; and
2. for costs of indemnification of such owner or operator in an amount in excess of $1,500,000 per occurrence.

(h) Payment of any amount from the Fund for corrective action or indemnification shall be subject to the State acquiring by subrogation the rights of any owner, operator, or other person to recover the costs of corrective action or indemnification for which the Fund has compensated such owner, operator, or person from the person responsible or liable for the release.

(i) If the Agency refuses to pay or authorizes only a partial payment, the affected owner or operator may petition the Board for a hearing in the manner provided for the review of permit decisions in Section 40 of this Act.

(j) Costs of corrective action or indemnification incurred by an owner or operator prior to July 28, 1989, shall not be
eligible for payment or reimbursement under this Section.

(k) The Agency shall not pay costs of corrective action or
indemnification incurred before providing notification of the
release of petroleum in accordance with the provisions of this
Title.

(l) Corrective action does not include legal defense costs.
Legal defense costs include legal costs for seeking payment
under this Title unless the owner or operator prevails before
the Board in which case the Board may authorize payment of
legal fees.

(m) The Agency may apportion payment of costs for plans
submitted under Section 57.7 if:

(1) the owner or operator was deemed eligible to access
the Fund for payment of corrective action costs for some,
but not all, of the underground storage tanks at the site;
and

(2) the owner or operator failed to justify all costs
attributable to each underground storage tank at the site.

(n) The Agency shall not pay costs associated with a
corrective action plan incurred after the Agency provides
notification to the owner or operator pursuant to item (7) of
subsection (b) of Section 57.7 that a revised corrective action
plan is required. Costs associated with any subsequently
approved corrective action plan shall be eligible for
reimbursement if they meet the requirements of this Title.
(Source: P.A. 98-109, eff. 7-25-13.)
Sec. 57.10. Professional Engineer or professional geologist certification; presumptions against liability.

(a) Within 120 days of the Agency's receipt of a corrective action completion report, the Agency shall issue to the owner or operator a "no further remediation letter" unless the Agency has requested a modification, issued a rejection under subsection (d) of this Section, or the report has been rejected by operation of law.

(b) By certifying such a statement, a Licensed Professional Engineer or a professional geologist Licensed Professional Geologist shall in no way be liable thereon, unless the engineer or geologist gave such certification despite his or her actual knowledge that the performed measures were not in compliance with applicable statutory or regulatory requirements or any plan submitted to the Agency.

(c) The Agency's issuance of a no further remediation letter shall signify, based on the certification of the Licensed Professional Engineer, that:

(1) all statutory and regulatory corrective action requirements applicable to the occurrence have been complied with;

(2) all corrective action concerning the remediation of the occurrence has been completed; and
no further corrective action concerning the occurrence is necessary for the protection of human health, safety and the environment. This subsection (c) does not apply to off-site contamination related to the occurrence that has not been remediated due to denial of access to the off-site property.

(d) The no further remediation letter issued under this Section shall apply in favor of the following parties:

(1) The owner or operator to whom the letter was issued.

(2) Any parent corporation or subsidiary of such owner or operator.

(3) Any co-owner or co-operator, either by joint tenancy, right-of-survivorship, or any other party sharing a legal relationship with the owner or operator to whom the letter is issued.

(4) Any holder of a beneficial interest of a land trust or inter vivos trust whether revocable or irrevocable.

(5) Any mortgagee or trustee of a deed of trust of such owner or operator.

(6) Any successor-in-interest of such owner or operator.

(7) Any transferee of such owner or operator whether the transfer was by sale, bankruptcy proceeding, partition, dissolution of marriage, settlement or adjudication of any civil action, charitable gift, or
bequest.

(8) Any heir or devisee or such owner or operator.

(9) An owner of a parcel of real property to the extent that the no further remediation letter under subsection (c) of this Section applies to the occurrence on that parcel.

(e) If the Agency notifies the owner or operator that the "no further remediation" letter has been rejected, the grounds for such rejection shall be described in the notice. Such a decision shall be a final determination which may be appealed by the owner or operator.

(f) The Board shall adopt rules setting forth the criteria under which the Agency may require an owner or operator to conduct further investigation or remediation related to a release for which a no further remediation letter has been issued.

(g) Holders of security interests in sites subject to the requirements of this Title XVI shall be entitled to the same protections and subject to the same responsibilities provided under general regulations promulgated under Subtitle I of the Hazardous and Solid Waste Amendments of 1984 (P.L. 98-616) of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580).

(Source: P.A. 94-276, eff. 1-1-06.)

(415 ILCS 5/58.2)

Sec. 58.2. Definitions. The following words and phrases
when used in this Title shall have the meanings given to them in this Section unless the context clearly indicates otherwise:

"Agrichemical facility" means a site on which agricultural pesticides are stored or handled, or both, in preparation for end use, or distributed. The term does not include basic manufacturing facility sites.

"ASTM" means the American Society for Testing and Materials.

"Area background" means concentrations of regulated substances that are consistently present in the environment in the vicinity of a site that are the result of natural conditions or human activities, and not the result solely of releases at the site.

"Brownfields site" or "brownfields" means a parcel of real property, or a portion of the parcel, that has actual or perceived contamination and an active potential for redevelopment.

"Class I groundwater" means groundwater that meets the Class I Potable Resource groundwater criteria set forth in the Board rules adopted under the Illinois Groundwater Protection Act.

"Class III groundwater" means groundwater that meets the Class III Special Resource Groundwater criteria set forth in the Board rules adopted under the Illinois Groundwater Protection Act.

"Carcinogen" means a contaminant that is classified as a
Category A1 or A2 Carcinogen by the American Conference of Governmental Industrial Hygienists; or a Category 1 or 2A/2B Carcinogen by the World Health Organizations International Agency for Research on Cancer; or a "Human Carcinogen" or "Anticipated Human Carcinogen" by the United States Department of Health and Human Service National Toxicological Program; or a Category A or B1/B2 Carcinogen by the United States Environmental Protection Agency in Integrated Risk Information System or a Final Rule issued in a Federal Register notice by the USEPA as of the effective date of this amendatory Act of 1995.

"Licensed Professional Engineer" (LPE) means a person, corporation, or partnership licensed under the laws of this State to practice professional engineering.

"Licensed Professional Geologist" means a person licensed under the laws of the State of Illinois to practice as a professional geologist.

"RELPEG" means a Licensed Professional Engineer or a professional geologist engaged in review and evaluation under this Title.

"Man-made pathway" means constructed routes that may allow for the transport of regulated substances including, but not limited to, sewers, utility lines, utility vaults, building foundations, basements, crawl spaces, drainage ditches, or previously excavated and filled areas.

"Municipality" means an incorporated city, village, or
town in this State. "Municipality" does not mean a township,
town when that term is used as the equivalent of a township,
incorporated town that has superseded a civil township, county,
or school district, park district, sanitary district, or
similar governmental district.

"Natural pathway" means natural routes for the transport of
regulated substances including, but not limited to, soil,
groundwater, sand seams and lenses, and gravel seams and
lenses.

"Person" means individual, trust, firm, joint stock
company, joint venture, consortium, commercial entity,
corporation (including a government corporation), partnership,
association, State, municipality, commission, political
subdivision of a State, or any interstate body including the
United States Government and each department, agency, and
instrumentality of the United States.

"Regulated substance" means any hazardous substance as
defined under Section 101(14) of the Comprehensive
Environmental Response, Compensation, and Liability Act of
1980 (P.L. 96-510) and petroleum products including crude oil
or any fraction thereof, natural gas, natural gas liquids,
liquefied natural gas, or synthetic gas usable for fuel (or
mixtures of natural gas and such synthetic gas).

"Remedial action" means activities associated with
compliance with the provisions of Sections 58.6 and 58.7.

"Remediation Applicant" (RA) means any person seeking to
perform or performing investigative or remedial activities under this Title, including the owner or operator of the site or persons authorized by law or consent to act on behalf of or in lieu of the owner or operator of the site.

"Remediation costs" means reasonable costs paid for investigating and remediating regulated substances of concern consistent with the remedy selected for a site.

For purposes of Section 58.14, "remediation costs" shall not include costs incurred prior to January 1, 1998, costs incurred after the issuance of a No Further Remediation Letter under Section 58.10 of this Act, or costs incurred more than 12 months prior to acceptance into the Site Remediation Program.

For the purpose of Section 58.14a, "remediation costs" do not include any costs incurred before January 1, 2007, any costs incurred after the issuance of a No Further Remediation Letter under Section 58.10, or any costs incurred more than 12 months before acceptance into the Site Remediation Program.

"Residential property" means any real property that is used for habitation by individuals and other property uses defined by Board rules such as education, health care, child care and related uses.

"River Edge Redevelopment Zone" has the meaning set forth under the River Edge Redevelopment Zone Act.

"Site" means any single location, place, tract of land or parcel of property, or portion thereof, including contiguous property separated by a public right-of-way.
"Regulated substance of concern" means any contaminant that is expected to be present at the site based upon past and current land uses and associated releases that are known to the Remediation Applicant based upon reasonable inquiry.

(Source: P.A. 95-454, eff. 8-27-07.)

(415 ILCS 5/58.6)

Sec. 58.6. Remedial investigations and reports.

(a) Any RA who proceeds under this Title may elect to seek review and approval for any of the remediation objectives provided in Section 58.5 for any or all regulated substances of concern. The RA shall conduct investigations and remedial activities for regulated substances of concern and prepare plans and reports in accordance with this Section and rules adopted hereunder. The RA shall submit the plans and reports for review and approval in accordance with Section 58.7. All investigations, plans, and reports conducted or prepared under this Section shall be under the supervision of a Licensed Professional Engineer (LPE) or, in the case of a site investigation only, a professional geologist Licensed Professional Geologist in accordance with the requirements of this Title.

(b) (1) Site investigation and Site Investigation Report. The RA shall conduct a site investigation to determine the significant physical features of the site and vicinity that may affect contaminant transport and risk to human health,
safety, and the environment and to determine the nature, concentration, direction and rate of movement, and extent of the contamination at the site.

(2) The RA shall compile the results of the investigations into a Site Investigation Report. At a minimum, the reports shall include the following, as applicable:

(A) Executive summary;
(B) Site history;
(C) Site-specific sampling methods and results;
(D) Documentation of field activities, including quality assurance project plan;
(E) Interpretation of results; and
(F) Conclusions.

(c) Remediation Objectives Report.

(1) If a RA elects to determine remediation objectives appropriate for the site using the Tier II or Tier III procedures under subsection (d) of Section 58.5, the RA shall develop such remediation objectives based on site-specific information. In support of such remediation objectives, the RA shall prepare a Remediation Objectives Report demonstrating how the site-specific objectives were calculated or otherwise determined.

(2) If a RA elects to determine remediation objectives appropriate for the site using the area background procedures under subsection (b) of Section 58.5, the RA
shall develop such remediation objectives based on site-specific literature review, sampling protocol, or appropriate statistical methods in accordance with Board rules. In support of such remediation objectives, the RA shall prepare a Remediation Objectives Report demonstrating how the area background remediation objectives were determined.

(d) Remedial Action Plan. If the approved remediation objectives for any regulated substance established under Section 58.5 are less than the levels existing at the site prior to any remedial action, the RA shall prepare a Remedial Action Plan. The Remedial Action Plan shall describe the selected remedy and evaluate its ability and effectiveness to achieve the remediation objectives approved for the site. At a minimum, the reports shall include the following, as applicable:

(1) Executive summary;

(2) Statement of remediation objectives;

(3) Remedial technologies selected;

(4) Confirmation sampling plan;

(5) Current and projected future use of the property; and

(6) Applicable preventive, engineering, and institutional controls including long-term reliability, operating, and maintenance plans, and monitoring procedures.
(e) Remedial Action Completion Report.

(1) Upon completion of the Remedial Action Plan, the RA shall prepare a Remedial Action Completion Report. The report shall demonstrate whether the remedial action was completed in accordance with the approved Remedial Action Plan and whether the remediation objectives, as well as any other requirements of the plan, have been attained.

(2) If the approved remediation objectives for the regulated substances of concern established under Section 58.5 are equal to or above the levels existing at the site prior to any remedial action, notification and documentation of such shall constitute the entire Remedial Action Completion Report for purposes of this Title.

(f) Ability to proceed. The RA may elect to prepare and submit for review and approval any and all reports or plans required under the provisions of this Section individually, following completion of each such activity; concurrently, following completion of all activities; or in any other combination. In any event, the review and approval process shall proceed in accordance with Section 58.7 and rules adopted thereunder.

(g) Nothing in this Section shall prevent an RA from implementing or conducting an interim or any other remedial measure prior to election to proceed under Section 58.6.

(h) In accordance with Section 58.11, the Agency shall propose and the Board shall adopt rules to carry out the
purposes of this Section.
(Source: P.A. 92-735, eff. 7-25-02.)

(415 ILCS 5/58.7)

Sec. 58.7. Review and approvals.

(a) Requirements. All plans and reports that are submitted pursuant to this Title shall be submitted for review or approval in accordance with this Section.

(b) Review and evaluation by the Agency.

(1) Except for sites excluded under subdivision (a) (2) of Section 58.1, the Agency shall, subject to available resources, agree to provide review and evaluation services for activities carried out pursuant to this Title for which the RA requested the services in writing. As a condition for providing such services, the Agency may require that the RA for a site:

(A) Conform with the procedures of this Title;

(B) Allow for or otherwise arrange site visits or other site evaluation by the Agency when so requested;

(C) Agree to perform the Remedial Action Plan as approved under this Title;

(D) Agree to pay any reasonable costs incurred and documented by the Agency in providing such services;

(E) Make an advance partial payment to the Agency for such anticipated services in an amount, acceptable to the Agency, but not to exceed $5,000 or one-half of
the total anticipated costs of the Agency, whichever sum is less; and

(F) Demonstrate, if necessary, authority to act on behalf of or in lieu of the owner or operator.

(2) Any moneys received by the State for costs incurred by the Agency in performing review or evaluation services for actions conducted pursuant to this Title shall be deposited in the Hazardous Waste Fund.

(3) An RA requesting services under subdivision (b) (1) of this Section may, at any time, notify the Agency, in writing, that Agency services previously requested are no longer wanted. Within 180 days after receipt of the notice, the Agency shall provide the RA with a final invoice for services provided until the date of such notifications.

(4) The Agency may invoice or otherwise request or demand payment from a RA for costs incurred by the Agency in performing review or evaluation services for actions by the RA at sites only if:

(A) The Agency has incurred costs in performing response actions, other than review or evaluation services, due to the failure of the RA to take response action in accordance with a notice issued pursuant to this Act;

(B) The RA has agreed in writing to the payment of such costs;

(C) The RA has been ordered to pay such costs by
the Board or a court of competent jurisdiction pursuant
to this Act; or

(D) The RA has requested or has consented to Agency
review or evaluation services under subdivision
(b) (1) of this Section.

(5) The Agency may, subject to available resources,
agree to provide review and evaluation services for
response actions if there is a written agreement among
parties to a legal action or if a notice to perform a
response action has been issued by the Agency.

(c) Review and evaluation by a Licensed Professional
Engineer or a professional geologist. A RA may elect to contract with a Licensed
Professional Engineer or, in the case of a site investigation
report only, a professional geologist, who will perform review and evaluation services on
behalf of and under the direction of the Agency relative to the
site activities.

(1) Prior to entering into the contract with the
RELPEG, the RA shall notify the Agency of the RELPEG to be
selected. The Agency and the RA shall discuss the potential
terms of the contract.

(2) At a minimum, the contract with the RELPEG shall
provide that the RELPEG will submit any reports directly to
the Agency, will take his or her directions for work
assignments from the Agency, and will perform the assigned
work on behalf of the Agency.

(3) Reasonable costs incurred by the Agency shall be paid by the RA directly to the Agency in accordance with the terms of the review and evaluation services agreement entered into under subdivision (b) (1) of Section 58.7.

(4) In no event shall the RELPEG acting on behalf of the Agency be an employee of the RA or the owner or operator of the site or be an employee of any other person the RA has contracted to provide services relative to the site.

(d) Review and approval. All reviews required under this Title shall be carried out by the Agency or a RELPEG, both under the direction of a Licensed Professional Engineer or, in the case of the review of a site investigation only, a professional geologist Licenced Professional Geologist.

(1) All review activities conducted by the Agency or a RELPEG shall be carried out in conformance with this Title and rules promulgated under Section 58.11.

(2) Subject to the limitations in subsection (c) and this subsection (d), the specific plans, reports, and activities that the Agency or a RELPEG may review include:

(A) Site Investigation Reports and related activities;

(B) Remediation Objectives Reports;

(C) Remedial Action Plans and related activities; and
(D) Remedial Action Completion Reports and related activities.

(3) Only the Agency shall have the authority to approve, disapprove, or approve with conditions a plan or report as a result of the review process including those plans and reports reviewed by a RELPEG. If the Agency disapproves a plan or report or approves a plan or report with conditions, the written notification required by subdivision (d) (4) of this Section shall contain the following information, as applicable:

(A) An explanation of the Sections of this Title that may be violated if the plan or report was approved;

(B) An explanation of the provisions of the rules promulgated under this Title that may be violated if the plan or report was approved;

(C) An explanation of the specific type of information, if any, that the Agency deems the applicant did not provide the Agency;

(D) A statement of specific reasons why the Title and regulations might not be met if the plan or report were approved; and

(E) An explanation of the reasons for conditions if conditions are required.

(4) Upon approving, disapproving, or approving with conditions a plan or report, the Agency shall notify the RA
in writing of its decision. In the case of approval or approval with conditions of a Remedial Action Completion Report, the Agency shall prepare a No Further Remediation Letter that meets the requirements of Section 58.10 and send a copy of the letter to the RA.

(5) All reviews undertaken by the Agency or a RELPEG shall be completed and the decisions communicated to the RA within 60 days of the request for review or approval. The RA may waive the deadline upon a request from the Agency. If the Agency disapproves or approves with conditions a plan or report or fails to issue a final decision within the 60 day period and the RA has not agreed to a waiver of the deadline, the RA may, within 35 days, file an appeal to the Board. Appeals to the Board shall be in the manner provided for the review of permit decisions in Section 40 of this Act.

(e) Standard of review. In making determinations, the following factors, and additional factors as may be adopted by the Board in accordance with Section 58.11, shall be considered by the Agency when reviewing or approving plans, reports, and related activities, or the RELPEG, when reviewing plans, reports, and related activities:

(1) Site Investigation Reports and related activities: Whether investigations have been conducted and the results compiled in accordance with the appropriate procedures and whether the interpretations and conclusions reached are
supported by the information gathered. In making the
determination, the following factors shall be considered:

(A) The adequacy of the description of the site and
site characteristics that were used to evaluate the
site;

(B) The adequacy of the investigation of potential
pathways and risks to receptors identified at the site;
and

(C) The appropriateness of the sampling and
analysis used.

(2) Remediation Objectives Reports: Whether the
remediation objectives are consistent with the
requirements of the applicable method for selecting or
determining remediation objectives under Section 58.5. In
making the determination, the following factors shall be
considered:

(A) If the objectives were based on the
determination of area background levels under
subsection (b) of Section 58.5, whether the review of
current and historic conditions at or in the immediate
vicinity of the site has been thorough and whether the
site sampling and analysis has been performed in a
manner resulting in accurate determinations;

(B) If the objectives were calculated on the basis
of predetermined equations using site specific data,
whether the calculations were accurately performed and
whether the site specific data reflect actual site
conditions; and

(C) If the objectives were determined using a site
specific risk assessment procedure, whether the
procedure used is nationally recognized and accepted,
whether the calculations were accurately performed,
and whether the site specific data reflect actual site
conditions.

(3) Remedial Action Plans and related activities:
Whether the plan will result in compliance with this Title,
and rules adopted under it and attainment of the applicable
remediation objectives. In making the determination, the
following factors shall be considered:

(A) The likelihood that the plan will result in the
attainment of the applicable remediation objectives;

(B) Whether the activities proposed are consistent
with generally accepted engineering practices; and

(C) The management of risk relative to any
remaining contamination, including but not limited to,
provisions for the long-term enforcement, operation,
and maintenance of institutional and engineering
controls, if relied on.

(4) Remedial Action Completion Reports and related
activities: Whether the remedial activities have been
completed in accordance with the approved Remedial Action
Plan and whether the applicable remediation objectives
have been attained.

(f) All plans and reports submitted for review shall include a Licensed Professional Engineer's certification that all investigations and remedial activities were carried out under his or her direction and, to the best of his or her knowledge and belief, the work described in the plan or report has been completed in accordance with generally accepted engineering practices, and the information presented is accurate and complete. In the case of a site investigation report prepared or supervised by a professional geologist Licensed Professional Geologist, the required certification may be made by the professional geologist Licensed Professional Geologist (rather than a Licensed Professional Engineer) and based upon generally accepted principles of professional geology.

(g) In accordance with Section 58.11, the Agency shall propose and the Board shall adopt rules to carry out the purposes of this Section. At a minimum, the rules shall detail the types of services the Agency may provide in response to requests under subdivision (b) (1) of this Section and the recordkeeping it will utilize in documenting to the RA the costs incurred by the Agency in providing such services.

(h) Public participation.

(1) The Agency shall develop guidance to assist RA's in the implementation of a community relations plan to address activity at sites undergoing remedial action pursuant to
(2) The RA may elect to enter into a services agreement with the Agency for Agency assistance in community outreach efforts.

(3) The Agency shall maintain a registry listing those sites undergoing remedial action pursuant to this Title.

(4) Notwithstanding any provisions of this Section, the RA of a site undergoing remedial activity pursuant to this Title may elect to initiate a community outreach effort for the site.

(Source: P.A. 95-331, eff. 8-21-07.)

Section 90. The Unified Code of Corrections is amended by changing Section 5-5-5 as follows:

(730 ILCS 5/5-5-5) (from Ch. 38, par. 1005-5-5)

Sec. 5-5-5. Loss and Restoration of Rights.

(a) Conviction and disposition shall not entail the loss by the defendant of any civil rights, except under this Section and Sections 29-6 and 29-10 of The Election Code, as now or hereafter amended.

(b) A person convicted of a felony shall be ineligible to hold an office created by the Constitution of this State until the completion of his sentence.

(c) A person sentenced to imprisonment shall lose his right to vote until released from imprisonment.
(d) On completion of sentence of imprisonment or upon discharge from probation, conditional discharge or periodic imprisonment, or at any time thereafter, all license rights and privileges granted under the authority of this State which have been revoked or suspended because of conviction of an offense shall be restored unless the authority having jurisdiction of such license rights finds after investigation and hearing that restoration is not in the public interest. This paragraph (d) shall not apply to the suspension or revocation of a license to operate a motor vehicle under the Illinois Vehicle Code.

(e) Upon a person's discharge from incarceration or parole, or upon a person's discharge from probation or at any time thereafter, the committing court may enter an order certifying that the sentence has been satisfactorily completed when the court believes it would assist in the rehabilitation of the person and be consistent with the public welfare. Such order may be entered upon the motion of the defendant or the State or upon the court's own motion.

(f) Upon entry of the order, the court shall issue to the person in whose favor the order has been entered a certificate stating that his behavior after conviction has warranted the issuance of the order.

(g) This Section shall not affect the right of a defendant to collaterally attack his conviction or to rely on it in bar of subsequent proceedings for the same offense.

(h) No application for any license specified in subsection
(i) of this Section granted under the authority of this State shall be denied by reason of an eligible offender who has obtained a certificate of relief from disabilities, as defined in Article 5.5 of this Chapter, having been previously convicted of one or more criminal offenses, or by reason of a finding of lack of "good moral character" when the finding is based upon the fact that the applicant has previously been convicted of one or more criminal offenses, unless:

(1) there is a direct relationship between one or more of the previous criminal offenses and the specific license sought; or

(2) the issuance of the license would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public.

In making such a determination, the licensing agency shall consider the following factors:

(1) the public policy of this State, as expressed in Article 5.5 of this Chapter, to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;

(2) the specific duties and responsibilities necessarily related to the license being sought;

(3) the bearing, if any, the criminal offenses or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties and responsibilities;
(4) the time which has elapsed since the occurrence of
the criminal offense or offenses;

(5) the age of the person at the time of occurrence of
the criminal offense or offenses;

(6) the seriousness of the offense or offenses;

(7) any information produced by the person or produced
on his or her behalf in regard to his or her rehabilitation
and good conduct, including a certificate of relief from
disabilities issued to the applicant, which certificate
shall create a presumption of rehabilitation in regard to
the offense or offenses specified in the certificate; and

(8) the legitimate interest of the licensing agency in
protecting property, and the safety and welfare of specific
individuals or the general public.

(i) A certificate of relief from disabilities shall be
issued only for a license or certification issued under the
following Acts:

(1) the Animal Welfare Act; except that a certificate
of relief from disabilities may not be granted to provide
for the issuance or restoration of a license under the
Animal Welfare Act for any person convicted of violating
Section 3, 3.01, 3.02, 3.03, 3.03-1, or 4.01 of the Humane
Care for Animals Act or Section 26-5 or 48-1 of the
Criminal Code of 1961 or the Criminal Code of 2012;

(2) the Illinois Athletic Trainers Practice Act;

(3) the Barber, Cosmetology, Esthetics, Hair Braiding,
and Nail Technology Act of 1985;

(4) the Boiler and Pressure Vessel Repairer Regulation Act;

(5) the Boxing and Full-contact Martial Arts Act;

(6) the Illinois Certified Shorthand Reporters Act of 1984;

(7) the Illinois Farm Labor Contractor Certification Act;

(8) the Interior Design Title Act;

(9) the Illinois Professional Land Surveyor Act of 1989;

(10) (blank) the Illinois Landscape Architecture Act of 1989;

(11) the Marriage and Family Therapy Licensing Act;

(12) the Private Employment Agency Act;

(13) the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act;

(14) the Real Estate License Act of 2000;

(15) the Illinois Roofing Industry Licensing Act;

(16) the Professional Engineering Practice Act of 1989;

(17) the Water Well and Pump Installation Contractor's License Act;

(18) (blank) the Electrologist Licensing Act;

(19) the Auction License Act;

(20) the Illinois Architecture Practice Act of 1989;
(21) the Dietitian Nutritionist Practice Act;
(22) the Environmental Health Practitioner Licensing Act;
(23) the Funeral Directors and Embalmers Licensing Code;
(24) (blank) the Land Sales Registration Act of 1999;
(25) (blank) the Professional Geologist Licensing Act;
(26) the Illinois Public Accounting Act; and
(Source: P.A. 97-119, eff. 7-14-11; 97-706, eff. 6-25-12; 97-1108, eff. 1-1-13; 97-1141, eff. 12-28-12; 97-1150, eff. 1-25-13; 98-756, eff. 7-16-14.)

(765 ILCS 86/Act rep.)
Section 95. The Land Sales Registration Act of 1999 is repealed.

(765 ILCS 101/Act rep.)
Section 100. The Real Estate Timeshare Act of 1999 is repealed.

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

Statutes amended in order of appearance

3  5 ILCS 80/4.30
4  5 ILCS 80/4.32
5  5 ILCS 80/4.34
6  5 ILCS 80/4.36
7  5 ILCS 80/4.35 rep.
8  70 ILCS 1205/8-50
9  70 ILCS 1505/26.10-4
10 210 ILCS 25/7-101 from Ch. 111 1/2, par. 627-101
11 225 ILCS 135/Act rep.
12 225 ILCS 315/Act rep.
13 225 ILCS 401/Act rep.
14 225 ILCS 407/5-10
15 225 ILCS 407/10-1
16 225 ILCS 407/10-27 rep.
17 225 ILCS 412/Act rep.
18 225 ILCS 430/Act rep.
19 225 ILCS 454/1-10
20 225 ILCS 454/5-20
21 225 ILCS 454/20-20
22 225 ILCS 454/20-85
23 225 ILCS 745/Act rep.
24 410 ILCS 54/10
25 410 ILCS 513/10
1  410 ILCS 513/25
2  415 ILCS 5/22.51
3  415 ILCS 5/22.51a
4  415 ILCS 5/57.2
5  415 ILCS 5/57.8
6  415 ILCS 5/57.10
7  415 ILCS 5/58.2
8  415 ILCS 5/58.6
9  415 ILCS 5/58.7
10 730 ILCS 5/5-5-5 from Ch. 38, par. 1005-5-5
11 765 ILCS 86/Act rep.
12 765 ILCS 101/Act rep.