

1 AN ACT concerning professional regulation.

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

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

6 (5 ILCS 80/4.20)

7 Sec. 4.20. Acts repealed on January 1, 2010 and December
8 31, 2010.

9 (a) The following Acts are repealed on January 1, 2010:

10 The Auction License Act.

11 The Illinois Architecture Practice Act of 1989.

12 The Illinois Landscape Architecture Act of 1989.

13 The Illinois Professional Land Surveyor Act of 1989.

14 The Land Sales Registration Act of 1999.

15 The Orthotics, Prosthetics, and Pedorthics Practice
16 Act.

17 The Perfusionist Practice Act.

18 The Professional Engineering Practice Act of 1989.

19 ~~The Real Estate License Act of 2000.~~

20 The Structural Engineering Practice Act of 1989.

21 (b) The following Act is repealed on December 31, 2010:

22 The Medical Practice Act of 1987.

23 (Source: P.A. 95-1018, eff. 12-18-08.)

1 (5 ILCS 80/4.30 new)

2 Sec. 4.30. Act repealed on January 1, 2020. The following
3 Act is repealed on January 1, 2020:

4 The Real Estate License Act of 2000.

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

9 (65 ILCS 5/11-20-7) (from Ch. 24, par. 11-20-7)

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

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

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

21 (c) For the purpose of this Section:

22 "Removal of nuisance greenery" or "removal activities"
23 means the cutting of weeds or grass, the trimming of trees or

1 bushes, and the removal of nuisance bushes or trees.

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

4 (d) In the case of an abandoned residential property as
5 defined in Section 11-20-15.1, the municipality may elect to
6 obtain a lien for the removal cost pursuant to Section
7 11-20-15.1, in which case the provisions of Section 11-20-15.1
8 shall be the exclusive remedy for the removal cost.

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

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

21 (65 ILCS 5/11-20-8) (from Ch. 24, par. 11-20-8)

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

23 (a) The corporate authorities of each municipality may
24 provide pest-control activities on any parcel of private
25 property in the municipality if, after reasonable notice, the

1 owners of that parcel refuse or neglect to prevent the ingress
2 of pests to their property or to exterminate pests on their
3 property. The municipality may collect, from the owners of the
4 underlying parcel, the reasonable removal cost.

5 (b) The municipality's removal cost under this Section is a
6 lien upon the underlying parcel in accordance with Section
7 11-20-15.

8 (c) For the purpose of this Section:

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

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

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

21 (d) In the case of an abandoned residential property as
22 defined in Section 11-20-15.1, the municipality may elect to
23 obtain a lien for the removal cost pursuant to Section
24 11-20-15.1, in which case the provisions of Section 11-20-15.1
25 shall be the exclusive remedy for the removal cost.

26 The provisions of this subsection (d), other than this

1 sentence, are inoperative upon certification by the Secretary
2 of the Illinois Department of Financial and Professional
3 Regulation, after consultation with the United States
4 Department of Housing and Urban Development, that the Mortgage
5 Electronic Registration System program is effectively
6 registering substantially all mortgaged residential properties
7 located in the State of Illinois, is available for access by
8 all municipalities located in the State of Illinois without
9 charge to them, and such registration includes the telephone
10 number for the mortgage servicer.

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

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

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

14 (a) The corporate authorities of each municipality may
15 provide for the removal of elm trees infected with Dutch elm
16 disease or ash trees infected with the emerald ash borer
17 (*Agrilus planipennis* Fairmaire) from any parcel of private
18 property within the municipality if the owners of that parcel,
19 after reasonable notice, refuse or neglect to remove the
20 infected trees. The municipality may collect, from the owners
21 of the parcel, the reasonable removal cost.

22 (b) The municipality's removal cost under this Section is a
23 lien upon the underlying parcel in accordance with Section
24 11-20-15.

25 (c) For the purpose of this Section, "removal cost" means

1 the total cost of the removal of the infected trees.

2 (d) In the case of an abandoned residential property as
3 defined in Section 11-20-15.1, the municipality may elect to
4 obtain a lien for the removal cost pursuant to Section
5 11-20-15.1, in which case the provisions of Section 11-20-15.1
6 shall be the exclusive remedy for the removal cost.

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

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

19 (65 ILCS 5/11-20-13) (from Ch. 24, par. 11-20-13)

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

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

1 municipality may collect, from the owner of the parcel, the
2 reasonable removal cost.

3 (b) The municipality's removal cost under this Section is a
4 lien upon the underlying parcel in accordance with Section
5 11-20-15.

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

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

12 (e) In the case of an abandoned residential property as
13 defined in Section 11-20-15.1, the municipality may elect to
14 obtain a lien for the removal cost pursuant to Section
15 11-20-15.1, in which case the provisions of Section 11-20-15.1
16 shall be the exclusive remedy for the removal cost.

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

1 number for the mortgage servicer.

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

3 (65 ILCS 5/11-20-15)

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

5 (a) If the municipality incurs a removal cost under Section
6 11-20-7, 11-20-8, 11-20-12, or 11-20-13 with respect to any
7 underlying parcel, then that cost is a lien upon that
8 underlying parcel. This lien is superior to all other liens and
9 encumbrances, except tax liens and as otherwise provided in
10 subsection (c) of this Section.

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

18 (1) a description of the underlying parcel that
19 sufficiently identifies the parcel;

20 (2) the amount of the removal cost; and

21 (3) the date or dates when the removal cost was
22 incurred by the municipality.

23 If, for any one parcel, the municipality engaged in any
24 removal activity on more than one occasion during the course of
25 one year, then the municipality may combine any or all of the

1 costs of each of those activities into a single notice of lien.

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

8 (d) The removal cost is not a lien on the underlying parcel
9 unless a notice is personally served on, or sent by certified
10 mail to, the person to whom was sent the tax bill for the
11 general taxes on the property for the taxable year immediately
12 preceding the removal activities. The notice must be delivered
13 or sent after the removal activities have been performed, and
14 it must: (i) state the substance of this Section and the
15 substance of any ordinance of the municipality implementing
16 this Section; (ii) identify the underlying parcel, by common
17 description; and (iii) describe the removal activity.

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

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

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

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

10 (i) For the purposes of this Section:

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

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

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

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

19 "Year" means a 365-day period.

20 (j) This Section applies only to liens filed after August
21 14, 2009 (the effective date of Public Act 96-462) ~~this~~
22 ~~amendatory Act of the 96th General Assembly.~~

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

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

1 (65 ILCS 5/11-20-15.1 new)

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

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

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

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

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

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

25 (4) a statement that the lien has been filed pursuant
26 to subsection (d) of Section 11-20-7, subsection (d) of

1 Section 11-20-8, subsection (d) of Section 11-20-12,
2 subsection (e) of Section 11-20-13, or Section 11-31-1.01,
3 as applicable.

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

9 (c) To enforce a lien pursuant to this Section, the
10 municipality must maintain contemporaneous records that
11 include, at a minimum: (i) a dated statement of finding by the
12 municipality that the property for which the work is to be
13 performed has become abandoned residential property, which
14 shall include (1) the date when the property was first known or
15 observed to be unoccupied by any lawful occupant or occupants,
16 (2) a description of the actions taken by the municipality to
17 contact the legal owner or owners of the property identified on
18 the recorded mortgage, or, if known, any agent of the owner or
19 owners, including the dates such actions were taken, and (3) a
20 statement that no contacts were made with the legal owner or
21 owners or their agents as a result of such actions, (ii) a
22 dated certification by an authorized official of the
23 municipality of the necessity and specific nature of the work
24 to be performed, (iii) a copy of the agreement with the person
25 or entity performing the work that includes the legal name of
26 the person or entity, the rate or rates to be charged for

1 performing the work, and an estimate of the total cost of the
2 work to be performed, (iv) detailed invoices and payment
3 vouchers for all payments made by the municipality for such
4 work, and (v) a statement as to whether the work was engaged
5 through a competitive bidding process, and if so, a copy of all
6 proposals submitted by the bidders for such work.

7 (d) A lien under this Section shall be enforceable
8 exclusively at the hearing for confirmation of sale of the
9 abandoned residential property that is held pursuant to
10 subsection (b) of Section 15-1508 of the Code of Civil
11 Procedure and shall be limited to a claim of interest in the
12 proceeds of the sale and subject to the requirements of this
13 Section. Any mortgagee who holds a mortgage on the property, or
14 any beneficiary or trustee who holds a deed of trust on the
15 property, may contest the lien or the amount of the lien at any
16 time during the foreclosure proceeding upon motion and notice
17 in accordance with court rules applicable to motions generally.
18 Grounds for forfeiture of the lien or the superior status of
19 the lien granted by subsection (a) of this Section shall
20 include, but not be limited to, a finding by the court that:
21 (i) the municipality has not complied with subsection (b) or
22 (c) of this Section, (ii) the scope of the work was not
23 reasonable under the circumstances, (iii) the work exceeded the
24 authorization for the work to be performed under subsection (a)
25 of Section 11-20-7, subsection (a) of Section 11-20-8,
26 subsection (a) of Section 11-20-12, subsection (a) of Section

1 11-20-13, or subsection (a) of Section 11-31-1.01, as
2 applicable, or (iv) the cost of the services rendered or
3 materials provided was not commercially reasonable. Forfeiture
4 of the superior status of the lien otherwise granted by this
5 Section shall not constitute a forfeiture of the lien as a
6 subordinate lien.

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

12 (f) Notwithstanding any other provision of this Section, a
13 municipality may not file a lien pursuant to this Section for
14 activities performed pursuant to Section 11-20-7, Section
15 11-20-8, Section 11-20-12, Section 11-20-13, or Section
16 11-31-1.01, if: (i) the mortgagee or servicer of the abandoned
17 residential property has provided notice to the municipality
18 that the mortgagee or servicer has performed or will perform
19 the remedial actions specified in the notice that the
20 municipality otherwise might perform pursuant to subsection
21 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
22 subsection (d) of Section 11-20-12, subsection (e) of Section
23 11-20-13, or Section 11-31-1.01, provided that the remedial
24 actions specified in the notice have been performed or are
25 performed or initiated in good faith within 30 days of such
26 notice; or (ii) the municipality has provided notice to the

1 mortgagee or servicer of a problem with the property requiring
2 the remedial actions specified in the notice that the
3 municipality otherwise would perform pursuant to subsection
4 (d) of Section 11-20-7, subsection (d) of Section 11-20-8,
5 subsection (d) of Section 11-20-12, subsection (e) of Section
6 11-20-13, or Section 11-31-1.01, and the mortgagee or servicer
7 has performed or performs or initiates in good faith the
8 remedial actions specified in the notice within 30 days of such
9 notice.

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

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

20 "Abandoned residential property" means any type of
21 permanent residential dwelling unit, including detached single
22 family structures, and townhouses, condominium units and
23 multifamily rental apartments covering the entire property,
24 and manufactured homes treated under Illinois law as real
25 estate and not as personal property, that has been unoccupied
26 by any lawful occupant or occupants for at least 90 days, and

1 for which after such 90 day period, the municipality has made
2 good faith efforts to contact the legal owner or owners of the
3 property identified on the recorded mortgage, or, if known, any
4 agent of the owner or owners, and no contact has been made. A
5 property for which the municipality has been given notice of
6 the order of confirmation of sale pursuant to subsection (b-10)
7 of Section 15-1508 of the Code of Civil Procedure shall not be
8 deemed to be an abandoned residential property for the purposes
9 of subsection (d) of Section 11-20-7, subsection (d) of Section
10 11-20-8, subsection (d) of Section 11-20-12, subsection (e) of
11 Section 11-20-13, and Section 11-31-1.01 of this Code.

12 "MERS program" means the nationwide Mortgage Electronic
13 Registration System approved by Fannie Mae, Freddie Mac, and
14 Ginnie Mae that has been created by the mortgage banking
15 industry with the mission of registering every mortgage loan in
16 the United States to lawfully make information concerning each
17 residential mortgage loan and the property securing it
18 available by Internet access to mortgage originators,
19 servicers, warehouse lenders, wholesale lenders, retail
20 lenders, document custodians, settlement agents, title
21 companies, insurers, investors, county recorders, units of
22 local government, and consumers.

23 (i) Any entity or person who performs a removal, securing,
24 or enclosing activity pursuant to the authority of a
25 municipality under subsection (d) of Section 11-20-7,
26 subsection (d) of Section 11-20-8, subsection (d) of Section

1 11-20-12, subsection (e) of Section 11-20-13, or Section
2 11-31-1.01, may, in its, his, or her own name, file a lien
3 pursuant to subsection (b) of this Section and appear in a
4 foreclosure action on that lien pursuant to subsection (d) of
5 this Section in the place of the municipality, provided that
6 the municipality shall remain subject to subsection (c) of this
7 Section, and such party shall be subject to all of the
8 provisions in this Section as if such party were the
9 municipality.

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

21 (65 ILCS 5/11-31-1.01 new)

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

24 (a) In the case of securing or enclosing an abandoned
25 residential property as defined in Section 11-20-15.1, the

1 municipality may elect to secure or enclose the exterior of a
2 building or the underlying parcel on which it is located under
3 this Section without application to the circuit court, in which
4 case the provisions of Section 11-20-15.1 shall be the
5 exclusive remedy for the recovery of the costs of such
6 activity.

7 (b) For the purposes of this Section:

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

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

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

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

3 (205 ILCS 5/5c) (from Ch. 17, par. 312.2)

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

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

1 Section 20. The Real Estate License Act of 2000 is amended
2 by changing Sections 1-10, 5-5, 5-10, 5-15, 5-20, 5-25, 5-35,
3 5-40, 5-45, 5-50, 5-60, 5-65, 5-70, 5-80, 5-85, 10-15, 10-30,
4 15-15, 15-35, 15-45, 15-65, 20-5, 20-10, 20-20, 20-25, 20-50,
5 20-55, 20-60, 20-65, 20-75, 20-85, 20-90, 20-95, 20-100,
6 20-110, 20-115, 25-5, 25-10, 25-13, 25-14, 25-15, 25-20, 25-25,
7 25-30, 25-35, 25-37, 30-5, 30-10, 30-15, 30-20, and 30-25 and
8 by adding Sections 5-6, 5-7, 5-26, 5-27, 5-28, 5-41, 5-46,
9 5-47, 10-35, 10-40, 20-21, 20-22, 20-62, 20-63, 20-64, 20-66,
10 20-67, 20-68, 20-69, 20-72, 20-73, 20-82, and 25-21 as follows:

11 (225 ILCS 454/1-10)

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

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

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

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

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

25 "Agency" means a relationship in which a real estate broker

1 or licensee, whether directly or through an affiliated
2 licensee, represents a consumer by the consumer's consent,
3 whether express or implied, in a real property transaction.

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

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

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

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

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

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

3 (2) Offers to sell, exchange, purchase, rent, or lease
4 real estate.

5 (3) Negotiates, offers, attempts, or agrees to
6 negotiate the sale, exchange, purchase, rental, or leasing
7 of real estate.

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

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

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

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

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

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

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

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

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

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

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

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

- 20 (1) commissions;
- 21 (2) referral fees;
- 22 (3) bonuses;
- 23 (4) prizes;
- 24 (5) merchandise;
- 25 (6) finder fees;
- 26 (7) performance of services;

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

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

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

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

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

26 "Continuing education school" means any person licensed by

1 the Department ~~OBRE~~ as a school for continuing education in
2 accordance with Section 30-15 of this Act.

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

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

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

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

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

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

20 ~~"Director" means the Director of the Real Estate Division,~~
21 ~~OBRE.~~

22 "Dual agency" means an agency relationship in which a
23 licensee is representing both buyer and seller or both landlord
24 and tenant in the same transaction. When the agency
25 relationship is a designated agency, the question of whether
26 there is a dual agency shall be determined by the agency

1 relationships of the designated agent of the parties and not of
2 the sponsoring broker.

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

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

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

26 "Inoperative" means a status of licensure where the

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

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

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

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

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

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

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

26 "Managing broker" means a broker who has supervisory

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

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

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

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

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

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

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

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

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

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

26 "Proctor" means any person, including, but not limited to,

1 an instructor, who has a written agreement to administer
2 examinations fairly and impartially with a licensed
3 pre-license school or a licensed continuing education school.

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

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

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

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

24 "Secretary" means the Secretary of the Department of
25 Financial and Professional Regulation, or a person authorized
26 by the Secretary to act in the Secretary's stead.

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

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

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

11 (225 ILCS 454/5-5)

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

13 Sec. 5-5. Leasing agent license.

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

20 (b) Notwithstanding the other provisions of this Act, there
21 is hereby created a leasing agent license that shall enable the
22 licensee to engage only in residential leasing activities for
23 which a license is required under this Act. Such activities
24 include without limitation leasing or renting residential real
25 property, or attempting, offering, or negotiating to lease or

1 rent residential real property, or supervising the collection,
2 offer, attempt, or agreement to collect rent for the use of
3 residential real property. Nothing in this Section shall be
4 construed to require a licensed real estate broker or
5 salesperson to obtain a leasing agent license in order to
6 perform leasing activities for which a license is required
7 under this Act. Licensed leasing agents must be sponsored and
8 employed by a sponsoring broker.

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

13 (d) Notwithstanding any other provisions of this Act to the
14 contrary, a person may engage in residential leasing activities
15 for which a license is required under this Act, for a period of
16 120 consecutive days without being licensed, so long as the
17 person is acting under the supervision of a licensed real
18 estate broker and the broker has notified the Department ~~OBRE~~
19 that the person is pursuing licensure under this Section.
20 During the 120 day period all requirements of Sections 5-10 and
21 5-65 of this Act with respect to education, successful
22 completion of an examination, and the payment of all required
23 fees must be satisfied. The Department ~~OBRE~~ may adopt rules to
24 ensure that the provisions of this subsection are not used in a
25 manner that enables an unlicensed person to repeatedly or
26 continually engage in activities for which a license is

1 required under this Act.

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

3 (225 ILCS 454/5-6 new)

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

10 (225 ILCS 454/5-7 new)

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

19 (225 ILCS 454/5-10)

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

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

22 ~~Application for leasing agent license.~~

23 (a) Every applicant for licensure as a leasing agent must

1 meet the following qualifications:

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

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

11 ~~(3) successfully complete completed~~ a 4-year course of
12 study in a high school or secondary school or an equivalent
13 course of study approved by the Illinois State Board of
14 Education; ~~, and shall successfully complete~~

15 ~~(4) personally take and pass a written examination~~
16 authorized by ~~the Department~~ ~~OBRE~~ sufficient to
17 demonstrate the applicant's knowledge of the provisions of
18 this Act relating to leasing agents and the applicant's
19 competence to engage in the activities of a licensed
20 leasing agent; ~~. Applicants must successfully complete~~

21 ~~(5) provide satisfactory evidence of having completed~~
22 15 hours of instruction in an approved course of study
23 relating to the leasing of residential real property. The
24 course of study shall, among other topics, cover the
25 provisions of this Act applicable to leasing agents; fair
26 housing issues relating to residential leasing;

1 advertising and marketing issues; leases, applications,
2 and credit reports; owner-tenant relationships and
3 owner-tenant laws; the handling of funds; and
4 environmental issues relating to residential real
5 property;

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

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

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

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

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

2 (225 ILCS 454/5-15)

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

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

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

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

23 (c) No partnership shall be granted a license or engage in
24 the business or serve in the capacity, either directly or
25 indirectly, of a real estate broker, unless every general

1 partner in the partnership holds a license as a managing broker
2 or ~~real-estate~~ broker and unless every employee who acts as a
3 salesperson or leasing agent for the partnership holds a
4 license as a ~~real-estate~~ broker, salesperson, or leasing agent.
5 In the case of a registered limited liability partnership
6 (LLP), every partner in the LLP must hold a license as a
7 managing broker or ~~real-estate~~ broker and every employee who
8 acts as a salesperson or leasing agent must hold a license as a
9 ~~real-estate~~ broker, salesperson, or leasing agent.

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

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

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

1 (225 ILCS 454/5-20)

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

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

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

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

24 (3) Any person acting as receiver, trustee in
25 bankruptcy, administrator, executor, or guardian or while

1 acting under a court order or under the authority of a will
2 or testamentary trust.

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

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

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

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

23 (8) Railroads and other public utilities regulated by
24 the State of Illinois, or the officers or full time
25 employees thereof, unless the performance of any licensed
26 activities is in connection with the sale, purchase, lease,

1 or other disposition of real estate or investment therein
2 not needing the approval of the appropriate State
3 regulatory authority.

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

8 (10) Any resident lessee of a residential dwelling unit
9 who refers for compensation to the owner of the dwelling
10 unit, or to the owner's agent, prospective lessees of
11 dwelling units in the same building or complex as the
12 resident lessee's unit, but only if the resident lessee (i)
13 refers no more than 3 prospective lessees in any 12-month
14 period, (ii) receives compensation of no more than \$1,500
15 ~~\$1,000~~ or the equivalent of one month's rent, whichever is
16 less, in any 12-month period, and (iii) limits his or her
17 activities to referring prospective lessees to the owner,
18 or the owner's agent, and does not show a residential
19 dwelling unit to a prospective lessee, discuss terms or
20 conditions of leasing a dwelling unit with a prospective
21 lessee, or otherwise participate in the negotiation of the
22 leasing of a dwelling unit.

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

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

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

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

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

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

24 (D) the license issued under the Auction License
25 Act has not been disciplined for violation of those
26 provisions of Article 20 of the Auction License Act

1 dealing with or related to the sale or lease of real
2 estate at auction.

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

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

11 (225 ILCS 454/5-25)

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

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

15 ~~(a) Every person who desires to obtain a license shall make~~
16 ~~application to OBRE in writing upon forms prepared and~~
17 ~~furnished by OBRE. In addition to any other information~~
18 ~~required to be contained in the application, every application~~
19 ~~for an original or renewed license shall include the~~
20 ~~applicant's Social Security number. Each applicant shall be at~~
21 ~~least 21 years of age, be of good moral character, and have~~
22 ~~successfully completed a 4-year course of study in a high~~
23 ~~school or secondary school approved by the Illinois State Board~~
24 ~~of Education or an equivalent course of study as determined by~~
25 ~~an examination conducted by the Illinois State Board of~~

1 ~~Education and shall be verified under oath by the applicant.~~
2 ~~The minimum age of 21 years shall be waived for any person~~
3 ~~seeking a license as a real estate salesperson who has attained~~
4 ~~the age of 18 and can provide evidence of the successful~~
5 ~~completion of at least 4 semesters of post secondary school~~
6 ~~study as a full time student or the equivalent, with major~~
7 ~~emphasis on real estate courses, in a school approved by OBRE.~~

8 ~~(b)~~ When an applicant has had his or her license revoked on
9 a prior occasion or when an applicant is found to have
10 committed any of the practices enumerated in Section 20-20 of
11 this Act or when an applicant has been convicted of or enters a
12 plea of guilty or nolo contendere to forgery, embezzlement,
13 obtaining money under false pretenses, larceny, extortion,
14 conspiracy to defraud, or any other similar offense or offenses
15 or has been convicted of a felony involving moral turpitude in
16 any court of competent jurisdiction in this or any other state,
17 district, or territory of the United States or of a foreign
18 country, the Board may consider the prior revocation, conduct,
19 or conviction in its determination of the applicant's moral
20 character and whether to grant the applicant a license. In its
21 consideration of the prior revocation, conduct, or conviction,
22 the Board shall take into account the nature of the conduct,
23 any aggravating or extenuating circumstances, the time elapsed
24 since the revocation, conduct, or conviction, the
25 rehabilitation or restitution performed by the applicant, and
26 any other factors that the Board deems relevant. When an

1 applicant has made a false statement of material fact on his or
2 her application, the false statement may in itself be
3 sufficient grounds to revoke or refuse to issue a license.

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

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

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

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

23 (225 ILCS 454/5-26 new)

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

25 (a) Every applicant for licensure as a salesperson must

1 meet the following qualifications:

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

10 (2) Be of good moral character;

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

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

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

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

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

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

8 (d) No new salesperson licenses shall be issued after April
9 30, 2011 and all existing salesperson licenses shall terminate
10 on May 1, 2012.

11 (225 ILCS 454/5-27 new)

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

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

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

23 (2) Be of good moral character;

24 (3) Successfully complete a 4-year course of study in a
25 high school or secondary school approved by the Illinois

1 State Board of Education or an equivalent course of study
2 as determined by an examination conducted by the Illinois
3 State Board of Education which shall be verified under oath
4 by the applicant;

5 (4) Prior to May 1, 2011, provide (i) satisfactory
6 evidence of having completed at least 120 classroom hours,
7 45 of which shall be those hours required to obtain a
8 salesperson's license plus 15 hours in brokerage
9 administration courses, in real estate courses approved by
10 the Advisory Council or (ii) for applicants who currently
11 hold a valid real estate salesperson's license, give
12 satisfactory evidence of having completed at least 75 hours
13 in real estate courses, not including the courses that are
14 required to obtain a salesperson's license, approved by the
15 Advisory Council;

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

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

25 (7) Present a valid application for issuance of a
26 license accompanied by a sponsor card and the fees

1 specified by rule.

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

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

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

13 (225 ILCS 454/5-28 new)

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

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

17 (1) be at least 21 years of age;

18 (2) be of good moral character;

19 (3) have been licensed at least 2 out of the preceding
20 3 years as a real estate broker or salesperson;

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

1 oath by the applicant;

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

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

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

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

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

25 (225 ILCS 454/5-35)

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

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

4 (a) The Department shall authorize ~~Every person who makes~~
5 ~~application for an original license as a broker or salesperson~~
6 ~~shall personally take and pass a written examination authorized~~
7 ~~by OBRE and answer any questions that may be required to~~
8 ~~determine the good moral character of the applicant and the~~
9 ~~applicant's competency to transact the business of broker or~~
10 ~~salesperson, as the case may be, in such a manner as to~~
11 ~~safeguard the interests of the public. In determining this~~
12 ~~competency, OBRE shall require proof that the applicant has a~~
13 ~~good understanding and the knowledge to conduct real estate~~
14 ~~brokerage and of the provisions of this Act. The examination~~
15 ~~shall be prepared by an independent testing service designated~~
16 ~~by OBRE, subject to the approval of the examinations by the~~
17 ~~Board. The designated independent testing service shall~~
18 ~~conduct the examinations at such times and places as it may~~
19 designate. The examination shall be of a character to give a
20 fair test of the qualifications of the applicant to practice as
21 a managing broker, broker, salesperson, or leasing agent.
22 Applicants for examination as a managing broker, broker,
23 salesperson, or leasing agent shall be required to pay, either
24 to the Department or the designated testing service, a fee
25 covering the cost of providing the examination. Failure to
26 appear for the examination on the scheduled date, at the time

1 and place specified, after the applicant's application for
2 examination has been received and acknowledged by the
3 Department or the designated testing service, shall result in
4 the forfeiture of the examination fee. ~~OBRE shall approve. In~~
5 ~~addition, every person who desires to take the written~~
6 ~~examination shall make application to do so to OBRE or to the~~
7 ~~designated independent testing service in writing upon forms~~
8 ~~approved by OBRE.~~ An applicant shall be eligible to take the
9 examination only after successfully completing the education
10 requirements, ~~set forth in Section 5-30 of this Act,~~ and
11 attaining the minimum age provided for ~~specified~~ in Article 5
12 of this Act. Each applicant shall be required to establish
13 compliance with the eligibility requirements in the manner
14 provided by the rules promulgated for the administration of
15 this Act.

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

22 (c) If an applicant has failed an examination 4 ~~3~~ times,
23 the applicant must repeat the pre-license education required to
24 sit for the examination. For the purposes of this Section, the
25 fifth ~~fourth~~ attempt shall be the same as the first. Approved
26 education, as prescribed by this Act for licensure as a

1 salesperson or broker, shall be valid for 4 ~~3~~ years after the
2 date of satisfactory completion of the education.

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

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

6 (225 ILCS 454/5-40)

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

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

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

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

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

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

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

1 (225 ILCS 454/5-41 new)

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

6 (225 ILCS 454/5-45)

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

8 Sec. 5-45. Offices.

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

18 (b) The sponsoring broker shall name a managing broker for
19 each branch office and the sponsoring broker shall be
20 responsible for supervising all managing brokers. The
21 sponsoring broker shall notify the Department ~~OPRE~~ in writing
22 of the name of all managing brokers of the sponsoring broker
23 and the office or offices they manage. Any person initially
24 named as a managing broker after April 30, 2011 must either (i)
25 be licensed as a managing broker or (ii) meet all the

1 requirements to be licensed as a managing broker except the
2 required education and examination and secure the managing
3 broker's license within 90 days of being named as a managing
4 broker. Any changes in managing brokers shall be reported to
5 the Department ~~OBRE~~ in writing within 15 days of the change.
6 Failure to do so shall subject the sponsoring broker to
7 discipline under Section 20-20 of this Act.

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

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

1 conditions are met:

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

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

6 (3) the broker has filed with the Department ~~OBRE~~
7 written statements appointing the Secretary ~~Commissioner~~
8 to act as the broker's agent upon whom all judicial and
9 other process or legal notices directed to the licensee may
10 be served and agreeing to abide by all of the provisions of
11 this Act with respect to his or her real estate activities
12 within the State of Illinois and submitting to the
13 jurisdiction of the Department ~~OBRE~~.

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

18 (e) Upon the loss of a managing broker who is not replaced
19 by the sponsoring broker or in the event of the death or
20 adjudicated disability of the sole proprietor of an office, a
21 written request for authorization allowing the continued
22 operation of the office may be submitted to the Department ~~OBRE~~
23 within 15 days of the loss. The Department ~~OBRE~~ may issue a
24 written authorization allowing the continued operation,
25 provided that a licensed broker, or in the case of the death or
26 adjudicated disability of a sole proprietor, the

1 representative of the estate, assumes responsibility, in
2 writing, for the operation of the office and agrees to
3 personally supervise the operation of the office. No such
4 written authorization shall be valid for more than 60 days
5 unless extended by the Department ~~OBRE~~ for good cause shown and
6 upon written request by the broker or representative.

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

8 (225 ILCS 454/5-46 new)

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

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

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

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

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

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

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

13 (225 ILCS 454/5-47 new)

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

15 (a) A new license for managing brokers is created effective
16 May 1, 2011. The following transition rules shall apply for
17 those brokers listed as managing brokers with the Department as
18 of April 30, 2011. Those individuals licensed as brokers and
19 listed as managing brokers with the Department as of April 30,
20 2011 must meet the following qualifications to obtain a
21 managing broker's license:

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

1 school; or

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

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

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

13 (225 ILCS 454/5-50)

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

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

18 (a) The expiration date and renewal period for each license
19 issued under this Act shall be set by rule, except that the
20 first renewal period ending after the effective date of this
21 Act for those licensed as a salesperson shall be extended
22 through April 30, 2012. Except as otherwise provided in this
23 ~~Section 5-55 of this Act,~~ the holder of a license may renew the
24 license within 90 days preceding the expiration date thereof by
25 completing the continuing education required by this Act and

1 paying the fees specified by rule. ~~Upon written request from~~
2 ~~the sponsoring broker, OBRE shall prepare and mail to the~~
3 ~~sponsoring broker a listing of licensees under this Act who,~~
4 ~~according to the records of OBRE, are sponsored by that broker.~~
5 ~~Every licensee associated with or employed by a broker whose~~
6 ~~license is revoked, suspended, terminated, or expired shall be~~
7 ~~considered as inoperative until such time as the sponsoring~~
8 ~~broker's license is reinstated or renewed, or the licensee~~
9 ~~changes employment as set forth in subsection (c) of Section~~
10 ~~5-40 of this Act.~~

11 (b) An individual whose first license is that of a broker
12 received after April 30, 2011, must provide evidence of having
13 completed 30 hours of post-license education in courses
14 approved by the Advisory Council, 15 hours of which must
15 consist of situational and case studies presented in the
16 classroom or by other interactive delivery method presenting
17 instruction and real time discussion between the instructor and
18 the students, and personally take and pass an examination
19 approved by the Department prior to the first renewal of their
20 broker's license. ~~OBRE shall establish and maintain a register~~
21 ~~of all persons currently licensed by the State and shall issue~~
22 ~~and prescribe a form of pocket card. Upon payment by a licensee~~
23 ~~of the appropriate fee as prescribed by rule for engagement in~~
24 ~~the activity for which the licensee is qualified and holds a~~
25 ~~license for the current period, OBRE shall issue a pocket card~~
26 ~~to the licensee. The pocket card shall be verification that the~~

1 ~~required fee for the current period has been paid and shall~~
2 ~~indicate that the person named thereon is licensed for the~~
3 ~~current renewal period as a broker, salesperson, or leasing~~
4 ~~agent as the case may be. The pocket card shall further~~
5 ~~indicate that the person named thereon is authorized by OBRE to~~
6 ~~engage in the licensed activity appropriate for his or her~~
7 ~~status (broker, salesperson, or leasing agent). Each licensee~~
8 ~~shall carry on his or her person his or her pocket card or, if~~
9 ~~such pocket card has not yet been issued, a properly issued~~
10 ~~sponsor card when engaging in any licensed activity and shall~~
11 ~~display the same on demand.~~

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

24 (d) Notwithstanding any other provisions of this Act to the
25 contrary, any managing broker, broker, salesperson or leasing
26 agent whose license expired while he or she was (i) on active

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

12 (e) The Department shall establish and maintain a register
13 of all persons currently licensed by the State and shall issue
14 and prescribe a form of pocket card. Upon payment by a licensee
15 of the appropriate fee as prescribed by rule for engagement in
16 the activity for which the licensee is qualified and holds a
17 license for the current period, the Department shall issue a
18 pocket card to the licensee. The pocket card shall be
19 verification that the required fee for the current period has
20 been paid and shall indicate that the person named thereon is
21 licensed for the current renewal period as a managing broker,
22 broker, salesperson, or leasing agent as the case may be. The
23 pocket card shall further indicate that the person named
24 thereon is authorized by the Department to engage in the
25 licensed activity appropriate for his or her status (managing
26 broker, broker, salesperson, or leasing agent). Each licensee

1 shall carry on his or her person his or her pocket card or, if
2 such pocket card has not yet been issued, a properly issued
3 sponsor card when engaging in any licensed activity and shall
4 display the same on demand.

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

10 (g) Upon request from the sponsoring broker, the Department
11 shall make available to the sponsoring broker, either by mail
12 or by an electronic means at the discretion of the Department,
13 a listing of licensees under this Act who, according to the
14 records of the Department, are sponsored by that broker. Every
15 licensee associated with or employed by a broker whose license
16 is revoked, suspended, terminated, or expired shall be
17 considered as inoperative until such time as the sponsoring
18 broker's license is reinstated or renewed, or the licensee
19 changes employment as set forth in subsection (c) of Section
20 5-40 of this Act.

21 (Source: P.A. 93-957, eff. 8-19-04.)

22 (225 ILCS 454/5-60)

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

24 Sec. 5-60. Managing broker ~~Broker~~ licensed in another
25 state; broker licensed in another state; ~~nonresident~~

1 salesperson licensed in another state; reciprocal agreements;
2 agent for service of process.

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

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

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

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

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

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

26 (6) the managing broker was licensed by an examination

1 in the state that has entered into a reciprocal agreement
2 with the Department.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the Department ~~OBRE~~.

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

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

22 (f) ~~(e)~~ Licenses previously granted under reciprocal
23 agreements with other states shall remain in force so long as
24 the Department ~~OBRE~~ has a reciprocal agreement with the state
25 that includes the requirements of this Section, unless that
26 license is suspended, revoked, or terminated by the Department

1 ~~OBRE~~ for any reason provided for suspension, revocation, or
2 termination of a resident licensee's license. Licenses granted
3 under reciprocal agreements may be renewed in the same manner
4 as a resident's license.

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

26 (h) ~~(g)~~ Any person holding a valid license under this

1 Section shall be eligible to obtain a resident managing
2 broker's license, a broker's license, or, prior to May 1, 2011,
3 a salesperson's license without examination should that person
4 change their state of domicile to Illinois and that person
5 otherwise meets the qualifications for ~~or~~ licensure under this
6 Act.

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

8 (225 ILCS 454/5-65)

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

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

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

18 (225 ILCS 454/5-70)

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

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

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

24 (b) Except as otherwise provided in this Section, each

1 person who applies for renewal of his or her license as a
2 managing broker, real estate broker, or real estate salesperson
3 must successfully complete 6 hours of real estate continuing
4 education courses approved by the Advisory Council for each
5 year of the pre-renewal period. Broker licensees must
6 successfully complete a 6-hour broker management continuing
7 education course approved by the Department for the pre-renewal
8 period ending April 30, 2010 ~~at the rate of 6 hours per year or~~
9 ~~its equivalent.~~ In addition, beginning with the pre-renewal
10 period for managing broker licensees that begins after the
11 effective date of this Act, ~~those licensees renewing or~~
12 ~~obtaining a managing~~ ~~amendatory Act of the 93rd General~~
13 ~~Assembly, to renew a real estate broker's license, the licensee~~
14 must successfully complete a 12-hour ~~6-hour~~ broker management
15 continuing education course approved by the Department each
16 pre-renewal period. The broker management continuing education
17 course must be completed in the classroom or by other
18 interactive delivery method presenting instruction and real
19 time discussion between the instructor and the students ~~OBRE.~~
20 Successful completion of the course shall include achieving a
21 passing score as provided by rule on a test developed and
22 administered in accordance with rules adopted by the Department
23 ~~OBRE.~~ ~~Beginning on the first day of the pre-renewal period for~~
24 ~~broker licensees that begins after the effective date of this~~
25 ~~amendatory Act of the 93rd General Assembly, the 6-hour broker~~
26 ~~management continuing education course must be completed by all~~

1 ~~persons receiving their initial broker's license within 180~~
2 ~~days after the date of initial licensure as a broker.~~ No
3 license may be renewed except upon the successful completion of
4 the required courses or their equivalent or upon a waiver of
5 those requirements for good cause shown as determined by the
6 Secretary ~~Commissioner~~ with the recommendation of the Advisory
7 Council. The requirements of this Article are applicable to all
8 managing brokers, brokers, and salespersons except those
9 brokers and salespersons who, during the pre-renewal period:

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

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

12 (3) serve as a full-time employee of the Department
13 ~~OBRE~~; or

14 (4) are admitted to practice law pursuant to Illinois
15 Supreme Court rule.

16 (c) A person licensed as a salesperson as of April 30, 2011
17 ~~who is issued an initial license as a real estate salesperson~~
18 ~~less than one year prior to the expiration date of that license~~
19 shall not be required to complete the 18 hours of continuing
20 education for the pre-renewal period ending April 30, 2012 if
21 that person takes the 30-hour post-licensing course to obtain a
22 broker's license. A person licensed as a broker as of April 30,
23 2011 shall not be required to complete the 12 hours of broker
24 management continuing education for the pre-renewal period
25 ending April 30, 2012, unless that person passes the
26 proficiency exam provided for in Section 5-47 of this Act to

1 ~~qualify for a managing broker's license continuing education as~~
2 ~~a condition of license renewal. A person who is issued an~~
3 ~~initial license as a real estate broker less than one year~~
4 ~~prior to the expiration date of that license and who has not~~
5 ~~been licensed as a real estate salesperson during the~~
6 ~~pre renewal period shall not be required to complete continuing~~
7 ~~education as a condition of license renewal.~~

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

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

1 establishing the elective curriculum, the Advisory Council
2 shall consider subjects that cover the various aspects of the
3 practice of real estate that are covered under the scope of
4 this Act. However, the elective curriculum shall not include
5 any offerings referred to in Section 5-85 of this Act.

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

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

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

26 (h) ~~(g)~~ Credit hours may be earned for self-study programs

1 approved by the Advisory Council.

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

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

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

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

1 (Source: P.A. 93-957, eff. 8-19-04.)

2 (225 ILCS 454/5-80)

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

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

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

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

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

17 (225 ILCS 454/5-85)

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

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

22 (1) Examination preparation offerings, except as
23 provided in Section 5-70 of this Act.

24 (2) Offerings in mechanical office and business skills

1 such as typing, speed reading, memory improvement,
2 advertising, or psychology of sales.

3 (3) Sales promotion or other meetings held in
4 conjunction with the general business of the attendee or
5 his or her employer.

6 (4) Meetings that are a normal part of in-house staff
7 or employee training.

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

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

13 (225 ILCS 454/10-15)

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

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

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

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

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

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

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

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

24 (225 ILCS 454/10-30)

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

1 Sec. 10-30. Advertising.

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

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

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

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

25 (2) A sponsored or inoperative licensee selling or
26 leasing property, owned solely by the sponsored or

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

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

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

20 (C) A sponsored or inoperative licensee shall not
21 use the sponsoring broker's name or the sponsoring
22 broker's company name in connection with the sale,
23 lease, or advertisement of the property nor utilize the
24 sponsoring broker's or company's name in connection
25 with the sale, lease, or advertising of the property in
26 a manner likely to create confusion among the public as

1 to whether or not the services of a real estate company
2 are being utilized or whether or not a real estate
3 company has an ownership interest in the property.

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

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

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

21 (e) No licensee shall list his or her name under the
22 heading or title "Real Estate" in the telephone directory or
23 otherwise advertise in his or her own name to the general
24 public through any medium of advertising as being in the real
25 estate business without listing his or her sponsoring broker's
26 business name.

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

6 (g) Those individuals licensed as a managing broker and
7 designated with the Department as a managing broker by their
8 sponsoring broker shall identify themselves to the public in
9 advertising as a managing broker. No other individuals holding
10 a managing broker's license may hold themselves out to the
11 public or other licensees as a managing broker.

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

13 (225 ILCS 454/10-35 new)

14 Sec. 10-35. Internet and related advertising.

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

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

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

23 (2) deceptively or without authorization frame another
24 real estate brokerage or multiple listing service website;
25 or

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

4 (225 ILCS 454/10-40 new)

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

9 (1) the agency policy of the entity;

10 (2) fair housing, nondiscrimination and harassment;

11 (3) confidentiality of client information;

12 (4) advertising;

13 (5) training and supervision of sponsored licensees;

14 (6) required disclosures and use of forms;

15 (7) handling of risk management matters; and

16 (8) handling of earnest money and escrows.

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

19 (225 ILCS 454/15-15)

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

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

22 (a) A licensee representing a client shall:

23 (1) Perform the terms of the brokerage agreement
24 between a broker and the client.

1 (2) Promote the best interest of the client by:

2 (A) Seeking a transaction at the price and terms
3 stated in the brokerage agreement or at a price and
4 terms otherwise acceptable to the client.

5 (B) Timely presenting all offers to and from the
6 client, unless the client has waived this duty.

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

16 (D) Timely accounting for all money and property
17 received in which the client has, may have, or should
18 have had an interest.

19 (E) Obeying specific directions of the client that
20 are not otherwise contrary to applicable statutes,
21 ordinances, or rules.

22 (F) Acting in a manner consistent with promoting
23 the client's best interests as opposed to a licensee's
24 or any other person's self-interest.

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

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

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

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

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

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

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

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

5 (225 ILCS 454/15-35)

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

7 Sec. 15-35. Agency relationship disclosure.

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

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

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

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

25 (c) ~~(b)~~ A licensee shall disclose in writing to a customer

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

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

9 (225 ILCS 454/15-45)

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

11 Sec. 15-45. Dual agency.

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

16 "The undersigned (insert name(s)), ("Licensee"), may
17 undertake a dual representation (represent both the seller
18 or landlord and the buyer or tenant) for the sale or lease
19 of property. The undersigned acknowledge they were
20 informed of the possibility of this type of representation.
21 Before signing this document please read the following:
22 Representing more than one party to a transaction presents
23 a conflict of interest since both clients may rely upon
24 Licensee's advice and the client's respective interests
25 may be adverse to each other. Licensee will undertake this

1 representation only with the written consent of ALL clients
2 in the transaction. Any agreement between the clients as to
3 a final contract price and other terms is a result of
4 negotiations between the clients acting in their own best
5 interests and on their own behalf. You acknowledge that
6 Licensee has explained the implications of dual
7 representation, including the risks involved, and
8 understand that you have been advised to seek independent
9 advice from your advisors or attorneys before signing any
10 documents in this transaction.

11 WHAT A LICENSEE CAN DO FOR CLIENTS

12 WHEN ACTING AS A DUAL AGENT

- 13 1. Treat all clients honestly.
- 14 2. Provide information about the property to the buyer or
15 tenant.
- 16 3. Disclose all latent material defects in the property
17 that are known to the Licensee.
- 18 4. Disclose financial qualification of the buyer or tenant
19 to the seller or landlord.
- 20 5. Explain real estate terms.
- 21 6. Help the buyer or tenant to arrange for property
22 inspections.
- 23 7. Explain closing costs and procedures.
- 24 8. Help the buyer compare financing alternatives.
- 25 9. Provide information about comparable properties that
26 have sold so both clients may make educated decisions on

1 what price to accept or offer.

2 WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN

3 ACTING AS A DUAL AGENT

4 1. Confidential information that Licensee may know about a
5 client, without that client's permission.

6 2. The price or terms the seller or landlord will take
7 other than the listing price without permission of the
8 seller or landlord.

9 3. The price or terms the buyer or tenant is willing to pay
10 without permission of the buyer or tenant.

11 4. A recommended or suggested price or terms the buyer or
12 tenant should offer.

13 5. A recommended or suggested price or terms the seller or
14 landlord should counter with or accept.

15 If either client is uncomfortable with this disclosure
16 and dual representation, please let Licensee know. You are
17 not required to sign this document unless you want to allow
18 Licensee to proceed as a Dual Agent in this transaction. By
19 signing below, you acknowledge that you have read and
20 understand this form and voluntarily consent to Licensee
21 acting as a Dual Agent (that is, to represent BOTH the
22 seller or landlord and the buyer or tenant) should that
23 become necessary."

24 (b) The dual agency disclosure form provided for in
25 subsection (a) of this Section must be presented by a licensee,
26 who offers dual representation, to the client at the time the

1 brokerage agreement is entered into and may be signed by the
2 client at that time or at any time before the licensee acts as
3 a dual agent as to the client.

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

16 "The undersigned confirm that they have previously
17 consented to (insert name(s)), ("Licensee"), acting as a
18 Dual Agent in providing brokerage services on their behalf
19 and specifically consent to Licensee acting as a Dual Agent
20 in regard to the transaction referred to in this document."

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

26 (e) In the case of dual agency, each client and the

1 licensee possess only actual knowledge and information. There
2 shall be no imputation of knowledge or information among or
3 between clients, brokers, or their affiliated licensees.

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

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

16 (225 ILCS 454/15-65)

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

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

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

1 (225 ILCS 454/20-5)

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

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

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

13 (225 ILCS 454/20-10)

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

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

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

1 the provision of a hearing for the discipline of a license.

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

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

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

10 (225 ILCS 454/20-20)

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

12 Sec. 20-20. Grounds for discipline ~~Disciplinary actions,~~
13 ~~causes.~~

14 (a) The Department ~~OBRE~~ may refuse to issue or renew a
15 license, may place on probation, suspend, or revoke any
16 license, ~~or may censure,~~ reprimand, or take any other
17 disciplinary or non-disciplinary action as the Department may
18 deem proper ~~otherwise discipline~~ or impose a ~~civil~~ fine not to
19 exceed \$25,000 upon any licensee under this Act or against a
20 licensee in handling his or her own property, whether held by
21 deed, option, or otherwise, ~~hereunder~~ for any one or any
22 combination of the following causes:

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

1 ~~the applicant or licensee has, by false or fraudulent~~
2 ~~representation, obtained or sought to obtain a license.~~

3 (2) The conviction of, plea of guilty or plea of nolo
4 contendre to a felony or misdemeanor ~~(b) When the applicant~~
5 ~~or licensee has been convicted of any crime, an essential~~
6 element of which is dishonesty or fraud or larceny,
7 embezzlement, or obtaining money, property, or credit by
8 false pretenses or by means of a confidence game, in ~~has~~
9 ~~been convicted in this or another state of a crime that is~~
10 ~~a felony under the laws of this State, or any other~~
11 jurisdiction ~~has been convicted of a felony in a federal~~
12 ~~court.~~

13 (3) Inability to practice the profession with
14 reasonable judgment, skill, or safety as a result of a
15 physical illness, including, but not limited to,
16 deterioration through the aging process or loss of motor
17 skill, or a mental illness or disability ~~(c) When the~~
18 ~~applicant or licensee has been adjudged to be a person~~
19 ~~under legal disability or subject to involuntary admission~~
20 ~~or to meet the standard for judicial admission as provided~~
21 ~~in the Mental Health and Developmental Disabilities Code.~~

22 (4) Practice under this Act as a ~~(d) When the licensee~~
23 ~~performs or attempts to perform any act as a broker or~~
24 ~~salesperson~~ in a retail sales establishment from an office,
25 desk, or space that is not separated from the main retail
26 business by a separate and distinct area within the

1 establishment.

2 (5) Disciplinary action of another state or
3 jurisdiction against the license or other authorization to
4 practice as a managing broker, broker, salesperson, or
5 leasing agent ~~(e) Discipline of a licensee by another~~
6 ~~state, the District of Columbia, a territory, a foreign~~
7 ~~nation, a governmental agency, or any other entity~~
8 ~~authorized to impose discipline~~ if at least one of the
9 grounds for that discipline is the same as or the
10 equivalent of one of the grounds for discipline set forth
11 in this Act. A certified copy of the record of the action
12 by the other state or jurisdiction shall be prima facie
13 evidence thereof, ~~in which case the only issue will be~~
14 ~~whether one of the grounds for that discipline is the same~~
15 ~~or equivalent to one of the grounds for discipline under~~
16 ~~this Act.~~

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

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

24 (8) Aiding or abetting ~~aids and abets~~ an applicant to
25 subvert or cheat on the Real Estate License Exam or
26 continuing education exam administered pursuant to this

1 Act.

2 (9) Advertising that is inaccurate, misleading, or
3 contrary to the provisions of the Act. ~~(h) When the~~
4 ~~licensee in performing, attempting to perform, or~~
5 ~~pretending to perform any act as a broker, salesperson, or~~
6 ~~leasing agent or when the licensee in handling his or her~~
7 ~~own property, whether held by deed, option, or otherwise,~~
8 ~~is found guilty of:~~

9 (10) ~~(1)~~ Making any substantial misrepresentation or
10 untruthful advertising.

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

13 (12) ~~(3)~~ Pursuing a continued and flagrant course of
14 misrepresentation or the making of false promises through
15 licensees, employees, agents, advertising, or otherwise.

16 (13) ~~(4)~~ Any misleading or untruthful advertising, or
17 using any trade name or insignia of membership in any real
18 estate organization of which the licensee is not a member.

19 (14) ~~(5)~~ Acting for more than one party in a
20 transaction without providing written notice to all
21 parties for whom the licensee acts.

22 (15) ~~(6)~~ Representing or attempting to represent a
23 broker other than the sponsoring broker.

24 (16) ~~(7)~~ Failure to account for or to remit any moneys
25 or documents coming into his or her possession that belong
26 to others.

1 (17) ~~(8)~~ Failure to maintain and deposit in a special
2 account, separate and apart from personal and other
3 business accounts, all escrow moneys belonging to others
4 entrusted to a licensee while acting as a real estate
5 broker, escrow agent, or temporary custodian of the funds
6 of others or failure to maintain all escrow moneys on
7 deposit in the account until the transactions are
8 consummated or terminated, except to the extent that the
9 moneys, or any part thereof, shall be:

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

19 (B) deemed abandoned and transferred to the Office
20 of the State Treasurer to be handled as unclaimed
21 property pursuant to the Uniform Disposition of
22 Unclaimed Property Act. Escrow moneys may be deemed
23 abandoned under this subparagraph (B) only: (i) in the
24 absence of disbursement under subparagraph (A); (ii)
25 in the absence of notice of the filing of any claim in
26 a court of competent jurisdiction; and (iii) if 6

1 months have elapsed after the receipt of a written
2 demand for the escrow moneys from one of the principals
3 to the transaction or the principal's duly authorized
4 agent.

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

11 (18) ~~(9)~~ Failure to make available to the Department
12 ~~real estate enforcement personnel of OBRE during normal~~
13 ~~business hours~~ all escrow records and related documents
14 maintained in connection with the practice of real estate
15 within 24 hours of a request for those documents by
16 Department ~~OBRE~~ personnel.

17 (19) ~~(10)~~ Failing to furnish copies upon request of ~~all~~
18 documents relating to a real estate transaction to a party
19 who has executed that document ~~all parties executing them.~~

20 (20) ~~(11)~~ Failure of a sponsoring broker to timely
21 provide information, sponsor cards, or termination of
22 licenses to the Department ~~OBRE~~.

23 (21) ~~(12)~~ Engaging in dishonorable, unethical, or
24 unprofessional conduct of a character likely to deceive,
25 defraud, or harm the public.

26 (22) ~~(13)~~ Commingling the money or property of others

1 with his or her own money or property.

2 (23) ~~(14)~~ Employing any person on a purely temporary or
3 single deal basis as a means of evading the law regarding
4 payment of commission to nonlicensees on some contemplated
5 transactions.

6 (24) ~~(15)~~ Permitting the use of his or her license as a
7 broker to enable a salesperson or unlicensed person to
8 operate a real estate business without actual
9 participation therein and control thereof by the broker.

10 (25) ~~(16)~~ Any other conduct, whether of the same or a
11 different character from that specified in this Section,
12 that constitutes dishonest dealing.

13 (26) ~~(17)~~ Displaying a "for rent" or "for sale" sign on
14 any property without the written consent of an owner or his
15 or her duly authorized agent or advertising by any means
16 that any property is for sale or for rent without the
17 written consent of the owner or his or her authorized
18 agent.

19 (27) ~~(18)~~ Failing to provide information requested by
20 the Department, or otherwise respond to that request ~~OBRE,~~
21 ~~within 30 days of the request, either as the result of a~~
22 ~~formal or informal complaint to OBRE or as a result of a~~
23 ~~random audit conducted by OBRE, which would indicate a~~
24 ~~violation of this Act.~~

25 (28) ~~(19)~~ Advertising by means of a blind
26 advertisement, except as otherwise permitted in Section

1 10-30 of this Act.

2 (29) ~~(20)~~ Offering guaranteed sales plans, as defined
3 in clause (A) of this subdivision (29) ~~(20)~~, except to the
4 extent hereinafter set forth:

5 (A) A "guaranteed sales plan" is any real estate
6 purchase or sales plan whereby a licensee enters into a
7 conditional or unconditional written contract with a
8 seller, prior to entering into a brokerage agreement
9 with the seller, by the terms of which a licensee
10 agrees to purchase a property of the seller within a
11 specified period of time at a specific price in the
12 event the property is not sold in accordance with the
13 terms of a brokerage agreement to be entered into
14 ~~listing contract~~ between the sponsoring broker and the
15 seller ~~or on other terms acceptable to the seller.~~

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

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

24 (D) Any licensee offering a guaranteed sales plan
25 shall undertake to market the property of the seller
26 subject to the plan in the same manner in which the

1 broker would market any other property, unless the
2 agreement with the seller provides otherwise.

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

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

12 (30) ~~(21)~~ Influencing or attempting to influence, by
13 any words or acts, a prospective seller, purchaser,
14 occupant, landlord, or tenant of real estate, in connection
15 with viewing, buying, or leasing real estate, so as to
16 promote or tend to promote the continuance or maintenance
17 of racially and religiously segregated housing or so as to
18 retard, obstruct, or discourage racially integrated
19 housing on or in any street, block, neighborhood, or
20 community.

21 (31) ~~(22)~~ Engaging in any act that constitutes a
22 violation of any provision of Article 3 of the Illinois
23 Human Rights Act, whether or not a complaint has been filed
24 with or adjudicated by the Human Rights Commission.

25 (32) ~~(23)~~ Inducing any party to a contract of sale or
26 lease or brokerage agreement to break the contract of sale

1 or lease or brokerage agreement for the purpose of
2 substituting, in lieu thereof, a new contract for sale or
3 lease or brokerage agreement with a third party.

4 (33) ~~(24)~~ Negotiating a sale, exchange, or lease of
5 real estate directly with any person if the licensee knows
6 that the person has an ~~a written~~ exclusive brokerage
7 agreement with another broker, unless specifically
8 authorized by that broker.

9 (34) ~~(25)~~ When a licensee is also an attorney, acting
10 as the attorney for either the buyer or the seller in the
11 same transaction in which the licensee is acting or has
12 acted as a broker or salesperson.

13 (35) ~~(26)~~ Advertising or offering merchandise or
14 services as free if any conditions or obligations necessary
15 for receiving the merchandise or services are not disclosed
16 in the same advertisement or offer. These conditions or
17 obligations include without limitation the requirement
18 that the recipient attend a promotional activity or visit a
19 real estate site. As used in this subdivision (35) ~~(26)~~,
20 "free" includes terms such as "award", "prize", "no
21 charge", "free of charge", "without charge", and similar
22 words or phrases that reasonably lead a person to believe
23 that he or she may receive or has been selected to receive
24 something of value, without any conditions or obligations
25 on the part of the recipient.

26 (36) ~~(27)~~ Disregarding or violating any provision of

1 the Land Sales Registration Act of 1989, the Illinois Real
2 Estate Time-Share Act, or the published rules promulgated
3 by the Department ~~OBRE~~ to enforce those Acts.

4 (37) ~~(28)~~ Violating the terms of a disciplinary order
5 issued by the Department ~~OBRE~~.

6 (38) ~~(29)~~ Paying or failing to disclose compensation in
7 violation of Article 10 of this Act.

8 (39) ~~(30)~~ Requiring a party to a transaction who is not
9 a client of the licensee to allow the licensee to retain a
10 portion of the escrow moneys for payment of the licensee's
11 commission or expenses as a condition for release of the
12 escrow moneys to that party.

13 (40) ~~(31)~~ Disregarding or violating any provision of
14 this Act or the published rules promulgated by the
15 Department ~~OBRE~~ to enforce this Act or aiding or abetting
16 any individual, partnership, registered limited liability
17 partnership, limited liability company, or corporation in
18 disregarding any provision of this Act or the published
19 rules promulgated by the Department ~~OBRE~~ to enforce this
20 Act.

21 (41) ~~(32)~~ Failing to provide the minimum services
22 required by Section 15-75 of this Act when acting under an
23 exclusive brokerage agreement.

24 (42) Habitual or excessive use or addiction to alcohol,
25 narcotics, stimulants, or any other chemical agent or drug
26 that results in a managing broker, broker, salesperson, or

1 leasing agent's inability to practice with reasonable
2 skill or safety.

3 (b) The Department may refuse to issue or renew or may
4 suspend the license of any person who fails to file a return,
5 pay the tax, penalty or interest shown in a filed return, or
6 pay any final assessment of tax, penalty, or interest, as
7 required by any tax Act administered by the Department of
8 Revenue, until such time as the requirements of that tax Act
9 are satisfied in accordance with subsection (g) of Section
10 2105-15 of the Civil Administrative Code of Illinois.

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

18 (d) In cases where the Department of Healthcare and Family
19 Services (formerly Department of Public Aid) has previously
20 determined that a licensee or a potential licensee is more than
21 30 days delinquent in the payment of child support and has
22 subsequently certified the delinquency to the Department may
23 refuse to issue or renew or may revoke or suspend that person's
24 license or may take other disciplinary action against that
25 person based solely upon the certification of delinquency made
26 by the Department of Healthcare and Family Services in

1 accordance with item (5) of subsection (g) of Section 2105-15
2 of the Civil Administrative Code of Illinois.

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

23 If the Department or Board finds an individual unable to
24 practice because of the reasons set forth in this Section, the
25 Department or Board may require that individual to submit to
26 care, counseling, or treatment by physicians approved or

1 designated by the Department or Board, as a condition, term, or
2 restriction for continued, reinstated, or renewed licensure to
3 practice; or, in lieu of care, counseling, or treatment, the
4 Department may file, or the Board may recommend to the
5 Department to file, a complaint to immediately suspend, revoke,
6 or otherwise discipline the license of the individual. An
7 individual whose license was granted, continued, reinstated,
8 renewed, disciplined or supervised subject to such terms,
9 conditions, or restrictions, and who fails to comply with such
10 terms, conditions, or restrictions, shall be referred to the
11 Secretary for a determination as to whether the individual
12 shall have his or her license suspended immediately, pending a
13 hearing by the Department.

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

23 An individual licensed under this Act and affected under
24 this Section shall be afforded an opportunity to demonstrate to
25 the Department or Board that he or she can resume practice in
26 compliance with acceptable and prevailing standards under the

1 provisions of his or her license.

2 (Source: P.A. 95-851, eff. 1-1-09.)

3 (225 ILCS 454/20-21 new)

4 Sec. 20-21. Injunctions; cease and desist order.

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

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

1 satisfaction of the Department shall cause an order to cease
2 and desist to be issued immediately.

3 (c) Other than as provided in Section 5-20 of this Act, if
4 any person practices as a real estate broker, real estate
5 salesperson or leasing agent or holds himself or herself out as
6 a licensed sponsoring broker, managing broker, real estate
7 broker, real estate salesperson or leasing agent under this Act
8 without being issued a valid existing license by the
9 Department, then any licensed sponsoring broker, managing
10 broker, real estate broker, real estate salesperson, leasing
11 agent, any interested party, or any person injured thereby may,
12 in addition to the Secretary, petition for relief as provided
13 in subsection (a) of this Section.

14 (225 ILCS 454/20-22 new)

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

23 (225 ILCS 454/20-25)

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

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

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

24 (225 ILCS 454/20-50)

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

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

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

18 (225 ILCS 454/20-55)

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

20 Sec. 20-55. Illinois Administrative Procedure Act. The
21 Illinois Administrative Procedure Act is hereby expressly
22 adopted and incorporated herein as if all of the provisions of
23 that Act were included in this Act, except that the provision
24 of subsection (d) of Section 10-65 of the Illinois
25 Administrative Procedure Act that provides that at hearings the

1 licensee has the right to show compliance with all lawful
2 requirements for retention, continuation, or renewal of the
3 license is specifically excluded. For the purposes of this Act,
4 the notice required under the Illinois Administrative
5 Procedure Act is deemed sufficient when mailed to the last
6 known address of record ~~a party~~.

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

8 (225 ILCS 454/20-60)

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

10 Sec. 20-60. Investigations ~~Hearing; investigation; notice~~
11 ~~and hearing; disciplinary consent order.~~ The Department may
12 investigate the actions of any applicant or of any person or
13 persons rendering or offering to render services or any person
14 holding or claiming to hold a license under this Act. The
15 Department shall, before revoking, ~~(a) OBRE may conduct~~
16 ~~hearings through the Board or a duly appointed hearing officer~~
17 ~~on proceedings to suspend, revoke, or to refuse to issue or~~
18 ~~renew licenses of persons applying for licensure or licensed~~
19 ~~under this Act or to censure, reprimand, or impose a civil fine~~
20 ~~not to exceed \$25,000 upon any licensee hereunder and may~~
21 ~~revoke, suspend, or refuse to issue or renew these licenses or~~
22 ~~censure, reprimand, or impose a civil fine not to exceed~~
23 ~~\$25,000 upon any licensee hereunder.~~ ~~(b) Upon the motion of~~
24 ~~either OBRE or the Board or upon the verified complaint in~~
25 ~~writing of any persons setting forth facts that if proven would~~

1 ~~constitute grounds for suspension or revocation under this Act,~~
2 ~~OBRE, the Board, or its subcommittee shall cause to be~~
3 ~~investigated the actions of any person so accused who holds a~~
4 ~~license or is holding himself or herself out to be a licensee.~~
5 ~~This person is hereinafter called the accused. (c) Prior to~~
6 ~~initiating any formal disciplinary proceedings resulting from~~
7 ~~an investigation conducted pursuant to subsection (b) of this~~
8 ~~Section, that matter shall be reviewed by a subcommittee of the~~
9 ~~Board according to procedures established by rule. The~~
10 ~~subcommittee shall make a recommendation to the full Board as~~
11 ~~to the validity of the complaint and may recommend that the~~
12 ~~Board not proceed with formal disciplinary proceedings if the~~
13 ~~complaint is determined to be frivolous or without merit. (d)~~
14 ~~Except as provided for in Section 20-65 of this Act, OBRE~~
15 ~~shall, before suspending, ~~revoking,~~ placing on probation,~~
16 ~~reprimanding ~~probationary~~ status, or taking any other~~
17 ~~disciplinary action under Article 20 of this Act, at least 30~~
18 ~~days before the date set for the hearing, (i) as OBRE may deem~~
19 ~~proper with regard to any license: (1) notify the accused in~~
20 ~~writing of the at least 30 days prior to the date set for the~~
21 ~~hearing of any charges made and the time and place for the~~
22 ~~hearing on ~~of~~ the charges, (ii) direct him or her to file a~~
23 ~~written answer to the charges with ~~to be heard before~~ the Board~~
24 ~~under oath within 20 days after the service on him or her of~~
25 ~~the notice, and (iii), and (2) inform the accused that if he or~~
26 ~~she fails to answer upon failure to file an answer and request~~

1 ~~a hearing before the date originally set for the hearing,~~
2 default will be taken against him or her or that ~~the accused~~
3 ~~and~~ his or her license may be suspended, revoked, ~~or~~ placed on
4 probationary status, or other disciplinary action taken with
5 regard to the license, including limiting the scope, nature, or
6 extent of his or her practice, as the Department may consider
7 proper. At the time and place fixed in the notice, the Board
8 shall proceed to hear the charges and the parties or their
9 counsel shall be accorded ample opportunity to present any
10 pertinent statements, testimony, evidence, and arguments. The
11 Board may continue the hearing from time to time. In case the
12 person, after receiving the ~~the accused's practice, as OBRE may~~
13 ~~deem proper, may be taken with regard thereto. In case the~~
14 ~~person fails to file an answer after receiving notice,~~ fails to
15 file an answer, his or her license may, in the discretion of
16 the Department ~~OBRE~~, be suspended, revoked, ~~or~~ placed on
17 probationary status, or the Department ~~OBRE~~ may take whatever
18 disciplinary action considered ~~deemed~~ proper, including
19 limiting the scope, nature, or extent of the person's practice
20 or the imposition of a fine, without a hearing, if the act or
21 acts charged constitute sufficient grounds for that ~~such~~ action
22 under this Act. The written notice may be served by personal
23 delivery or by certified mail to the address specified by the
24 accused in his or her last notification with the Department.

25 ~~(c) At the time and place fixed in the notice, the Board~~
26 ~~shall proceed to hearing of the charges and both the accused~~

1 ~~person and the complainant shall be accorded ample opportunity~~
2 ~~to present in person or by counsel such statements, testimony,~~
3 ~~evidence and argument as may be pertinent to the charges or to~~
4 ~~any defense thereto. The Board or its hearing officer may~~
5 ~~continue a hearing date upon its own motion or upon an~~
6 ~~accused's motion for one period not to exceed 30 days. The~~
7 ~~Board or its hearing officer may grant further continuances for~~
8 ~~periods not to exceed 30 days only upon good cause being shown~~
9 ~~by the moving party. The non moving party shall have the~~
10 ~~opportunity to object to a continuance on the record at a~~
11 ~~hearing upon the motion to continue. All motions for~~
12 ~~continuances and any denial or grant thereof shall be in~~
13 ~~writing. All motions shall be submitted not later than 48 hours~~
14 ~~before the scheduled hearing unless made upon an emergency~~
15 ~~basis. In determining whether good cause for a continuance is~~
16 ~~shown, the Board or its hearing officer shall consider such~~
17 ~~factors as the volume of cases pending, the nature and~~
18 ~~complexity of legal issues raised, the diligence of the party~~
19 ~~making the request, the availability of party's legal~~
20 ~~representative or witnesses, and the number of previous~~
21 ~~requests for continuance.~~

22 ~~(f) Any unlawful act or violation of any of the provisions~~
23 ~~of this Act upon the part of any licensees employed by a real~~
24 ~~estate broker or associated by written agreement with the real~~
25 ~~estate broker, or unlicensed employee of a licensed broker,~~
26 ~~shall not be cause for the revocation of the license of any~~

1 ~~such broker, partial or otherwise, unless it appears to the~~
2 ~~satisfaction of OBRE that the broker had knowledge thereof.~~

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

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

19 ~~(i) OBRE, at its expense, shall preserve a record of all~~
20 ~~proceedings at the formal hearing of any case involving the~~
21 ~~refusal to issue or the revocation, suspension, or other~~
22 ~~discipline of a licensee. The notice of hearing, complaint and~~
23 ~~all other documents in the nature of pleadings and written~~
24 ~~motions filed in the proceedings, the transcript of testimony,~~
25 ~~the report of the Board, and the orders of OBRE shall be the~~
26 ~~record of the proceeding. At all hearings or pre hearing~~

1 ~~conferences, OBRE and the accused shall be entitled to have a~~
2 ~~court reporter in attendance for purposes of transcribing the~~
3 ~~proceeding or pre-hearing conference at the expense of the~~
4 ~~party requesting the court reporter's attendance. A copy of the~~
5 ~~transcribed proceeding shall be available to the other party~~
6 ~~for the cost of a copy of the transcript.~~

7 ~~(j) The Board shall present to the Commissioner its written~~
8 ~~report of its findings and recommendations. A copy of the~~
9 ~~report shall be served upon the accused, either personally or~~
10 ~~by certified mail as provided in this Act for the service of~~
11 ~~the citation. Within 20 days after the service, the accused may~~
12 ~~present to the Commissioner a motion in writing for a rehearing~~
13 ~~that shall specify the particular grounds therefor. If the~~
14 ~~accused shall order and pay for a transcript of the record as~~
15 ~~provided in this Act, the time elapsing thereafter and before~~
16 ~~the transcript is ready for delivery to the accused shall not~~
17 ~~be counted as part of the 20 days. Whenever the Commissioner is~~
18 ~~satisfied that substantial justice has not been done, the~~
19 ~~Commissioner may order a rehearing by the Board or other~~
20 ~~special committee appointed by the Commissioner or may remand~~
21 ~~the matter to the Board for their reconsideration of the matter~~
22 ~~based on the pleadings and evidence presented to the Board. In~~
23 ~~all instances, under this Act, in which the Board has rendered~~
24 ~~a recommendation to the Commissioner with respect to a~~
25 ~~particular licensee or applicant, the Commissioner shall, in~~
26 ~~the event that he or she disagrees with or takes action~~

1 ~~contrary to the recommendation of the Board, file with the~~
2 ~~Board and the Secretary of State his specific written reasons~~
3 ~~of disagreement with the Board. The reasons shall be filed~~
4 ~~within 60 days of the Board's recommendation to the~~
5 ~~Commissioner and prior to any contrary action. At the~~
6 ~~expiration of the time specified for filing a motion for a~~
7 ~~rehearing, the Commissioner shall have the right to take the~~
8 ~~action recommended by the Board. Upon the suspension or~~
9 ~~revocation of a license, the licensee shall be required to~~
10 ~~surrender his or her license to OBRE, and upon failure or~~
11 ~~refusal to do so, OBRE shall have the right to seize the~~
12 ~~license.~~

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

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

20 ~~(1) The signature is the genuine signature of the~~
21 ~~Commissioner.~~

22 ~~(2) The Commissioner is duly appointed and qualified.~~

23 ~~(3) The Board and the members thereof are qualified.~~

24 ~~Such proof may be rebutted.~~

25 ~~(m) Notwithstanding any provisions concerning the conduct~~
26 ~~of hearings and recommendations for disciplinary actions, OBRE~~

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

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

11 (225 ILCS 454/20-62 new)

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

19 (225 ILCS 454/20-63 new)

20 Sec. 20-63. Subpoenas; depositions; oaths. The Department
21 has the power to subpoena documents, books, records, or other
22 materials and to bring before it any person and to take
23 testimony either orally or by deposition, or both, with the
24 same fees and mileage and in the same manner as prescribed in

1 civil cases in the courts of this State. The Secretary, the
2 designated hearing officer, and every member of the Board has
3 the power to administer oaths to witnesses at any hearing that
4 the Department is authorized to conduct, and any other oaths
5 authorized in an Act that is administered by the Department.

6 (225 ILCS 454/20-64 new)

7 Sec. 20-64. Board; rehearing. At the conclusion of a
8 hearing, a copy of the Board's report shall be served upon the
9 applicant or licensee by the Department, either personally or
10 as provided in this Act for the service of a notice of hearing.
11 Within 20 days after service, the applicant or licensee may
12 present to the Department a motion in writing for a rehearing,
13 which shall specify the particular grounds for rehearing. The
14 Department may respond to the motion, or if a motion for
15 rehearing is denied, then upon denial, and except as provided
16 in Section 20-72 of this Act, the Secretary may enter an order
17 in accordance with the recommendations of the Board. If the
18 applicant or licensee orders from the reporting service and
19 pays for a transcript of the record within the time for filing
20 a motion for rehearing, then the 20-day period within which a
21 motion may be filed shall commence upon the delivery of the
22 transcript to the applicant or licensee.

23 (225 ILCS 454/20-65)

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

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

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

15 (225 ILCS 454/20-66 new)

16 Sec. 20-66. Appointment of a hearing officer. The Secretary
17 has the authority to appoint any attorney licensed to practice
18 law in the State of Illinois to serve as the hearing officer in
19 any action for refusal to issue, restore, or renew a license or
20 to discipline a licensee. The hearing officer has full
21 authority to conduct the hearing. Any Board member may attend
22 the hearing. The hearing officer shall report his or her
23 findings of fact, conclusions of law, and recommendations to
24 the Board. The Board shall review the report of the hearing
25 officer and present its findings of fact, conclusions of law,

1 and recommendations to the Secretary and all parties to the
2 proceeding. If the Secretary disagrees with a recommendation of
3 the Board or of the hearing officer, then the Secretary may
4 issue an order in contravention of the recommendation.

5 (225 ILCS 454/20-67 new)

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

13 (225 ILCS 454/20-68 new)

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

19 (225 ILCS 454/20-69 new)

20 Sec. 20-69. Restoration of a suspended or revoked license.
21 At any time after the successful completion of a term of
22 suspension or revocation of a license, the Department may
23 restore it to the licensee, upon the written recommendation of

1 the Board, unless after an investigation and a hearing the
2 Board determines that restoration is not in the public
3 interest.

4 (225 ILCS 454/20-72 new)

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

11 (225 ILCS 454/20-73 new)

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

21 (225 ILCS 454/20-75)

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

23 Sec. 20-75. Administrative Review venue Law; certification

1 ~~fee; summary report of final disciplinary actions.~~

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

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

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

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

4 (225 ILCS 454/20-85)

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

6 Sec. 20-85. Recovery from Real Estate Recovery Fund. The
7 Department ~~OPRE~~ shall maintain a Real Estate Recovery Fund from
8 which any person aggrieved by an act, representation,
9 transaction, or conduct of a licensee or unlicensed employee of
10 a licensee that is in violation of this Act or the rules
11 promulgated pursuant thereto, constitutes embezzlement of
12 money or property, or results in money or property being
13 unlawfully obtained from any person by false pretenses,
14 artifice, trickery, or forgery or by reason of any fraud,
15 misrepresentation, discrimination, or deceit by or on the part
16 of any such licensee or the unlicensed employee of a licensee
17 and that results in a loss of actual cash money, as opposed to
18 losses in market value, may recover. The aggrieved person may
19 recover, by order of the circuit court of the county where the
20 violation occurred, an amount of not more than \$25,000 ~~\$10,000~~
21 from the Fund for damages sustained by the act, representation,
22 transaction, or conduct, together with costs of suit and
23 attorney's fees incurred in connection therewith of not to
24 exceed 15% of the amount of the recovery ordered paid from the
25 Fund. However, no licensee ~~licensed broker or salesperson~~ may

1 recover from the Fund unless the court finds that the person
2 suffered a loss resulting from intentional misconduct. The
3 court order shall not include interest on the judgment. The
4 maximum liability against the Fund arising out of any one act
5 shall be as provided in this Section, and the judgment order
6 shall spread the award equitably among all co-owners or
7 otherwise aggrieved persons, if any. The maximum liability
8 against the Fund arising out of the activities of any one
9 licensee or one unlicensed employee of a licensee, since
10 January 1, 1974, shall be \$100,000 ~~\$50,000~~. Nothing in this
11 Section shall be construed to authorize recovery from the Fund
12 unless the loss of the aggrieved person results from an act or
13 omission of a licensee under this Act ~~licensed broker,~~
14 ~~salesperson, or unlicensed employee~~ who was at the time of the
15 act or omission acting in such capacity or was apparently
16 acting in such capacity and unless the aggrieved person has
17 obtained a valid judgment as provided in Section 20-90 of this
18 Act. No person aggrieved by an act, representation, or
19 transaction that is in violation of the Illinois Real Estate
20 Time-Share Act or the Land Sales Registration Act of 1989 may
21 recover from the Fund.

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

23 (225 ILCS 454/20-90)

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

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

1 procedure.

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

8 (b) When any aggrieved person commences action for a
9 judgment that may result in collection from the Real Estate
10 Recovery Fund, the aggrieved person must name as parties
11 defendant to that action any and all individual licensees ~~real~~
12 ~~estate brokers, real estate salespersons,~~ or their employees
13 who allegedly committed or are responsible for acts or
14 omissions giving rise to a right of recovery from the Real
15 Estate Recovery Fund. Failure to name as parties defendant such
16 licensees ~~individual brokers, salespersons,~~ or their employees
17 shall preclude recovery from the Real Estate Recovery Fund of
18 any portion of any judgment received in such an action. The
19 aggrieved party may also name as additional parties defendant
20 any corporations, limited liability companies, partnerships,
21 registered limited liability partnership, or other business
22 associations that may be responsible for acts giving rise to a
23 right of recovery from the Real Estate Recovery Fund.

24 (c) When any aggrieved person commences action for a
25 judgment that may result in collection from the Real Estate
26 Recovery Fund, the aggrieved person must notify the Department

1 ~~OBRE~~ in writing to this effect within 7 days of the
2 commencement of the action. Failure to so notify the Department
3 ~~OBRE~~ shall preclude recovery from the Real Estate Recovery Fund
4 of any portion of any judgment received in such an action.
5 After receiving notice of the commencement of such an action,
6 the Department ~~OBRE~~ upon timely application shall be permitted
7 to intervene as a party defendant to that action.

8 (d) When any aggrieved person commences action for a
9 judgment that may result in collection from the Real Estate
10 Recovery Fund, and the aggrieved person is unable to obtain
11 legal and proper service upon the defendant under the
12 provisions of Illinois law concerning service of process in
13 civil actions, the aggrieved person may petition the court
14 where the action to obtain judgment was begun for an order to
15 allow service of legal process on the Secretary ~~Commissioner~~.
16 Service of process on the Secretary ~~Commissioner~~ shall be taken
17 and held in that court to be as valid and binding as if due
18 service had been made upon the defendant. In case any process
19 mentioned in this Section is served upon the Secretary
20 ~~Commissioner~~, the Secretary ~~Commissioner~~ shall forward a copy
21 of the process by certified mail to the licensee's last address
22 on record with the Department ~~OBRE~~. Any judgment obtained after
23 service of process on the Secretary ~~Commissioner~~ under this Act
24 shall apply to and be enforceable against the Real Estate
25 Recovery Fund only. OBRE may intervene in and defend any such
26 action.

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

11 (f) The aggrieved person shall give written notice to the
12 Department ~~OBRE~~ within 30 days of the entry of any judgment
13 that may result in collection from the Real Estate Recovery
14 Fund. The aggrieved person shall provide OBRE within 20 days
15 prior written notice of all supplementary proceedings so as to
16 allow the Department ~~OBRE~~ to participate in all efforts to
17 collect on the judgment.

18 (g) When any aggrieved person recovers a valid judgment in
19 any court of competent jurisdiction against any licensee or an
20 unlicensed employee of any broker, upon the grounds of fraud,
21 misrepresentation, discrimination, or deceit, the aggrieved
22 person may, upon the termination of all proceedings, including
23 review and appeals in connection with the judgment, file a
24 verified claim in the court in which the judgment was entered
25 and, upon 30 days' written notice to the Department ~~OBRE~~, and
26 to the person against whom the judgment was obtained, may apply

1 to the court for an order directing payment out of the Real
2 Estate Recovery Fund of the amount unpaid upon the judgment,
3 not including interest on the judgment, and subject to the
4 limitations stated in Section 20-85 of this Act. The aggrieved
5 person must set out in that verified claim and at an
6 evidentiary hearing to be held by the court upon the
7 application the aggrieved party shall be required to show that
8 the aggrieved person:

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

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

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

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

20 (5) By such search has discovered no personal or real
21 property or other assets liable to be sold or applied, or
22 has discovered certain of them, describing them as owned by
23 the judgment debtor and liable to be so applied and has
24 taken all necessary action and proceedings for the
25 realization thereof, and the amount thereby realized was
26 insufficient to satisfy the judgment, stating the amount so

1 realized and the balance remaining due on the judgment
2 after application of the amount realized.

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

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

15 (h) The court shall make an order directed to the
16 Department ~~OBRE~~ requiring payment from the Real Estate Recovery
17 Fund of whatever sum it finds to be payable upon the claim,
18 pursuant to and in accordance with the limitations contained in
19 Section 20-85 of this Act, if the court is satisfied, upon the
20 hearing, of the truth of all matters required to be shown by
21 the aggrieved person under subsection (g) of this Section and
22 that the aggrieved person has fully pursued and exhausted all
23 remedies available for recovering the amount awarded by the
24 judgment of the court.

25 (i) Should the Department ~~OBRE~~ pay from the Real Estate
26 Recovery Fund any amount in settlement of a claim or toward

1 satisfaction of a judgment against a licensed broker or
2 salesperson or an unlicensed employee of a broker, the
3 licensee's license shall be automatically terminated upon the
4 issuance of a court order authorizing payment from the Real
5 Estate Recovery Fund. No petition for restoration of a license
6 shall be heard until repayment has been made in full, plus
7 interest at the rate prescribed in Section 12-109 of the Code
8 of Civil Procedure of the amount paid from the Real Estate
9 Recovery Fund on their account. A discharge in bankruptcy shall
10 not relieve a person from the penalties and disabilities
11 provided in this subsection (i).

12 (j) If, at any time, the money deposited in the Real Estate
13 Recovery Fund is insufficient to satisfy any duly authorized
14 claim or portion thereof, the Department ~~OBRE~~ shall, when
15 sufficient money has been deposited in the Real Estate Recovery
16 Fund, satisfy such unpaid claims or portions thereof, in the
17 order that such claims or portions thereof were originally
18 filed, plus accumulated interest at the rate prescribed in
19 Section 12-109 of the Code of Civil Procedure.

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

21 (225 ILCS 454/20-95)

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

23 Sec. 20-95. Power of the Department ~~OBRE~~ to defend. When
24 the Department ~~OBRE~~ receives any process, notice, order, or
25 other document provided for or required under Section 20-90 of

1 this Act, it may enter an appearance, file an answer, appear at
2 the court hearing, defend the action, or take whatever other
3 action it deems appropriate on behalf and in the name of the
4 defendant and take recourse through any appropriate method of
5 review on behalf of and in the name of the defendant.

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

7 (225 ILCS 454/20-100)

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

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

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

19 (225 ILCS 454/20-110)

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

21 Sec. 20-110. Disciplinary actions of the Department ~~OBRE~~
22 not limited. Nothing contained in Sections 20-80 through 20-100
23 of this Act limits the authority of the Department ~~OBRE~~ to take
24 disciplinary action against any licensee for a violation of

1 this Act or the rules of the Department ~~OBRE~~, nor shall the
2 repayment in full of all obligations to the Real Estate
3 Recovery Fund by any licensee nullify or modify the effect of
4 any other disciplinary proceeding brought pursuant to this Act.
5 (Source: P.A. 91-245, eff. 12-31-99.)

6 (225 ILCS 454/20-115)

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

8 Sec. 20-115. Time limit on action. No action may be taken
9 by the Department ~~OBRE~~ against any person for violation of the
10 terms of this Act or its rules unless the action is commenced
11 within 5 years after the occurrence of the alleged violation.
12 (Source: P.A. 91-245, eff. 12-31-99.)

13 (225 ILCS 454/25-5)

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

15 Sec. 25-5. The Department ~~OBRE~~; powers and duties. The
16 Department ~~OBRE~~ shall exercise the powers and duties prescribed
17 by the Civil Administrative Code of Illinois for the
18 administration of licensing acts and shall exercise such other
19 powers and duties as are prescribed by this Act. The Department
20 ~~OBRE~~ may contract with third parties for services or the
21 development of courses necessary for the proper administration
22 of this Act.
23 (Source: P.A. 91-245, eff. 12-31-99.)

1 (225 ILCS 454/25-10)

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

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

8 (1) All members shall have been residents and citizens
9 of this State for at least 6 years prior to the date of
10 appointment.

11 (2) Six members shall have been actively engaged as
12 brokers or salespersons or both for at least the 10 years
13 prior to the appointment.

14 (3) Three members of the Board shall be public members
15 who represent consumer interests.

16 None of these members shall be (i) a person who is licensed
17 under this Act or a similar Act of another jurisdiction, (ii)
18 the spouse or family member of a licensee, (iii), ~~the spouse of~~
19 ~~a person licensed under this Act, or~~ a person who has an
20 ownership interest in a real estate brokerage business, or (iv)
21 a person the Department determines to have any other connection
22 with a real estate brokerage business or a licensee. The
23 members' terms shall be 4 years or until their successor is
24 appointed, and the expiration of their terms shall be
25 staggered. Appointments to fill vacancies shall be for the
26 unexpired portion of the term. No A member shall be reappointed

1 to the Board for a term that would cause his or her service on
2 the Board to be longer than 12 years in a lifetime ~~may be~~
3 ~~reappointed for successive terms but no person shall be~~
4 ~~appointed to more than 2 terms or any part thereof in his or~~
5 ~~her lifetime. Persons holding office as members of the Board~~
6 ~~immediately prior to December 31, 1999 under the Real Estate~~
7 ~~License Act of 1983 shall continue as members of the Board~~
8 ~~until the expiration of the term for which they were appointed~~
9 ~~and until their successors are appointed and qualified. The~~
10 membership of the Board should reasonably reflect the
11 geographic distribution of the licensee population in this
12 State. In making the appointments, the Governor shall give due
13 consideration to the recommendations by members and
14 organizations of the profession. The Governor may terminate the
15 appointment of any member for cause that in the opinion of the
16 Governor reasonably justifies the termination. Cause for
17 termination shall include without limitation misconduct,
18 incapacity, neglect of duty, or missing 4 board meetings during
19 any one calendar year. Each member of the Board may ~~shall~~
20 receive a per diem stipend in an amount to be determined by the
21 Secretary ~~Commissioner~~. Each member shall be paid his or her
22 necessary expenses while engaged in the performance of his or
23 her duties. Such compensation and expenses shall be paid out of
24 the Real Estate License Administration Fund. The Secretary
25 ~~Commissioner~~ shall consider the recommendations of the Board on
26 questions involving standards of professional conduct,

1 discipline, and examination of candidates under this Act. The
2 Department ~~OBRE~~, after notifying and considering the
3 recommendations of the Board, if any, may issue rules,
4 consistent with the provisions of this Act, for the
5 administration and enforcement thereof and may prescribe forms
6 that shall be used in connection therewith. Five Board members
7 shall constitute a quorum. A quorum is required for all Board
8 decisions ~~None of the functions, powers, or duties enumerated~~
9 ~~in Sections 20-20 and 30-5 and subsections (a) and (j) of~~
10 ~~Section 20-60 of this Act shall be exercised by OBRE except~~
11 ~~upon the action and report in writing of the Board.~~

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

13 (225 ILCS 454/25-13)

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

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

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

20 (225 ILCS 454/25-14)

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

22 Sec. 25-14. Reliance on advisory letters. Licensees or
23 their representatives may seek an advisory letter from the
24 Department ~~OBRE~~ as to matters arising under this Act or the

1 rules promulgated pursuant to this Act. The Department ~~OBRE~~
2 shall promulgate rules as to the process of seeking and
3 obtaining an advisory letter and topics and areas on which
4 advisory rules will be issued by the Department ~~OBRE~~. A
5 licensee is entitled to rely upon an advisory letter from the
6 Department ~~OBRE~~ and will not be disciplined by the Department
7 ~~OBRE~~ for actions taken in reliance on the advisory letter.

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

9 (225 ILCS 454/25-15)

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

11 Sec. 25-15. ~~Director of~~ Real Estate Coordinator; duties.
12 There shall be in the Department a ~~OBRE a Director and a Deputy~~
13 ~~Director of~~ Real Estate Coordinator, appointed by the Secretary
14 ~~Commissioner~~, who shall hold a currently valid broker's
15 license, which shall be surrendered to the Department ~~OBRE~~
16 during the appointment. The ~~Director of~~ Real Estate Coordinator
17 shall have report to the Commissioner and shall do the
18 following duties and responsibilities:

19 (1) act as Chairperson of the Board, ex-officio,
20 without vote;

21 (2) be the direct liaison between the Department ~~OBRE~~,
22 the profession, and real estate organizations and
23 associations;

24 (3) prepare and circulate to licensees any educational
25 and informational material that the Department ~~OBRE~~ deems

1 necessary for providing guidance or assistance to
2 licensees;

3 (4) appoint any necessary committees to assist in the
4 performance of the functions and duties of the Department
5 ~~OBRE~~ under this Act; and

6 (5) subject to the administrative approval of the
7 Secretary Commissioner, supervise all real estate
8 activities ~~of OBRE~~.

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

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

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

23 (225 ILCS 454/25-20)

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

25 Sec. 25-20. Staff. The Department ~~OBRE~~ shall employ a

1 minimum of one investigator per 10,000 licensees and one
2 prosecutor per 20,000 licensees in order to have sufficient
3 staff to perform the Department's obligations under the Act.
4 ~~carry out the provisions of this Act.~~

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

6 (225 ILCS 454/25-21 new)

7 Sec. 25-21. Peer review advisors. The Department may
8 contract with licensees meeting qualifications established by
9 the Department to serve as peer review advisors for complaints
10 and alleged violations of the Act. A peer review advisor is
11 authorized to investigate and determine the facts of a
12 complaint. The peer review advisor shall, at the direction of
13 the Department, interview witnesses, the complainant and any
14 licensees involved in the alleged matter and make a
15 recommendation as to the findings of fact to the Department.
16 The Department shall have 30 days from receipt of the
17 recommendation to accept, reject or modify the recommended
18 findings of fact. Peer review advisors shall be compensated
19 from the Real Estate Audit Fund at a rate of not to exceed
20 \$15,000.00 per advisor annually. A peer review advisor shall
21 not investigate a complaint from a marketplace in which the
22 peer review advisor does business.

23 (225 ILCS 454/25-25)

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

1 Sec. 25-25. Real Estate Research and Education Fund. A
2 special fund to be known as the Real Estate Research and
3 Education Fund is created and shall be held in trust in the
4 State Treasury. Annually, on September 15th, the State
5 Treasurer shall cause a transfer of \$125,000 to the Real Estate
6 Research and Education Fund from the Real Estate License
7 Administration Fund. The Real Estate Research and Education
8 Fund shall be administered by the Department ~~OBRE~~. Money
9 deposited in the Real Estate Research and Education Fund may be
10 used for research and education at state institutions of higher
11 education or other organizations for research and the
12 advancement of education in the real estate industry. Of the
13 \$125,000 annually transferred into the Real Estate Research and
14 Education Fund, \$15,000 shall be used to fund a scholarship
15 program for persons of minority racial origin who wish to
16 pursue a course of study in the field of real estate. For the
17 purposes of this Section, "course of study" means a course or
18 courses that are part of a program of courses in the field of
19 real estate designed to further an individual's knowledge or
20 expertise in the field of real estate. These courses shall
21 include without limitation courses that a salesperson licensed
22 under this Act must complete to qualify for a real estate
23 broker's license, courses that a broker licensed under this Act
24 must complete to qualify for a managing broker's license,
25 courses required to obtain the Graduate Realtors Institute
26 designation, and any other courses or programs offered by

1 accredited colleges, universities, or other institutions of
2 higher education in Illinois. The scholarship program shall be
3 administered by the Department ~~OBRE~~ or its designee. Moneys in
4 the Real Estate Research and Education Fund may be invested and
5 reinvested in the same manner as funds in the Real Estate
6 Recovery Fund and all earnings, interest, and dividends
7 received from such investments shall be deposited in the Real
8 Estate Research and Education Fund and may be used for the same
9 purposes as moneys transferred to the Real Estate Research and
10 Education Fund. Moneys in the Real Estate Research and
11 Education Fund may be transferred to the Professions Indirect
12 Cost Fund as authorized under Section 2105-300 of the
13 Department of Professional Regulation Law of the Civil
14 Administrative Code of Illinois.

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

16 (225 ILCS 454/25-30)

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

18 Sec. 25-30. Real Estate License Administration Fund;
19 audit. A special fund to be known as the Real Estate License
20 Administration Fund is created in the State Treasury. All fees
21 received by the Department ~~OBRE~~ under this Act shall be
22 deposited in the Real Estate License Administration Fund. The
23 moneys deposited in the Real Estate License Administration Fund
24 shall be appropriated to the Department ~~OBRE~~ for expenses of
25 the Department ~~OBRE~~ and the Board in the administration of this

1 Act and for the administration of any Act administered by the
2 Department ~~OBRE~~ providing revenue to this Fund. Moneys in the
3 Real Estate License Administration Fund may be invested and
4 reinvested in the same manner as funds in the Real Estate
5 Recovery Fund. All earnings received from such investment shall
6 be deposited in the Real Estate License Administration Fund and
7 may be used for the same purposes as fees deposited in the Real
8 Estate License Administration Fund. Moneys in the Real Estate
9 License Administration Fund may be transferred to the
10 Professions Indirect Cost Fund as authorized under Section
11 2105-300 of the Department of Professional Regulation Law of
12 the Civil Administrative Code of Illinois. Upon the completion
13 of any audit of the Department ~~OBRE~~, as prescribed by the
14 Illinois State Auditing Act, which includes an audit of the
15 Real Estate License Administration Fund, the Department ~~OBRE~~
16 shall make the audit open to inspection by any interested
17 person.

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

19 (225 ILCS 454/25-35)

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

21 Sec. 25-35. Real Estate Recovery Fund. A special fund to be
22 known as the Real Estate Recovery Fund is created in the State
23 Treasury. All fines and penalties ~~The sums~~ received by the
24 Department ~~OBRE~~ pursuant to Article 20 ~~the provisions of~~
25 ~~Sections 20 20, 20 30, and 20 80 through 20 100~~ of this Act

1 shall be deposited into the State Treasury and held in the Real
2 Estate Recovery Fund. The money in the Real Estate Recovery
3 Fund shall be used by the Department ~~OBRE~~ exclusively for
4 carrying out the purposes established by this Act. If, at any
5 time, the balance remaining in the Real Estate Recovery Fund is
6 less than \$750,000, the State Treasurer shall cause a transfer
7 of moneys to the Real Estate Recovery Fund from the Real Estate
8 License Administration Fund in an amount necessary to establish
9 a balance of \$800,000 in the Real Estate Recovery Fund. These
10 funds may be invested and reinvested in the same manner as
11 authorized for pension funds in Article 1 ~~14~~ of the Illinois
12 Pension Code. All earnings, interest, and dividends received
13 from investment of funds in the Real Estate Recovery Fund shall
14 be deposited into the Real Estate License Administration Fund
15 and shall be used for the same purposes as other moneys
16 deposited in the Real Estate License Administration Fund.

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

18 (225 ILCS 454/25-37)

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

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

22 (a) A special fund to be known as the Real Estate Audit
23 Fund is created in the State Treasury. ~~The State Treasurer~~
24 ~~shall cause a transfer of \$200,000 from the Real Estate License~~
25 ~~Administration Fund to the Real Estate Audit Fund on January 1,~~

1 ~~2002.~~ If, at any time, the balance in the Real Estate Audit
2 Fund is less than \$25,000, the State Treasurer shall cause a
3 transfer of \$200,000 from the Real Estate License
4 Administration Fund to the Real Estate Audit Fund. The moneys
5 held in the Real Estate Audit Fund shall be used exclusively by
6 the Department ~~OBRE~~ to conduct audits of special accounts of
7 moneys belonging to others held by a broker.

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

1 deposited into the Real Estate Audit Fund.

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

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

16 (225 ILCS 454/30-5)

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

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

20 (a) No person shall operate a pre-license school or school
21 branch without possessing a valid pre-license school or school
22 branch license issued by the Department ~~OBRE~~. No person shall
23 act as a pre-license instructor at a pre-license school or
24 school branch without possessing a valid pre-license
25 instructor license issued by the Department ~~OBRE~~. Every person

1 who desires to obtain a pre-license school, school branch, or
2 pre-license instructor license shall make application to the
3 Department ~~OBRE~~ in writing in form and substance satisfactory
4 to the Department ~~OBRE~~ and pay the required fees prescribed by
5 rule. In addition to any other information required to be
6 contained in the application, every application for an original
7 or renewed license shall include the applicant's Social
8 Security number. The Department ~~OBRE~~ shall issue a pre-license
9 school, school branch, or pre-license instructor license to
10 applicants who meet qualification criteria established by
11 rule. The Department ~~OBRE~~ may refuse to issue, suspend, revoke,
12 or otherwise discipline a pre-license school, school branch, or
13 pre-license instructor license or may withdraw approval of a
14 course offered by a pre-license school for good cause.
15 Disciplinary proceedings shall be conducted by the Board in the
16 same manner as other disciplinary proceedings under this Act.

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

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

24 (d) The Department ~~OBRE~~ or the Advisory Council may, after
25 notice, cause a pre-license school to attend an informal
26 conference before the Advisory Council for failure to comply

1 with any requirement for licensure or for failure to comply
2 with any provision of this Act or the rules for the
3 administration of this Act. The Advisory Council shall make a
4 recommendation to the Board as a result of its findings at the
5 conclusion of any such informal conference.

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

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

10 (225 ILCS 454/30-10)

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

12 Sec. 30-10. Advisory Council; powers and duties. There is
13 created within the Department ~~OBPE~~ an Advisory Council to be
14 comprised of 5 ~~7~~ members appointed by the Governor. The
15 members' terms shall be 4 years or until their successor is
16 appointed and the expiration of their terms shall be staggered
17 for 4 year staggered terms. No member shall be reappointed to
18 the Advisory Council for a term that would cause his or her
19 service on the Advisory Council to be longer than 12 ~~serve more~~
20 ~~than 8~~ years in a lifetime. Two ~~Three~~ of the members shall be
21 licensees who are current members of the Board, one member
22 shall be a representative of an Illinois real estate trade
23 organization who is not a member of the Board, one member shall
24 be a representative of a licensed pre-license school or
25 continuing education school, and one member shall be a

1 representative of an institution of higher education that
2 offers pre-license and continuing education courses. The Real
3 Estate Coordinator ~~Director~~ shall serve as the chairman of the
4 Advisory Council, ex officio, without vote. Three Advisory
5 Council members shall constitute a quorum. A quorum is required
6 for all Advisory Council decisions. The Advisory Council shall
7 recommend criteria for the licensing and renewal of pre-license
8 schools, pre-license instructors, continuing education
9 schools, and continuing education instructors; review
10 applications for these licenses to determine if the applicants
11 meet the qualifications for licensure established in this Act
12 and by rule; approve pre-license school and continuing
13 education curricula; and make recommendations to the Board
14 regarding rules to be adopted for the conduct of schools and
15 instructors and the administration of the education provisions
16 of this Act.

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

18 (225 ILCS 454/30-15)

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

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

22 (a) Only continuing education schools in possession of a
23 valid continuing education school license may provide real
24 estate continuing education courses that will satisfy the
25 requirements of this Act. Pre-license schools licensed to offer

1 pre-license education courses for salespersons, brokers and
2 managing brokers shall qualify for a continuing education
3 school license upon completion of an application and the
4 submission of the required fee. Every entity that desires to
5 obtain a continuing education school license shall make
6 application to the Department ~~OBRE~~ in writing in forms
7 prescribed by the Department ~~OBRE~~ and pay the fee prescribed by
8 rule. In addition to any other information required to be
9 contained in the application, every application for an original
10 or renewed license shall include the applicant's Social
11 Security number.

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

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

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

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

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

24 (5) The ability to provide each participant who
25 successfully completes an approved program with a
26 certificate of completion signed by the administrator of a

1 licensed continuing education school on forms provided by
2 the Department ~~OPRE~~.

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

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

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

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

- 14 (A) appropriate credentials;
15 (B) competence as a teacher;
16 (C) knowledge of content area; and
17 (D) qualification by experience.

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

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

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

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

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

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

1 application or renewal. The Department ~~OBRE~~ shall provide to
2 each continuing education school a certificate for each
3 approved continuing education course. All continuing education
4 courses shall be valid for the period coinciding with the term
5 of license of the continuing education school. All continuing
6 education schools shall provide a copy of the certificate of
7 the continuing education course within the course materials
8 given to each student or shall display a copy of the
9 certificate of the continuing education course in a conspicuous
10 place at the location of the class.

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

17 (h) The Department ~~OBRE~~, upon the recommendation of the
18 Advisory Council, may temporarily suspend a licensed
19 continuing education school's approved courses without hearing
20 and refuse to accept successful completion of or participation
21 in any of these continuing education courses for continuing
22 education credit from that school upon the failure of that
23 continuing education school to comply with the provisions of
24 this Act or the rules for the administration of this Act, until
25 such time as the Department ~~OBRE~~ receives satisfactory
26 assurance of compliance. The Department ~~OBRE~~ shall notify the

1 continuing education school of the noncompliance and may
2 initiate disciplinary proceedings pursuant to this Act. The
3 Department ~~OBRE~~ may refuse to issue, suspend, revoke, or
4 otherwise discipline the license of a continuing education
5 school or may withdraw approval of a continuing education
6 course for good cause. Failure to comply with the requirements
7 of this Section or any other requirements established by rule
8 shall be deemed to be good cause. Disciplinary proceedings
9 shall be conducted by the Board in the same manner as other
10 disciplinary proceedings under this Act.

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

12 (225 ILCS 454/30-20)

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

14 Sec. 30-20. Fees for continuing education school license;
15 renewal; term. All applications for a continuing education
16 school license shall be accompanied by a nonrefundable
17 application fee in an amount established by rule. All
18 continuing education schools shall be required to submit a
19 renewal application, the required fee as established by rule,
20 and a listing of the courses to be offered during the year to
21 renew their continuing education school licenses. The term for
22 a continuing education school license shall be 2 years and as
23 established by rule. The fees collected under this Article 30
24 shall be deposited in the Real Estate License Administration
25 Fund and shall be used to defray the cost of administration of

1 the program and per diem of the Advisory Council as determined
2 by the Secretary ~~Commissioner~~.

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

4 (225 ILCS 454/30-25)

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

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

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

14 (b) After the effective date of this Act, every person who
15 desires to obtain a continuing education instructor's license
16 shall attend and successfully complete a one-day instructor
17 development workshop, as approved by the Department. The term
18 of licensure for a continuing education instructor shall be 2
19 years and as established by rule. Every person who desires to
20 obtain a continuing education instructor license shall make
21 application to the Department ~~OBRE~~ in writing on forms
22 prescribed by the Office, accompanied by the fee prescribed by
23 rule. In addition to any other information required to be
24 contained in the application, every application for an original
25 or renewed license shall include the applicant's Social

1 Security number. The Department ~~OBRE~~ shall issue a continuing
2 education instructor license to applicants who meet
3 qualification criteria established by this Act or rule.

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

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

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

17 (735 ILCS 5/15-1503) (from Ch. 110, par. 15-1503)

18 Sec. 15-1503. Notice of Foreclosure.

19 (a) A notice of foreclosure, whether the foreclosure is
20 initiated by complaint or counterclaim, made in accordance with
21 this Section and recorded in the county in which the mortgaged
22 real estate is located shall be constructive notice of the
23 pendency of the foreclosure to every person claiming an
24 interest in or lien on the mortgaged real estate, whose

1 interest or lien has not been recorded prior to the recording
2 of such notice of foreclosure. Such notice of foreclosure must
3 be executed by any party or any party's attorney and shall
4 include (i) the names of all plaintiffs and the case number,
5 (ii) the court in which the action was brought, (iii) the names
6 of title holders of record, (iv) a legal description of the
7 real estate sufficient to identify it with reasonable
8 certainty, (v) a common address or description of the location
9 of the real estate and (vi) identification of the mortgage
10 sought to be foreclosed. An incorrect common address or
11 description of the location, or an immaterial error in the
12 identification of a plaintiff or title holder of record, shall
13 not invalidate the lis pendens effect of the notice under this
14 Section. A notice which complies with this Section shall be
15 deemed to comply with Section 2-1901 of the Code of Civil
16 Procedure and shall have the same effect as a notice filed
17 pursuant to that Section; however, a notice which complies with
18 Section 2-1901 shall not be constructive notice unless it also
19 complies with the requirements of this Section.

20 (b) With respect to residential real estate, a copy of the
21 notice of foreclosure described in subsection (a) of Section
22 15-1503 shall be sent by first class mail, postage prepaid, to
23 the municipality within the boundary of which the mortgaged
24 real estate is located, or to the county within the boundary of
25 which the mortgaged real estate is located if the mortgaged
26 real estate is located in an unincorporated territory. A

1 municipality or county must clearly publish on its website a
2 single address to which such notice shall be sent. If a
3 municipality or county does not maintain a website, then the
4 municipality or county must publicly post in its main office a
5 single address to which such notice shall be sent. In the event
6 that a municipality or county has not complied with the
7 publication requirement in this subsection (b), then such
8 notice to the municipality or county shall be provided pursuant
9 to Section 2-211 of the Code of Civil Procedure.

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

11 (735 ILCS 5/15-1508) (from Ch. 110, par. 15-1508)

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

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

16 (b) Hearing. Upon motion and notice in accordance with
17 court rules applicable to motions generally, which motion shall
18 not be made prior to sale, the court shall conduct a hearing to
19 confirm the sale. Unless the court finds that (i) a notice
20 required in accordance with subsection (c) of Section 15-1507
21 was not given, (ii) the terms of sale were unconscionable,
22 (iii) the sale was conducted fraudulently or (iv) that justice
23 was otherwise not done, the court shall then enter an order
24 confirming the sale. The confirmation order shall include a
25 name, address, and telephone number of the holder of the

1 certificate of sale or deed issued pursuant to that certificate
2 or, if no certificate or deed was issued, the purchaser, whom a
3 municipality or county may contact with concerns about the real
4 estate. The confirmation order may also:

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

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

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

17 (b-5) Notice with respect to residential real estate. With
18 respect to residential real estate, the notice required under
19 subsection (b) of this Section shall be sent to the mortgagor
20 even if the mortgagor has previously been held in default. In
21 the event the mortgagor has filed an appearance, the notice
22 shall be sent to the address indicated on the appearance. In
23 all other cases, the notice shall be sent to the mortgagor at
24 the common address of the foreclosed property. The notice shall
25 be sent by first class mail. Unless the right to possession has
26 been previously terminated by the court, the notice shall

1 include the following language in 12-point boldface
2 capitalized type:

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

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

22 (c) Failure to Give Notice. If any sale is held without
23 compliance with subsection (c) of Section 15-1507 of this
24 Article, any party entitled to the notice provided for in
25 paragraph (3) of that subsection (c) who was not so notified
26 may, by motion supported by affidavit made prior to

1 confirmation of such sale, ask the court which entered the
2 judgment to set aside the sale. Any such party shall guarantee
3 or secure by bond a bid equal to the successful bid at the
4 prior sale, unless the party seeking to set aside the sale is
5 the mortgagor, the real estate sold at the sale is residential
6 real estate, and the mortgagor occupies the residential real
7 estate at the time the motion is filed. In that event, no
8 guarantee or bond shall be required of the mortgagor. Any
9 subsequent sale is subject to the same notice requirement as
10 the original sale.

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

25 (e) Deficiency Judgment. In any order confirming a sale
26 pursuant to the judgment of foreclosure, the court shall also

1 enter a personal judgment for deficiency against any party (i)
2 if otherwise authorized and (ii) to the extent requested in the
3 complaint and proven upon presentation of the report of sale in
4 accordance with Section 15-1508. Except as otherwise provided
5 in this Article, a judgment may be entered for any balance of
6 money that may be found due to the plaintiff, over and above
7 the proceeds of the sale or sales, and enforcement may be had
8 for the collection of such balance, the same as when the
9 judgment is solely for the payment of money. Such judgment may
10 be entered, or enforcement had, only in cases where personal
11 service has been had upon the persons personally liable for the
12 mortgage indebtedness, unless they have entered their
13 appearance in the foreclosure action.

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

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

25 An order of possession authorizing the removal of a person
26 from possession of the mortgaged real estate shall be entered

1 and enforced only against those persons personally named as
2 individuals in the complaint or the petition under subsection
3 (h) of Section 15-1701 and in the order of possession and shall
4 not be entered and enforced against any person who is only
5 generically described as an unknown owner or nonrecord claimant
6 or by another generic designation in the complaint.

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

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

20 Section 30. The Residential Real Property Disclosure Act is
21 amended by changing Section 70 as follows:

22 (765 ILCS 77/70)

23 Sec. 70. Predatory lending database program.

24 (a) As used in this Article:

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

4 "Borrower" means a person seeking a mortgage loan.

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

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

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

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

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

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

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

17 "First-time homebuyer" means a borrower who has not held an
18 ownership interest in residential property.

19 "HUD-certified counseling" or "counseling" means
20 counseling given to a borrower by a counselor employed by a
21 HUD-certified housing counseling agency.

22 "Interest only" means a closed-end loan that permits one or
23 more payments of interest without any reduction of the
24 principal balance of the loan, other than the first payment on
25 the loan.

26 "Lender" means that term as it is defined in subsection (g)

1 of Section 1-4 of the Residential Mortgage License Act of 1987.

2 "Licensee" means that term as it is defined in subsection
3 (e) of Section 1-4 of the Residential Mortgage License Act of
4 1987.

5 "Mortgage loan" means that term as it is defined in
6 subsection (f) of Section 1-4 of the Residential Mortgage
7 License Act of 1987.

8 "Negative amortization" means an amortization method under
9 which the outstanding balance may increase at any time over the
10 course of the loan because the regular periodic payment does
11 not cover the full amount of interest due.

12 "Originator" means a "loan originator" as defined in
13 subsection (hh) of Section 1-4 of the Residential Mortgage
14 License Act of 1987, except an exempt person.

15 "Points and fees" has the meaning ascribed to that term in
16 Section 10 of the High Risk Home Loan Act.

17 "Prepayment penalty" means a charge imposed by a lender
18 under a mortgage note or rider when the loan is paid before the
19 expiration of the term of the loan.

20 "Refinancing" means a loan secured by the borrower's or
21 borrowers' primary residence where the proceeds are not used as
22 purchase money for the residence.

23 "Title insurance company" means any domestic company
24 organized under the laws of this State for the purpose of
25 conducting the business of guaranteeing or insuring titles to
26 real estate and any title insurance company organized under the

1 laws of another State, the District of Columbia, or a foreign
2 government and authorized to transact the business of
3 guaranteeing or insuring titles to real estate in this State.

4 (a-5) A predatory lending database program shall be
5 established within Cook County. The program shall be
6 administered in accordance with this Article. The inception
7 date of the program shall be July 1, 2008. A predatory lending
8 database program shall be expanded to include Kane, Peoria, and
9 Will counties. The inception date of the expansion of the
10 program as it applies to Kane, Peoria, and Will counties shall
11 be July 1, 2010. Until the inception date, none of the duties,
12 obligations, contingencies, or consequences of or from the
13 program shall be imposed. The program shall apply to all
14 mortgage applications that are governed by this Article and
15 that are made or taken on or after the inception of the
16 program.

17 (b) The database created under this program shall be
18 maintained and administered by the Department. The database
19 shall be designed to allow brokers, originators, counselors,
20 title insurance companies, and closing agents to submit
21 information to the database online. The database shall not be
22 designed to allow those entities to retrieve information from
23 the database, except as otherwise provided in this Article.
24 Information submitted by the broker or originator to the
25 Department may be used to populate the online form submitted by
26 a counselor, title insurance company, or closing agent.

1 (c) Within 10 days after taking a mortgage application, the
2 broker or originator for any mortgage on residential property
3 within the program area must submit to the predatory lending
4 database all of the information required under Section 72 and
5 any other information required by the Department by rule.
6 Within 7 days after receipt of the information, the Department
7 shall compare that information to the housing counseling
8 standards in Section 73 and issue to the borrower and the
9 broker or originator a determination of whether counseling is
10 recommended for the borrower. The borrower may not waive
11 counseling. If at any time after submitting the information
12 required under Section 72 the broker or originator (i) changes
13 the terms of the loan or (ii) issues a new commitment to the
14 borrower, then, within 5 days thereafter, the broker or
15 originator shall re-submit all of the information required
16 under Section 72 and, within 4 days after receipt of the
17 information re-submitted by the broker or originator, the
18 Department shall compare that information to the housing
19 counseling standards in Section 73 and shall issue to the
20 borrower and the broker or originator a new determination of
21 whether re-counseling is recommended for the borrower based on
22 the information re-submitted by the broker or originator. The
23 Department shall require re-counseling if the loan terms have
24 been modified to meet another counseling standard in Section
25 73, or if the broker has increased the interest rate by more
26 than 200 basis points.

1 (d) If the Department recommends counseling for the
2 borrower under subsection (c), then the Department shall notify
3 the borrower of all participating HUD-certified counseling
4 agencies located within the State and direct the borrower to
5 interview with a counselor associated with one of those
6 agencies. Within 10 days after receipt of the notice of
7 HUD-certified counseling agencies, the borrower shall select
8 one of those agencies and shall engage in an interview with a
9 counselor associated with that agency. Within 7 days after
10 interviewing the borrower, the counselor must submit to the
11 predatory lending database all of the information required
12 under Section 74 and any other information required by the
13 Department by rule. Reasonable and customary costs not to
14 exceed \$300 associated with counseling provided under the
15 program shall be paid by the broker or originator. The
16 Department shall annually calculate to the nearest dollar an
17 adjusted rate for inflation. A counselor shall not recommend or
18 suggest that a borrower contact any specific mortgage
19 origination company, financial institution, or entity that
20 deals in mortgage finance to obtain a loan, another quote, or
21 for any other reason related to the specific mortgage
22 transaction; however, a counselor may suggest that the borrower
23 seek an opinion or a quote from another mortgage origination
24 company, financial institution, or entity that deals in
25 mortgage finance. A counselor or housing counseling agency that
26 in good faith provides counseling shall not be liable to a

1 broker or originator or borrower for civil damages, except for
2 willful or wanton misconduct on the part of the counselor in
3 providing the counseling.

4 (e) The broker or originator and the borrower may not take
5 any legally binding action concerning the loan transaction
6 until the later of the following:

7 (1) the Department issues a determination not to
8 recommend HUD-certified counseling for the borrower in
9 accordance with subsection (c); or

10 (2) the Department issues a determination that
11 HUD-certified counseling is recommended for the borrower
12 and the counselor submits all required information to the
13 database in accordance with subsection (d).

14 (f) Within 10 days after closing, the title insurance
15 company or closing agent must submit to the predatory lending
16 database all of the information required under Section 76 and
17 any other information required by the Department by rule.

18 (g) The title insurance company or closing agent shall
19 attach to the mortgage a certificate of compliance with the
20 requirements of this Article, as generated by the database. If
21 the title insurance company or closing agent fails to attach
22 the certificate of compliance, then the mortgage is not
23 recordable. In addition, if any lis pendens for a residential
24 mortgage foreclosure is recorded on the property within the
25 program area, a certificate of service must be simultaneously
26 recorded that affirms that a copy of the lis pendens was filed

1 with the Department. If the certificate of service is not
2 recorded, then the lis pendens pertaining to the residential
3 mortgage foreclosure in question is not recordable and is of no
4 force and effect.

5 (h) All information provided to the predatory lending
6 database under the program is confidential and is not subject
7 to disclosure under the Freedom of Information Act, except as
8 otherwise provided in this Article. Information or documents
9 obtained by employees of the Department in the course of
10 maintaining and administering the predatory lending database
11 are deemed confidential. Employees are prohibited from making
12 disclosure of such confidential information or documents. Any
13 request for production of information from the predatory
14 lending database, whether by subpoena, notice, or any other
15 source, shall be referred to the Department of Financial and
16 Professional Regulation. Any borrower may authorize in writing
17 the release of database information. The Department may use the
18 information in the database without the consent of the
19 borrower: (i) for the purposes of administering and enforcing
20 the program; (ii) to provide relevant information to a
21 counselor providing counseling to a borrower under the program;
22 or (iii) to the appropriate law enforcement agency or the
23 applicable administrative agency if the database information
24 demonstrates criminal, fraudulent, or otherwise illegal
25 activity.

26 (i) Nothing in this Article is intended to prevent a

1 borrower from making his or her own decision as to whether to
2 proceed with a transaction.

3 (j) Any person who violates any provision of this Article
4 commits an unlawful practice within the meaning of the Consumer
5 Fraud and Deceptive Business Practices Act.

6 (k) During the existence of the program, the Department
7 shall submit semi-annual reports to the Governor and to the
8 General Assembly by May 1 and November 1 of each year detailing
9 its findings regarding the program. The report shall include,
10 by county, at least the following information for each
11 reporting period:

12 (1) the number of loans registered with the program;

13 (2) the number of borrowers receiving counseling;

14 (3) the number of loans closed;

15 (4) the number of loans requiring counseling for each
16 of the standards set forth in Section 73;

17 (5) the number of loans requiring counseling where the
18 mortgage originator changed the loan terms subsequent to
19 counseling;

20 (6) the number of licensed mortgage brokers and loan
21 originators entering information into the database;

22 (7) the number of investigations based on information
23 obtained from the database, including the number of
24 licensees fined, the number of licenses suspended, and the
25 number of licenses revoked;

26 (8) a summary of the types of non-traditional mortgage

1 products being offered; and
2 (9) a summary of how the Department is actively
3 utilizing the program to combat mortgage fraud.

4 (Source: P.A. 95-691, eff. 6-1-08; 96-328, eff. 8-11-09.)

5 (225 ILCS 454/5-30 rep.)

6 (225 ILCS 454/5-55 rep.)

7 (225 ILCS 454/20-30 rep.)

8 (225 ILCS 454/20-35 rep.)

9 (225 ILCS 454/20-40 rep.)

10 (225 ILCS 454/20-45 rep.)

11 (225 ILCS 454/20-80 rep.)

12 (225 ILCS 454/20-120 rep.)

13 (225 ILCS 454/30-30 rep.)

14 Section 95. The Real Estate License Act of 2000 is amended
15 by repealing Sections 5-30, 5-55, 20-30, 20-35, 20-40, 20-45,
16 20-80, 20-120, and 30-30.

17 Section 97. Severability. The provisions of this Act are
18 severable under Section 1.31 of the Statute on Statutes.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law, except that Sections 5, 20, and 95 take effect on
21 December 31, 2009 and Sections 10 and 25 take effect 60 days
22 after becoming law.