



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB4709

by Rep. Robert Rita

SYNOPSIS AS INTRODUCED:

225 ILCS 454/1-10
225 ILCS 454/20-20

Amends the Real Estate License Act of 2000. Changes the definition of "broker" to include an individual, partnership, limited liability company, corporation, or registered limited liability partnership other than a real estate salesperson or leasing agent who prepares or provides a broker price opinion or comparative market analysis or similar estimate of the value of real estate. Defines "broker price opinion" and "comparative market analysis". Provides that the Department of Financial and Professional Regulation may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, reprimand, or take any other disciplinary or non-disciplinary action as the Department may deem proper and impose a fine not to exceed \$25,000 upon any licensee or applicant under the Act or any person who holds himself or herself out as an applicant or licensee or against a licensee in handling his or her own property, whether held by deed, option, or otherwise, for providing a broker price opinion or comparative market analysis in a manner that is not consistent with the provisions of the Uniform Standards of Professional Appraisal Practice that apply to broker price opinions and comparative market analyses, as adopted by the Appraisal Standards Board and by rule. Effective immediately.

LRB098 17650 ZMM 52763 b

1 AN ACT concerning regulations.

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

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

6 (225 ILCS 454/1-10)

7 (Section scheduled to be repealed on January 1, 2020)

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

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

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

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

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

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

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

12 "Board" means the Real Estate Administration and
13 Disciplinary Board of the Department as created by Section
14 25-10 of this Act.

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

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

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

26 (2) Offers to sell, exchange, purchase, rent, or lease

1 real estate.

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

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

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

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

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

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

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

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

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

24 (12) Prepares or provides a broker price opinion or
25 comparative market analysis or similar estimate of the
26 value of real estate.

1 "Broker price opinion" means an opinion of value, other
2 than an automated valuation model, that includes, but is not
3 limited to, an analysis of similar competing properties,
4 comparable sold properties, recommended repairs, and costs of
5 suggested marketing techniques and that specifically states
6 that it is not an appraisal.

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

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

17 "Comparative market analysis" means an analysis of similar
18 recently sold properties conducted in order to derive an
19 indication of the probable sales price of a particular
20 property, other than an automated valuation model, and that
21 specifically states that it is not an appraisal.

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

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

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

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

1 than the licensee.

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

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

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

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

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

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

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

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

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

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

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

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

26 "Electronic means of proctoring" means a methodology

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 "Personal assistant" means a licensed or unlicensed person
25 who has been hired for the purpose of aiding or assisting a
26 sponsored licensee in the performance of the sponsored

1 licensee's job.

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

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

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

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

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

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

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

7 "Secretary" means the Secretary of the Department of
8 Financial and Professional Regulation, or a person authorized
9 by the Secretary to act in the Secretary's stead.

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

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

19 (Source: P.A. 98-531, eff. 8-23-13.)

20 (225 ILCS 454/20-20)

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

22 Sec. 20-20. Grounds for discipline.

23 (a) The Department may refuse to issue or renew a license,
24 may place on probation, suspend, or revoke any license,
25 reprimand, or take any other disciplinary or non-disciplinary

1 action as the Department may deem proper and impose a fine not
2 to exceed \$25,000 upon any licensee or applicant under this Act
3 or any person who holds himself or herself out as an applicant
4 or licensee or against a licensee in handling his or her own
5 property, whether held by deed, option, or otherwise, for any
6 one or any combination of the following causes:

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

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

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

25 (4) Practice under this Act as a licensee in a retail
26 sales establishment from an office, desk, or space that is

1 not separated from the main retail business by a separate
2 and distinct area within the establishment.

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

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

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

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

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

21 (10) Making any substantial misrepresentation or
22 untruthful advertising.

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

25 (12) Pursuing a continued and flagrant course of
26 misrepresentation or the making of false promises through

1 licenses, employees, agents, advertising, or otherwise.

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

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

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

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

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

22 (A) disbursed prior to the consummation or
23 termination (i) in accordance with the written
24 direction of the principals to the transaction or their
25 duly authorized agents, (ii) in accordance with
26 directions providing for the release, payment, or

1 distribution of escrow moneys contained in any written
2 contract signed by the principals to the transaction or
3 their duly authorized agents, or (iii) pursuant to an
4 order of a court of competent jurisdiction; or

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

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

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

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

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

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

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

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

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

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

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

1 consent of the owner or his or her authorized agent.

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

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

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

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

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

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

1 the plan.

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

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

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

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

25 (31) Engaging in any act that constitutes a violation
26 of any provision of Article 3 of the Illinois Human Rights

1 Act, whether or not a complaint has been filed with or
2 adjudicated by the Human Rights Commission.

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

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

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

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

1 receive or has been selected to receive something of value,
2 without any conditions or obligations on the part of the
3 recipient.

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

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

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

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

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

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

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

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

10 (44) Providing a broker price opinion or comparative
11 market analysis in a manner that is not consistent with the
12 provisions of the Uniform Standards of Professional
13 Appraisal Practice that apply to broker price opinions and
14 comparative market analyses, as adopted by the Appraisal
15 Standards Board and by rule.

16 (b) The Department may refuse to issue or renew or may
17 suspend the license of any person who fails to file a return,
18 pay the tax, penalty or interest shown in a filed return, or
19 pay any final assessment of tax, penalty, or interest, as
20 required by any tax Act administered by the Department of
21 Revenue, until such time as the requirements of that tax Act
22 are satisfied in accordance with subsection (g) of Section
23 2105-15 of the Civil Administrative Code of Illinois.

24 (c) The Department shall deny a license or renewal
25 authorized by this Act to a person who has defaulted on an
26 educational loan or scholarship provided or guaranteed by the

1 Illinois Student Assistance Commission or any governmental
2 agency of this State in accordance with item (5) of subsection
3 (a) ~~(g)~~ of Section 2105-15 of the Civil Administrative Code of
4 Illinois.

5 (d) In cases where the Department of Healthcare and Family
6 Services (formerly Department of Public Aid) has previously
7 determined that a licensee or a potential licensee is more than
8 30 days delinquent in the payment of child support and has
9 subsequently certified the delinquency to the Department may
10 refuse to issue or renew or may revoke or suspend that person's
11 license or may take other disciplinary action against that
12 person based solely upon the certification of delinquency made
13 by the Department of Healthcare and Family Services in
14 accordance with item (5) of subsection (a) ~~(g)~~ of Section
15 2105-15 of the Civil Administrative Code of Illinois.

16 (e) In enforcing this Section, the Department or Board upon
17 a showing of a possible violation may compel an individual
18 licensed to practice under this Act, or who has applied for
19 licensure under this Act, to submit to a mental or physical
20 examination, or both, as required by and at the expense of the
21 Department. The Department or Board may order the examining
22 physician to present testimony concerning the mental or
23 physical examination of the licensee or applicant. No
24 information shall be excluded by reason of any common law or
25 statutory privilege relating to communications between the
26 licensee or applicant and the examining physician. The

1 examining physicians shall be specifically designated by the
2 Board or Department. The individual to be examined may have, at
3 his or her own expense, another physician of his or her choice
4 present during all aspects of this examination. Failure of an
5 individual to submit to a mental or physical examination, when
6 directed, shall be grounds for suspension of his or her license
7 until the individual submits to the examination if the
8 Department finds, after notice and hearing, that the refusal to
9 submit to the examination was without reasonable cause.

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

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

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

15 (Source: P.A. 97-813, eff. 7-13-12; 97-1002, eff. 8-17-12;
16 98-553, eff. 1-1-14; revised 11-14-13.)

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