

1 AN ACT in relation to home inspectors.

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

4 ARTICLE 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the
6 Home Inspector License Act.

7 Section 1-5. Legislative intent. The intent of the
8 General Assembly in enacting this Act is to evaluate the
9 competency of persons engaged in the home inspection business
10 and to regulate and license those persons engaged in this
11 business for the protection of the public.

12 Section 1-10. Definitions. As used in this Act, unless
13 the context otherwise requires:

14 "Applicant" means a person who applies to OBRE for a
15 license under this Act.

16 "Board" means the Home Inspector Advisory Board.

17 "Client" means a person who engages or seeks to engage
18 the services of a home inspector for an inspection
19 assignment.

20 "Commissioner" means the Commissioner of the Office of
21 Banks and Real Estate or his or her designee.

22 "Home inspection" means an inspection of any of the
23 following components of residential real property:

- 24 (1) heating system;
- 25 (2) cooling system;
- 26 (3) plumbing system;
- 27 (4) electrical system;
- 28 (5) structural composition;
- 29 (6) foundation;

- 1 (7) roof;
- 2 (8) masonry structure;
- 3 (9) exterior components;
- 4 (10) interior components; or
- 5 (11) any other residential real property component
- 6 as established by rule.

7 "Home inspector" means a person who, for another and for
8 compensation either direct or indirect, performs home
9 inspections.

10 "Home inspection report" or "inspection report" means a
11 written evaluation prepared and issued by a home inspector
12 upon completion of a home inspection, which meets the
13 standards of practice as established by OBRE.

14 "Inspection assignment" means an engagement for which a
15 home inspector is employed or retained to conduct a home
16 inspection and prepare a home inspection report.

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

18 "Residential real property" means an identified parcel or
19 tract of land, including improvements, intended to be used or
20 in fact used as a residence of one to 4 units.

21 "Standards of practice" means recognized standards and
22 codes to be used in a home inspection, as determined by OBRE
23 and established by rule.

24 ARTICLE 5. LICENSING PROVISIONS

25 Section 5-5. Necessity of license; use of title;
26 exemptions.

27 (a) Beginning January 1, 2003, it is unlawful for a
28 person to act or assume to act as a home inspector, to engage
29 in the business of home inspection, to develop a home
30 inspection report, to practice as a home inspector, or to
31 advertise or hold himself or herself out to be a home
32 inspector without a home inspector license issued under this

1 Act. A person who violates this subsection is guilty of a
2 Class A misdemeanor.

3 (b) Beginning January 1, 2003, it is unlawful for any
4 person, other than a person who holds a valid home inspector
5 license issued pursuant to this Act, to use the title "home
6 inspector" or any other title, designation, or abbreviation
7 likely to create the impression that the person is licensed
8 as a home inspector pursuant to this Act. A person who
9 violates this subsection is guilty of a Class A misdemeanor.

10 (c) The licensing requirements of this Article do not
11 apply to:

12 (1) any person who is employed as a code
13 enforcement official by the State of Illinois or any unit
14 of local government, while acting within the scope of
15 that government employment;

16 (2) any person regulated by the State of Illinois
17 or a local jurisdiction, while acting within the scope of
18 his or her license or practice as an:

- 19 (A) architect;
- 20 (B) professional engineer;
- 21 (C) electrical contractor;
- 22 (D) master plumber;
- 23 (E) real estate broker;
- 24 (F) real estate salesperson;
- 25 (G) real estate leasing agent;
- 26 (H) certified general or residential real
27 estate appraiser;
- 28 (I) associate real estate appraiser;
- 29 (J) insurance adjuster;
- 30 (K) electrician;
- 31 (L) plumber;
- 32 (M) heating or cooling technician; or
- 33 (N) general building contractor; or

34 (3) any person certified or registered within the

1 State of Illinois as a pesticide applicator or inspector
2 who is acting within the scope of his or her profession.

3 Section 5-10. Application for Home Inspector license.
4 Every person who desires to obtain a home inspector license
5 shall:

6 (1) apply to OBRE on forms provided by OBRE
7 accompanied by the required fee;

8 (2) be at least 21 years of age;

9 (3) provide evidence of having attained a high
10 school diploma or completed an equivalent course of study
11 as determined by an examination conducted by the Illinois
12 State Board of Education;

13 (4) personally take and pass an examination
14 authorized by OBRE; and

15 (5) prior to taking the examination, provide
16 evidence to OBRE that he or she has successfully
17 completed the prerequisite classroom hours of instruction
18 in home inspection, as established by rule.

19 Section 5-15. Practice prior to this Act. A person who
20 has actively and lawfully practiced as a home inspector in
21 the State of Illinois prior to the effective date of this Act
22 may obtain a home inspector license without examination
23 provided he or she:

24 (1) is a resident of the State of Illinois;

25 (2) makes application to OBRE on forms provided by
26 OBRE within 6 months after the effective date of this
27 Act;

28 (3) verifies that he or she has practiced as a home
29 inspector for a period of at least 2 years prior to the
30 effective date of this Act; and

31 (4) verifies that he or she has conducted a minimum
32 of 25 home inspections within the 2 years prior to the

1 effective date of this Act.

2 Section 5-15. Renewal of license.

3 (a) The expiration date and renewal period for a home
4 inspector license issued under this Act shall be set by rule.
5 Except as otherwise provided in subsections (b) and (c) of
6 this Section, the holder of a license may renew the license
7 within 90 days preceding the expiration date by:

8 (1) completing and submitting to OBRE a renewal
9 application form as provided by OBRE;

10 (2) paying the required fees; and

11 (3) providing evidence of successful completion of
12 the continuing education requirements through courses
13 approved by OBRE given by education providers licensed by
14 OBRE, as established by rule.

15 (b) A home inspector whose license under this Act has
16 expired may renew the license for a period of 2 years
17 following the expiration date by complying with the
18 requirements of subparagraphs (1), (2), and (3) of subsection
19 (a) of this Section and paying any late penalties established
20 by rule.

21 (c) Notwithstanding subsection (b), a home inspector
22 whose license under this Act has expired may renew the
23 license without paying any lapsed renewal fees or late
24 penalties if (i) the license expired while the home inspector
25 was on active duty with the United States Armed Services,
26 (ii) application for renewal is made within 2 years following
27 the termination of the military service or related education,
28 training, or employment, and (iii) the applicant furnishes to
29 OBRE an affidavit that he or she was so engaged.

30 (d) OBRE shall provide reasonable care and due diligence
31 to ensure that each licensee under this Act is provided a
32 renewal application at least 90 days prior to the expiration
33 date, but it is the responsibility of each licensee to renew

1 his or her license prior to its expiration date.

2 Section 5-20. Reciprocity; consent to jurisdiction.

3 (a) A nonresident who holds a valid home inspector
4 license issued to him or her by the proper licensing
5 authority of a state, territory, possession of the United
6 States, or the District of Columbia that has licensing
7 requirements equal to or substantially equivalent to the
8 requirements of the State of Illinois and otherwise meets the
9 requirements for licensure may obtain a license without
10 examination, provided that:

11 (1) OBRE has entered into a valid reciprocal
12 agreement with the proper licensing authority of the
13 state, territory, or possession of the United States or
14 the District of Columbia;

15 (2) the applicant provides OBRE with a certificate
16 of good standing from the applicant's licensing
17 authority;

18 (3) the applicant completes and submits an
19 application provided by OBRE; and

20 (4) the applicant pays all applicable fees required
21 under this Act.

22 (b) A nonresident applicant shall file an irrevocable
23 consent form with OBRE authorizing that actions may be
24 commenced against the applicant or nonresident licensee in a
25 court of competent jurisdiction in the State of Illinois by
26 the service of summons, process, or other pleading authorized
27 by law upon the Commissioner. The consent shall stipulate
28 and agree that service of the summons, process, or pleading
29 upon the Commissioner shall be taken and held in all courts
30 to be valid and binding as if actual service had been made
31 upon the nonresident licensee in Illinois. If a summons,
32 process, or other pleading is served upon the Commissioner,
33 it shall be by duplicate copies, one of which shall be

1 retained by OBRE and the other shall be immediately forwarded
2 by certified or registered mail to the last known address of
3 the nonresident licensee against whom the summons, process,
4 or other pleading is directed.

5 Section 5-25. Pre-license education requirements. The
6 prerequisite classroom hours necessary for a person to be
7 approved to sit for the examination for a home inspector
8 shall be established by rule.

9 Section 5-30. Continuing education renewal requirements.
10 The continuing education requirements for a person to renew a
11 license as a home inspector shall be established by rule.

12 Section 5-45. Fees. OBRE shall establish rules for
13 fees to be paid by applicants and licensees to cover the
14 reasonable costs of OBRE in administering and enforcing the
15 provisions of this Act. OBRE may also establish rules for
16 general fees to cover the reasonable expenses of carrying out
17 other functions and responsibilities under this Act.

18 ARTICLE 10. BUSINESS PRACTICE PROVISIONS

19 Section 10-5. Standards of practice. All persons
20 licensed under this Act must comply with standards of
21 professional home inspection adopted by OBRE and established
22 by rule. OBRE shall consider nationally recognized standards
23 and codes prior to adopting the rules for the standards of
24 practice.

25 Section 10-10. Retention of records. A person licensed
26 under this Act shall retain the original or a true and exact
27 copy of all written contracts engaging his or her services as
28 a home inspector and all home inspection reports, including

1 any supporting data used to develop the home inspection
2 report, for a period of 5 years or 2 years after the final
3 disposition of any judicial proceeding in which testimony was
4 given, whichever is longer.

5 ARTICLE 15. DISCIPLINARY PROVISIONS

6 Section 15-5. Unlicensed practice; civil penalty;
7 injunctive relief.

8 (a) Any person who violates Section 5-5 of this Act
9 shall, in addition to any other penalty provided by law, pay
10 a civil penalty to OBRE in an amount not to exceed \$10,000
11 for each violation as determined by the Commissioner. The
12 civil penalty shall be assessed by the Commissioner after a
13 hearing in accordance with the provisions of this Act.

14 (b) OBRE has the authority to investigate any activity
15 that may violate this Act or the rules adopted under this
16 Act.

17 (c) A civil penalty shall be paid within 60 days after
18 the effective date of the order imposing the civil penalty.
19 The OBRE may petition the circuit court for a judgment to
20 enforce the collection of the penalty. Any civil penalties
21 collected under this Act shall be made payable to the Office
22 of Banks and Real Estate and deposited into the Home
23 Inspector Administration Fund. In addition to or in lieu of
24 the imposition of a civil penalty, OBRE may report a
25 violation of this Act or the failure or refusal to comply
26 with an order of OBRE to the Attorney General or the
27 appropriate State's Attorney.

28 (d) Practicing as a home inspector without holding a
29 valid license as required under this Act is declared to be
30 adverse to the public welfare, to constitute a public
31 nuisance, and to cause irreparable harm to the public
32 welfare. The Commissioner, the Attorney General, or the

1 State's Attorney of any county in the State may maintain an
2 action for injunctive relief in the name of the People of the
3 State of Illinois in any circuit court to enjoin any person
4 from engaging in such practice.

5 Upon the filing of a verified petition in a circuit
6 court, the court, if satisfied by affidavit or otherwise that
7 a person has been engaged in the practice of home inspections
8 without a valid license, may enter a temporary restraining
9 order without notice or bond enjoining the defendant from
10 further practice. The showing of non-licensure, by affidavit
11 or otherwise, is sufficient for the issuance of a temporary
12 injunction. A copy of the verified complaint shall be served
13 upon the defendant and the proceeding shall be conducted as
14 in other civil cases except as modified by this Section. If
15 it is established that the defendant has been or is engaged
16 in unlawful practice, the court may enter an order or
17 judgment perpetually enjoining the defendant from further
18 unlawful practice. In all proceedings under this Section,
19 the court, in its discretion, may apportion the costs among
20 the parties interested in the action, including the cost of
21 filing the complaint, service of process, witness fees and
22 expenses, court reporter charges, and reasonable attorneys'
23 fees. These injunction proceedings shall be in addition to,
24 and not in lieu of, all penalties and other remedies provided
25 in this Act.

26 Section 15-10. Grounds for disciplinary action.

27 (a) The Office of Banks and Real Estate may suspend,
28 revoke, or refuse to issue or renew a license, and may
29 reprimand, place on probation or administrative supervision,
30 or otherwise discipline a licensee, including imposing
31 conditions limiting the scope, nature, or extent of the home
32 inspection practice of a licensee and may impose a civil
33 penalty not to exceed \$10,000 upon a licensee, for one or any

1 combination of the following:

2 (1) Procuring or attempting to procure a license by
3 knowingly making a false statement, submitting false
4 information, making any form of fraud or
5 misrepresentation, or refusing to provide complete
6 information in response to a question in an application
7 for licensure.

8 (2) Failing to meet the minimum qualifications for
9 licensure as a home inspector established by this Act.

10 (3) Paying money, other than for the fees provided
11 for by this Act, or anything of value to a member of the
12 Board or an employee of the Office of Banks and Real
13 Estate to procure licensure under this Act.

14 (4) Being convicted of a felony in any state or
15 federal court; of any crime, an essential element of
16 which is dishonesty, fraud, theft, or embezzlement; of
17 obtaining money, property, or credit by false pretenses;
18 or of any other crime that is reasonably related to the
19 practice of home inspection.

20 (5) Committing an act or omission involving
21 dishonesty, fraud, or misrepresentation with the intent
22 to substantially benefit the licensee or another person
23 or with the intent to substantially injure another
24 person.

25 (6) Violating a provision or standard for the
26 development or communication of home inspections as
27 provided in Section 10-5 of this Act or as defined in the
28 rules.

29 (7) Failing or refusing without good cause to
30 exercise reasonable diligence in the development,
31 reporting, or communication of a home inspection report,
32 as defined by this Act or the rules.

33 (8) Violating a provision of this Act or the rules.

34 (9) Having been disciplined by another state, the

1 District of Columbia, a territory, a foreign nation, a
2 governmental agency, or any other entity authorized to
3 impose discipline if at least one of the grounds for that
4 discipline is the same as or the equivalent of one of the
5 grounds for which a licensee may be disciplined under
6 this Act.

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

10 (11) Accepting an inspection assignment when the
11 employment itself is contingent upon the home inspector
12 reporting a predetermined analysis or opinion, or when
13 the fee to be paid is contingent upon the analysis,
14 opinion, or conclusion reached or upon the consequences
15 resulting from the home inspection assignment.

16 (12) Developing home inspection opinions or
17 conclusions based on the race, color, religion, sex,
18 national origin, ancestry, age, marital status, family
19 status, physical or mental handicap, or unfavorable
20 military discharge, as defined under the Illinois Human
21 Rights Act, of the prospective or present owners or
22 occupants of the area or property under home inspection.

23 (13) Being adjudicated liable in a civil proceeding
24 on grounds of fraud, misrepresentation, or deceit. In a
25 disciplinary proceeding based upon a finding of civil
26 liability, the home inspector shall be afforded an
27 opportunity to present mitigating and extenuating
28 circumstances, but may not collaterally attack the civil
29 adjudication.

30 (14) Being adjudicated liable in a civil proceeding
31 for violation of a State or federal fair housing law.

32 (15) Engaging in misleading or untruthful
33 advertising or using a trade name or insignia of
34 membership in a home inspection organization of which the

1 licensee is not a member.

2 (16) Failing to fully cooperate with an OBRE
3 investigation by knowingly making a false statement,
4 submitting false or misleading information, or refusing
5 to provide complete information in response to written
6 interrogatories or a written request for documentation
7 within 30 days of the request.

8 (17) Failing to include within the home inspection
9 report the home inspector's license number and the date
10 of expiration of the license. All home inspectors
11 providing significant contribution to the development and
12 reporting of a home inspection must be disclosed in the
13 home inspection report. It is a violation of this Act for
14 a home inspector to sign a home inspection report knowing
15 that a person providing a significant contribution to the
16 report has not been disclosed in the home inspection
17 report.

18 (18) Acting in a dual capacity as a home inspector
19 and an undisclosed principal in a real estate
20 transaction.

21 (19) Acting in a dual capacity as a home inspector
22 and a broker in a real estate transaction.

23 (20) Acting in a dual capacity as a home inspector
24 and a real estate appraiser in the same real estate
25 transaction.

26 (21) Performing or agreeing to perform any repair
27 or maintenance in connection with a home inspection
28 pursuant to the terms of a real estate contract, lease
29 agreement, or exchange of real estate.

30 (b) The Office of Banks and Real Estate may suspend,
31 revoke, or refuse to issue or renew an education provider's
32 license, may reprimand, place on probation, or otherwise
33 discipline an education provider licensee, and may suspend or
34 revoke the course approval of any course offered by an

1 education provider, for any of the following:

2 (1) Procuring or attempting to procure licensure by
3 knowingly making a false statement, submitting false
4 information, making any form of fraud or
5 misrepresentation, or refusing to provide complete
6 information in response to a question in an application
7 for licensure.

8 (2) Failing to comply with the covenants certified
9 to on the application for licensure as an education
10 provider.

11 (3) Committing an act or omission involving
12 dishonesty, fraud, or misrepresentation or allowing any
13 such act or omission by any employee or contractor under
14 the control of the education provider.

15 (4) Engaging in misleading or untruthful
16 advertising.

17 (5) Failing to retain competent instructors in
18 accordance with rules adopted under this Act.

19 (6) Failing to meet the topic or time requirements
20 for course approval as the provider of a pre-license
21 curriculum course or a continuing education course.

22 (7) Failing to administer an approved course using
23 the course materials, syllabus, and examinations
24 submitted as the basis of the course approval.

25 (8) Failing to provide an appropriate classroom
26 environment for presentation of courses, with
27 consideration for student comfort, acoustics, lighting,
28 seating, workspace, and visual aid material.

29 (9) Failing to maintain student records in
30 compliance with the rules adopted under this Act.

31 (10) Failing to provide a certificate, transcript,
32 or other student record to OBRE or to a student as may be
33 required by rule.

34 (11) Failing to fully cooperate with an OBRE

1 investigation by knowingly making a false statement,
2 submitting false or misleading information, or refusing
3 to provide complete information in response to written
4 interrogatories or a written request for documentation
5 within 30 days of the request.

6 (c) In appropriate cases, OBRE may resolve a complaint
7 against a licensee through the issuance of a Consent to
8 Administrative Supervision order. A licensee subject to a
9 Consent to Administrative Supervision order shall be
10 considered by OBRE as an active licensee in good standing.
11 This order shall not be reported as or considered by OBRE to
12 be a discipline of the licensee. The records regarding an
13 investigation and a Consent to Administrative Supervision
14 order shall be considered confidential and shall not be
15 released by OBRE except as mandated by law. The complainant
16 shall be notified that his or her complaint has been resolved
17 by a Consent to Administrative Supervision order.

18 Section 15-15. Investigation; notice; hearing.

19 (a) Upon the request of the Office of Banks and Real
20 Estate or the Board, or upon a complaint in writing of a
21 person setting forth facts that, if proven, would constitute
22 grounds for suspension, revocation, or other disciplinary
23 action against a licensee or applicant for licensure, the
24 Office of Banks and Real Estate shall investigate the actions
25 of the licensee or applicant so accused.

26 (b) Formal disciplinary proceedings shall commence upon
27 the issuance of a written complaint detailing the charges
28 that are the basis of the disciplinary action and delivery of
29 the detailed complaint to the address of record of the
30 licensee or applicant. OBRE shall notify the licensee or
31 applicant to file a verified written answer within 20 days
32 after the service of the notice and complaint. The
33 notification shall inform the licensee or applicant that he

1 or she has a right to be heard in person or by legal counsel;
2 that the hearing will be afforded not sooner than 30 days
3 after receipt of the answer to the specific charges; that
4 failure to file an answer will result in a default being
5 entered against the licensee or applicant; and that the
6 license may be suspended, revoked, or placed on probationary
7 status and other disciplinary action may be taken pursuant to
8 this Act, including limiting the scope, nature, or extent of
9 the licensee's practice. If the licensee or applicant fails
10 to file an answer after receiving notice, his or her license
11 may, at the discretion of the Office of Banks and Real
12 Estate, be suspended, revoked, or placed on probationary
13 status and the Office of Banks and Real Estate may take
14 whatever disciplinary action it deems proper, including
15 limiting the scope, nature, or extent of the person's
16 practice, without a hearing.

17 (c) At the time and place fixed in the notice, the Board
18 shall conduct a hearing of the charges, providing both the
19 accused person and the complainant ample opportunity to
20 present in person or by counsel such statements, testimony,
21 evidence, and arguments as may be pertinent to the charges or
22 to any defense thereto.

23 (d) The Board shall present to the Commissioner a
24 written report of its findings and recommendations. A copy of
25 the report shall be served upon the licensee or applicant,
26 either personally or by certified mail. Within 20 days after
27 the service, the licensee or applicant may present the
28 Commissioner with a motion in writing for either a rehearing,
29 a proposed finding of fact, a conclusion of law, or an
30 alternative sanction, and shall specify the particular
31 grounds for the request. If the accused shall order and pay
32 for a transcript of the record as provided in this Act, the
33 time elapsing thereafter and before the transcript is ready
34 for delivery to the accused shall not be counted as part of

1 the 20 days. If the Commissioner is not satisfied that
2 substantial justice has been done, the Commissioner may order
3 a rehearing by the Board or other special committee appointed
4 by the Commissioner, may remand the matter to the Board for
5 their reconsideration of the matter based on the pleadings
6 and evidence presented to the Board, or may enter a final
7 order in contravention of the Board's recommendation. In all
8 instances, under this Act, in which the Board has rendered a
9 recommendation to the Commissioner with respect to a
10 particular licensee or applicant, the Commissioner, if he or
11 she disagrees with the recommendation of the Board, shall
12 file with the Board and provide to the licensee or applicant
13 the Commissioner's specific written reasons for disagreement
14 with the Board. The reasons shall be filed within 60 days of
15 the Board's recommendation to the Commissioner and prior to
16 any contrary action. At the expiration of the time specified
17 for filing a motion for a rehearing, the Commissioner shall
18 have the right to take any of the actions specified in this
19 paragraph. Upon the suspension or revocation of a license,
20 the licensee shall be required to surrender his or her
21 license to OBRE, and upon failure or refusal to do so, OBRE
22 shall have the right to seize the license.

23 (e) The Office of Banks and Real Estate has the power to
24 issue subpoenas and subpoenas duces tecum to bring before it
25 any person in this State, to take testimony, or to require
26 production of any records relevant to an inquiry or hearing
27 by the Board in the same manner as prescribed by law in
28 judicial proceedings in the courts of this State. In a case
29 of refusal of a witness to attend, testify, or to produce
30 books or papers concerning a matter upon which he or she
31 might be lawfully examined, the circuit court of the county
32 where the hearing is held, upon application of the Office of
33 Banks and Real Estate or any party to the proceeding, may
34 compel obedience by proceedings as for contempt of court.

1 (f) Any license that is suspended indefinitely or
2 revoked may not be restored for a minimum period of 2 years.
3 After the 2 year period, OBRE may restore the license without
4 examination, upon the written recommendation of the Board.

5 Section 15-20. Administrative Review Law; certification
6 fees; Administrative Procedure Act.

7 (a) All final administrative decisions of the
8 Commissioner under this Act are subject to judicial review
9 pursuant to the provisions of the Administrative Review Law
10 and the rules adopted pursuant thereto. The term
11 "administrative decision" has the meaning ascribed to it in
12 Section 3-101 of the Administrative Review Law.

13 (b) OBRE shall not be required to certify any record,
14 file any answer, or otherwise appear unless the party filing
15 the administrative review complaint pays the certification
16 fee to OBRE as provided by rule. Failure on the part of the
17 plaintiff to make such a deposit shall be grounds for
18 dismissal of the action.

19 (c) The Administrative Procedure Act is hereby expressly
20 adopted and incorporated herein. In the event of a conflict
21 between this Act and the Administrative Procedure Act, this
22 Act shall control.

23 Section 15-25. Temporary suspension. The Commissioner
24 may temporarily suspend the license of a licensee without a
25 hearing, while instituting a proceeding for a hearing as
26 provided for in Section 15-15 of this Act, if the
27 Commissioner finds that the evidence indicates that the
28 public interest, safety, or welfare imperatively requires
29 emergency action. In the event that the Commissioner
30 temporarily suspends the license without a hearing before the
31 Board, a hearing shall be held within 30 days after the
32 suspension has occurred. The suspended licensee may seek a

1 continuance of the hearing during which the suspension shall
2 remain in effect. The proceeding shall be concluded without
3 appreciable delay.

4 Section 15-30. Statute of limitations. No action may be
5 taken under this Act against a person licensed under this Act
6 unless the action is commenced within 5 years after the
7 occurrence of the alleged violation. A continuing violation
8 is deemed to have occurred on the date when the circumstances
9 last existed that gave rise to the alleged continuing
10 violation.

11 Section 15-35. Signature of the Commissioner. An order
12 of revocation or suspension or a certified copy of the order,
13 bearing the seal of OBRE and purporting to be signed by the
14 Commissioner, shall be prima facie proof that:

15 (1) the signature is the genuine signature of the
16 Commissioner;

17 (2) the Commissioner is duly appointed and
18 qualified; and

19 (3) the Board and its members are qualified.

20 This proof may be rebutted.

21 Section 15-40. Violation of tax Acts. OBRE may refuse
22 to issue or renew or may suspend the license of any person
23 who fails to file a return, pay the tax, penalty, or interest
24 shown in a filed return, or pay any final assessment of tax,
25 penalty, or interest, as required by any tax Act administered
26 by the Department of Revenue, until such time as the
27 requirements of that tax Act are satisfied.

28 Section 15-45. Disciplinary action for educational loan
29 defaults. OBRE shall deny a license or renewal authorized by
30 this Act to a person who has defaulted on an educational loan

1 or scholarship provided or guaranteed by the Illinois Student
2 Assistance Commission or any governmental agency of this
3 State. OBRE may issue a license or renewal if the person has
4 established a satisfactory repayment record as determined by
5 the Illinois Student Assistance Commission or other
6 appropriate governmental agency of this State. Additionally,
7 a license issued by OBRE may be suspended or revoked if the
8 Commissioner, after the opportunity for a hearing under this
9 Act, finds that the licensee has failed to make satisfactory
10 repayment to the Illinois Student Assistance Commission for a
11 delinquent or defaulted loan.

12 Section 15-50. Nonpayment of child support. In cases
13 where the Department of Public Aid has previously determined
14 that a licensee or a potential licensee is more than 30 days
15 delinquent in the payment of child support and has
16 subsequently certified the delinquency to OBRE, OBRE may
17 refuse to issue or renew or may revoke or suspend that
18 person's license or may take other disciplinary action
19 against that person based solely upon the certification of
20 delinquency made by the Department of Public Aid.
21 Redetermination of the delinquency by OBRE shall not be
22 required. In cases regarding the renewal of a license, OBRE
23 shall not renew any license if the Department of Public Aid
24 has certified the licensee to be more than 30 days delinquent
25 in the payment of child support unless the licensee has
26 arranged for payment of past and current child support
27 obligations in a manner satisfactory to the Department of
28 Public Aid. OBRE may impose conditions, restrictions, or
29 disciplinary action upon that renewal.

30 Section 15-55. Returned checks; penalty fee;
31 termination. A person who delivers a check or other payment
32 to OBRE that is returned to OBRE unpaid by the financial

1 institution upon which it was drawn shall pay to OBRE, in
2 addition to the amount already owed, a penalty fee of \$50.
3 OBRE shall notify the person, by certified mail return
4 receipt requested, that his or her check or payment was
5 returned and that the person shall pay to OBRE by certified
6 check or money order the amount of the returned check plus a
7 \$50 penalty fee within 30 calendar days after the date of the
8 notification. If, after the expiration of 30 calendar days
9 of the notification, the person has failed to remit the
10 necessary funds and penalty, OBRE shall automatically
11 terminate the license or deny the application without
12 hearing. If the returned check or other payment was for
13 issuance of a license under this Act and that person
14 practices as a home inspector, that person may be subject to
15 discipline for unlicensed practice as provided in this Act.
16 If, after termination or denial, the person seeks a license,
17 he or she shall petition OBRE for restoration and he or she
18 may be subject to additional discipline or fines. The
19 Commissioner may waive the penalties or fines due under this
20 Section in individual cases where the Commissioner finds that
21 the penalties or fines would be unreasonable or unnecessarily
22 burdensome.

23 Section 15-60. Cease and desist orders. OBRE may issue,
24 cease and desist orders to persons who engage in activities
25 prohibited by this Act. Any person in violation of a cease
26 and desist order issued by OBRE is subject to all of the
27 penalties provided by law.

28 ARTICLE 20. EDUCATION PROVISIONS

29 Section 20-5. Education provider.

30 (a) Beginning January 1, 2002, only education providers
31 licensed by OBRE may provide the pre-license and continuing

1 education courses required for licensure under this Act.

2 (b) A person or entity seeking to be licensed as an
3 education provider under this Act shall provide satisfactory
4 evidence of the following:

5 (1) a sound financial base for establishing,
6 promoting, and delivering the necessary courses;

7 (2) a sufficient number of qualified instructors;

8 (3) adequate support personnel to assist with
9 administrative matters and technical assistance;

10 (4) a written policy dealing with procedures for
11 management of grievances and fee refunds;

12 (5) a qualified school administrator, who is
13 responsible for the administration of the school,
14 courses, and the actions of the instructors; and

15 (6) any other requirements provided by rule.

16 (c) All applicants for an education provider's license
17 shall make initial application to OBRE on forms provided by
18 OBRE and pay the appropriate fee as provided by rule. The
19 term, expiration date, and renewal of an education provider's
20 license shall be established by rule.

21 (d) An education provider shall provide each successful
22 course participant with a certificate of completion signed by
23 the school administrator. The format and content of the
24 certificate shall be specified by rule.

25 (e) All education providers shall provide to OBRE a
26 monthly roster of all successful course participants as
27 provided by rule.

28 Section 20-10. Course approval.

29 (a) Only courses that are approved by OBRE and offered
30 by licensed education providers shall be used to meet the
31 requirements of this Act and rules.

32 (b) An education provider licensed under this Act may
33 submit courses to OBRE for approval. The criteria,

1 requirements, and fees for courses shall be established by
2 rule.

3 (c) For each course approved, OBRE shall issue a
4 certificate of course approval to the education provider.
5 The term, expiration date, and renewal of a course approval
6 shall be established by rule.

7 ARTICLE 25. ADMINISTRATIVE PROVISIONS

8 Section 25-5. Home Inspector Administration Fund;
9 surcharge.

10 (a) The Home Inspector Administration Fund is created as
11 a special fund in the State Treasury. All fees, fines, and
12 penalties received by OBRE under this Act shall be deposited
13 into the Home Inspector Administration Fund. All earnings
14 attributable to investment of funds in the Home Inspector
15 Administration Fund shall be credited to the Home Inspector
16 Administration Fund. Subject to appropriation, the moneys in
17 the Home Inspector Administration Fund shall be appropriated
18 to OBRE for the expenses incurred by OBRE and the Board in
19 the administration of this Act.

20 (b) The State Comptroller and State Treasurer shall
21 transfer \$150,000 from the Real Estate License Administration
22 Fund to the Home Inspector Administration Fund on July 1,
23 2002.

24 The State Treasurer shall transfer \$50,000 from the Home
25 Inspector Administration Fund to the Real Estate License
26 Administration Fund on July 1, 2003, July 1, 2004, and July
27 1, 2005; except that if there is a sufficient fund balance in
28 the Home Inspector Administration Fund, the Commissioner may
29 recommend the acceleration of any of these repayment
30 transfers to the State Comptroller and State Treasurer, who
31 may, in their discretion, accelerate the transfers in
32 accordance with the Commissioner's recommendation.

1 (c) Until a total of \$150,000 has been transferred to
2 the Home Inspector Administration Fund from the Real Estate
3 License Administration Fund under subsection (b), each
4 initial applicant for a license under this Act shall pay to
5 OBRE a surcharge of \$150 in addition to the license fees
6 otherwise required under this Act.

7 (d) Upon the completion of any audit of OBRE, as
8 prescribed by the Illinois State Auditing Act, that includes
9 an audit of the Home Inspector Administration Fund, OBRE
10 shall make the audit report open to inspection by any
11 interested person.

12 Section 25-10. Home Inspector Advisory Board.

13 (a) There is hereby created the Home Inspector Advisory
14 Board. The Board shall be composed of 7 voting members
15 appointed by the Commissioner, plus the liaison under Section
16 25-15, who shall serve ex officio and without vote. Members
17 shall be appointed to the Board subject to the following
18 conditions:

19 (1) All appointed members shall have been residents
20 and citizens of this State for at least 5 years prior to
21 the date of appointment.

22 (2) The appointed membership of the Board should
23 reasonably reflect the geographic distribution of the
24 population of the State.

25 (3) Five appointed members shall be actively
26 engaged and currently licensed as home inspectors, except
27 that the initial appointees may be persons without a
28 license who have been actively engaged as home inspectors
29 for a period of 5 years immediately before the effective
30 date of this Act. Failure of an initial appointee under
31 this item (3) to obtain a license by January 1, 2003
32 shall constitute resignation from the Board.

33 (4) One appointed member shall hold a valid license

1 as a real estate broker and shall have been actively
2 engaged as a real estate broker for a period of not less
3 than 5 years.

4 (5) One appointed member shall represent the
5 interests of the general public. This member and the
6 member's spouse shall not be licensed under this Act, nor
7 be employed by nor have any interest in a home inspection
8 business or a real estate brokerage business.

9 In making appointments to the Board, the Commissioner
10 shall give due consideration to recommendations by members
11 and organizations representing the home inspection and real
12 estate industries.

13 (b) The term for members of the Board shall be 4 years,
14 except for the initial appointees. Of the initial
15 appointees, 4 members shall be appointed for terms ending
16 January 1, 2007 and 3 members shall be appointed for terms
17 ending January 1, 2006. No member shall serve more than 10
18 years in a lifetime.

19 (c) The Commissioner may terminate the appointment of
20 any member for cause that, in the opinion of the
21 Commissioner, reasonably justifies the termination. Cause for
22 termination may include, without limitation, misconduct,
23 incapacity, neglect of duty, or missing 4 Board meetings
24 during any one calendar year.

25 (d) A majority of the voting members currently appointed
26 shall constitute a quorum. A vacancy in the membership of
27 the Board shall not impair the right of a quorum to exercise
28 all of the rights and perform all of the duties of the Board.

29 (e) The Board shall meet at least quarterly and may be
30 convened by the Chairperson or 3 members of the Board upon 10
31 days' written notice.

32 (g) The liaison appointed pursuant to Section 25-15 of
33 this Act shall serve, ex officio, as Chairperson of the
34 Board, without vote.

1 (h) The Board shall advise OBRE on matters of licensing
2 and education and shall make recommendations to OBRE on those
3 matters. OBRE shall give due consideration to all
4 recommendations presented by the Board.

5 (i) The Board shall hear and make recommendations to the
6 Commissioner on disciplinary matters that require a formal
7 evidentiary hearing. The Commissioner shall give due
8 consideration to the recommendations of the Board involving
9 discipline and questions about the standards of professional
10 conduct of licensees.

11 (j) The Board may make recommendations to OBRE
12 concerning the consistency of the rules with the provisions
13 of this Act and the administration and enforcement of the
14 rules. OBRE shall give due consideration to the
15 recommendations of the Board prior to promulgating rules.

16 (k) The Board shall make recommendations to OBRE on the
17 approval of courses submitted to OBRE pursuant to this Act
18 and rules. OBRE shall give due consideration to the
19 recommendations of the Board prior to approving courses.

20 (l) Each voting member of the Board shall receive a per
21 diem stipend in an amount to be determined by the
22 Commissioner. Each voting member shall be paid his or her
23 necessary expenses while engaged in the performance of his or
24 her duties.

25 (m) Members of the Board shall be immune from suit in an
26 action based upon any disciplinary proceedings or other acts
27 performed in good faith as members of the Board.

28 Section 25-15. Liaison; duties. The Commissioner shall
29 appoint an employee of OBRE to:

30 (1) serve as a liaison to and as Chairperson of the
31 Home Inspector Advisory Board, without vote;

32 (2) be the direct liaison between OBRE, the
33 profession, home inspectors, and related industry

1 organizations and associations; and
2 (3) prepare and circulate to licensees such
3 educational and informational material as OBRE deems
4 necessary for providing guidance or assistance to
5 licensees.

6 Section 25-20. OBRE; powers and duties. The Office of
7 Banks and Real Estate shall exercise the powers and duties
8 prescribed by the Civil Administrative Code of Illinois for
9 the administration of licensing acts and shall exercise such
10 other powers and duties as are prescribed by this Act for the
11 administration of this Act. OBRE may contract with third
12 parties for services necessary for the proper administration
13 of this Act, including, without limitation, investigators
14 with the proper knowledge, training, and skills to properly
15 investigate complaints against home inspectors.

16 Section 25-25. Rules. OBRE, after considering any
17 recommendations of the Board, shall adopt any rules that may
18 be necessary for the administration, implementation, and
19 enforcement of this Act.

20 Section 25-30. Exclusive State powers and functions;
21 municipal powers. It is declared to be the public policy of
22 this State, pursuant to paragraph (h) of Section 6 of Article
23 VII of the Illinois Constitution of 1970, that any power or
24 function set forth in this Act to be exercised by the State
25 is an exclusive State power or function. Such power and
26 function shall not be exercised concurrently, either directly
27 or indirectly, by any unit of local government, including
28 home rule units.

29 ARTICLE 950. AMENDATORY PROVISIONS

1 Section 950-5. The Regulatory Sunset Act is amended by
2 adding Section 4.22 as follows:

3 (5 ILCS 801/4.22 new)

4 Sec. 4.22. Act repealed on January 1, 2012. The
5 following Act is repealed on January 1, 2012.

6 The Home Inspector License Act.

7 Section 950-10. The State Finance Act is amended by
8 adding Section 5.545 as follows:

9 (30 ILCS 105/5.545 new)

10 Sec. 5.545. The Home Inspector Administration Fund.

11 ARTICLE 999. EFFECTIVE DATE

12 Section 999-99. Effective date. This Act takes effect
13 upon becoming law.