



ILLINOIS ASSOCIATION OF REALTORS®

SB 1894 - Real Estate License Act of 2000 Rewrite – SUPPORT

Senate Bill 1894 (McCarthy-Haine) contains the rewrite of the **Real Estate License Act of 2000** (SB 268 is identical to **SB 1894-Haine**, which passed the Senate on the agreed bill list this spring). The bill substantially updates and revises the Act, which sunsets at the end of 2009. The proposal is a well-thought-out rewrite of the Act, and contains numerous enhancements, including a restructuring of the requirements to obtain and maintain a license, and additional consumer protections and enforcement provisions. *The IAR strongly supports this legislation.*

The following are some of the highlights:

- **Changes the license categories under the Act from Salesperson and Broker to Broker and Managing Broker.** The term “salesperson” is antiquated. The term “broker” is what the public identifies with when it comes to the real estate licensee they work with in a transaction. The term “managing broker” clearly identifies the person(s) in the brokerage operation that have management authority and responsibility.
- **Increases the coursework requirements for both categories of licensure – broker and managing broker – and re-apportions the education for each category to enhance the preparedness of licensees to represent clients in transactions.**

Broker

- ✓ Increases the entry-level of licensure – now “broker” - from 45 hours of pre-license courses to 90 hours of pre-license courses. The idea here is to give entry-level licensees a better knowledge base of basic transactional issues before they start representing clients.
- ✓ Provides that 15 of those hours shall be “situational” offerings in a classroom or interactive setting, to ensure that licensees get some practical guidance before obtaining a license.
- ✓ Requires brokers to take 30 hours of post-licensure education within the first renewal period – a new concept in the Act. 15 of those hours must be situational in an interactive setting. The first renewal period, when new licensees are actually beginning to practice in transactions, is a key time to provide more education to provide licensees a solid base for representing clients. And this “post-licensure” concept also helps spread the educational burden so that it is not too heavy prior to obtaining a license.
- ✓ Requires 12 hours of continuing education (CE) each renewal period (except the first period when the 30 hours of post-license coursework are taken).

Managing Broker

- ✓ The current top category of licensure – “broker” – requires 120 hours of coursework. This bill creates the new category of “managing broker”, and requires prior licensure as a salesperson or broker for 2 out of the last 3 years, and 165 pre-license hours (the 120 broker hours, plus 45 hours on office management, supervision, and administrative issues; 15 of those 45 hours would be situational offerings in an interactive setting).
- ✓ Managing brokers would have to take the 12 hours per renewal of broker CE, plus an additional 12 hours of CE on broker management.

- **Additional consumer protection and enforcement provisions:**
 - ✓ Provides that the Department shall employ a minimum of one investigator per 10,000 licensees, and one prosecutor per 20,000 licensees in order to properly enforce the provisions of the Act. Provides that at least one of the investigators and at least one of the prosecutors shall be dedicated to investigating and prosecuting unlicensed practice.
 - ✓ Provides that the Department may contract with “peer review advisors” to investigate and determine the facts of a complaint. This provision is designed to provide for the expeditious handling of complaints. The peer review advisor would interview witnesses, the complainant, and any licensees involved in the alleged matter, and make a recommendation to the Department as to the facts of the case. Peer review advisors would be compensated from the Real Estate Audit Fund at a rate not to exceed \$15,000 per year.
 - ✓ Establishes criminal offenses for unlicensed practice: Class A misdemeanor for first offense, subsequent convictions Class 4 felony.
 - ✓ Create a private right of action for unlicensed practice.
 - ✓ Provides that real estate companies must have an office policy that might deal with certain issues, such as:
 - Agency issues;
 - Fair housing, non-discrimination, and harassment;
 - Confidentiality of client information;
 - Advertising;
 - Training and supervision of sponsored licensees;
 - Required disclosures and use of forms;
 - Handling of risk management matters;
 - Handling of earnest monies and escrows.

- **Contains numerous administrative, clean-up, and clarifying changes**

- **Contains Transition Provisions:**
 - ✓ Provides that salespersons have until 4/30/12 to move to “broker” license category by either passing a proficiency exam (to be provided by pre-license course providers), or by taking 30 hours of education and passing an exam (provided by a pre-license course provider); no new salesperson licenses after 4/30/11 – the end of the next salesperson renewal period – but extends that license period to 4/30/12).
 - ✓ New “broker management” license available 5/1/11.
 - ✓ Existing brokers who are not managing, no new requirements.
 - ✓ Brokers on record as managing brokers with IDFPR on 4/30/11 have until 4/30/12 to either pass a proficiency exam (given by a pre-license provider), or take 45 hours of coursework and pass an exam (given by a pre-license provider).

- **The new law takes effect December 31, 2009.**

Please contact Greg St. Aubin, Julie Sullivan, or Neil Malone at (217) 529-2600 if you have any questions.