

ILLINOIS LAW

Governing Real Estate Licenses



The Real Estate License Act of 2000

General Rules and School Rules

THE REAL ESTATE LICENSE ACT OF 2000

General Rules and School Rules

(225 ILCS 454)

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ARTICLE 1. GENERAL PROVISIONS

Sec. 1-1. Short title; Act supersedes Real Estate License Act of 1983.

This Act shall be known and may be cited as the Real Estate License Act of 2000, and it shall supersede the Real Estate License Act of 1983 repealed by this Act.

Sec. 1-5. Legislative intent.

The intent of the General Assembly in enacting this statute is to evaluate the competency of persons engaged in the real estate business and to regulate this business for the protection of the public.

Sec. 1-10. Definitions.

In this Act, unless the context otherwise requires:

“Act” means the Real Estate License Act of 2000.

“Address of Record” means the designated address recorded by the Department in the applicant’s or licensee’s application file or license file as maintained by the Department’s licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and those changes must be made either through the Department’s website or by contacting the Department.

“Advisory Council” means the Real Estate Education Advisory Council created under Section 30-10 of this Act.

“Agency” means a relationship in which a real estate broker or licensee, whether directly or through an affiliated licensee, represents a consumer by the consumer’s consent, whether express or implied, in a real property transaction.

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

“Blind advertisement” means any real estate advertisement that does not include the sponsoring broker’s business name and that is used by any licensee regarding the sale or lease of real estate, including his or her own, licensed activities, or the hiring of any licensee under this Act. The broker’s business name in the case of a franchise shall include the franchise affiliation as well as the name of the individual firm.

“Board” means the Real Estate Administration and Disciplinary Board of the Department as created by Section 25-10 of this Act.

“Branch office” means a sponsoring broker’s office other than the sponsoring broker’s principal office.

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

- (1) Sells, exchanges, purchases, rents, or leases real estate.
- (2) Offers to sell, exchange, purchase, rent, or lease real estate.

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- (3) Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate.
- (4) Lists, offers, attempts, or agrees to list real estate for sale, lease, or exchange.
- (5) Buys, sells, offers to buy or sell, or otherwise deals in options on real estate or improvements thereon.
- (6) Supervises the collection, offer, attempt, or agreement to collect rent for the use of real estate.
- (7) Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate.
- (8) Assists or directs in procuring or referring of leads or prospects, intended to result in the sale, exchange, lease, or rental of real estate.
- (9) Assists or directs in the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate.
- (10) Opens real estate to the public for marketing purposes.
- (11) Sells, leases, or offers for sale or lease real estate at auction.

“Brokerage agreement” means a written or oral agreement between a sponsoring broker and a consumer for licensed activities to be provided to a consumer in return for compensation or the right to receive compensation from another. Brokerage agreements may constitute either a bilateral or a unilateral agreement between the broker and the broker’s client depending upon the content of the brokerage agreement. All exclusive brokerage agreements shall be in writing.

“Client” means a person who is being represented by a licensee.

“Compensation” means the valuable consideration given by one person or entity to another person or entity in exchange for the performance of some activity or service. Compensation shall include the transfer of valuable consideration, including without limitation the following:

- (1) commissions;
- (2) referral fees;
- (3) bonuses;
- (4) prizes;
- (5) merchandise;
- (6) finder fees;
- (7) performance of services;
- (8) coupons or gift certificates;
- (9) discounts;
- (10) rebates;

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(11) a chance to win a raffle, drawing, lottery, or similar game of chance not prohibited by any other law or statute;

(12) retainer fee; or

(13) salary.

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

(1) the client permits the disclosure of information given by that client by word or conduct;

(2) the disclosure is required by law; or

(3) the information becomes public from a source other than the licensee.

“Confidential information” shall not be considered to include material information about the physical condition of the property.

“Consumer” means a person or entity seeking or receiving licensed activities.

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

“Coordinator” means the Coordinator of Real Estate created in Section 25-15 of this Act.

“Credit hour” means 50 minutes of classroom instruction in course work that meets the requirements set forth in rules adopted by the Department.

“Customer” means a consumer who is not being represented by the licensee but for whom the licensee is performing ministerial acts.

“Department” means the Department of Financial and Professional Regulation.

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

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

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

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

“Escrow moneys” means all moneys, promissory notes or any other type or manner of legal tender

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or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Escrow moneys includes without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased and for which the security deposit is being held.

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

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

“Leads” means the name or names of a potential buyer, seller, lessor, lessee, or client of a licensee.

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

“License” means the document issued by the Department certifying that the person named thereon has fulfilled all requirements prerequisite to licensure under this Act.

“Licensed activities” means those activities listed in the definition of “broker” under this Section.

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

“Listing presentation” means a communication between a real estate broker or salesperson and a consumer in which the licensee is attempting to secure a brokerage agreement with the consumer to market the consumer’s real estate for sale or lease.

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

“Medium of advertising” means any method of communication intended to influence the general public to use or purchase a particular good or service or real estate.

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

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“Office” means a real estate broker’s place of business where the general public is invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker’s principal place of business.

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

“Personal assistant” means a licensed or unlicensed person who has been hired for the purpose of aiding or assisting a sponsored licensee in the performance of the sponsored licensee’s job.

“Pocket card” means the card issued by the Department to signify that the person named on the card is currently licensed under this Act.

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

“Pre-renewal period” means the period between the date of issue of a currently valid license and the license’s expiration date.

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

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

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

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

“Secretary” means the Secretary of the Department of Financial and Professional Regulation, or a person authorized by the Secretary to act in the Secretary’s stead.

“Sponsoring broker” means the broker who has issued a sponsor card to a licensed salesperson, another licensed broker, or a leasing agent.

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

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ARTICLE 5. LICENSING AND EDUCATION

Sec. 5-5. Leasing agent license.

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

(b) Notwithstanding the other provisions of this Act, there is hereby created a leasing agent license that shall enable the licensee to engage only in residential leasing activities for which a license is required under this Act. Such activities include without limitation leasing or renting residential real property, or attempting, offering, or negotiating to lease or rent residential real property, or supervising the collection, offer, attempt, or agreement to collect rent for the use of residential real property. Nothing in this Section shall be construed to require a licensed real estate broker or salesperson to obtain a leasing agent license in order to perform leasing activities for which a license is required under this Act. Licensed leasing agents must be sponsored and employed by a sponsoring broker.

(c) The Department, by rule shall provide for the licensing of leasing agents, including the issuance, renewal, and administration of licenses.

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

Sec. 5-6. Social Security Number or Tax Identification Number on license application.

In addition to any other information required to be contained in the application, every application for an original or renewal license under this Act shall include the applicant's Social Security Number or Tax Identification Number.

Sec. 5-7. Application for leasing agent license.

Every person who desires to obtain a leasing agent license shall apply to the Department in writing on forms provided by the Department which application shall be accompanied by the required non-refundable fee. Any such application shall require such information as in the judgment of the Department will enable the Department to pass on the qualifications of the applicant for licensure.

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

(a) Every applicant for licensure as a leasing agent must meet the following qualifications:

(1) be at least 18 years of age;

(2) be of good moral character;

(3) successfully complete a 4-year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education;

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- (4) personally take and pass a written examination authorized by the Department sufficient to demonstrate the applicant's knowledge of the provisions of this Act relating to leasing agents and the applicant's competence to engage in the activities of a licensed leasing agent;
 - (5) provide satisfactory evidence of having completed 15 hours of instruction in an approved course of study relating to the leasing of residential real property. The course of study shall, among other topics, cover the provisions of this Act applicable to leasing agents; fair housing issues relating to residential leasing; advertising and marketing issues; leases, applications, and credit reports; owner-tenant relationships and owner-tenant laws; the handling of funds; and environmental issues relating to residential real property;
 - (6) complete any other requirements as set forth by rule; and
 - (7) present a valid application for issuance of an initial license accompanied by a sponsor card and the fees specified by rule.
- (b) No applicant shall engage in any of the activities covered by this Act until a valid sponsor card has been issued to such applicant. The sponsor card shall be valid for a maximum period of 45 days after the date of issuance unless extended for good cause as provided by rule.
- (c) Successfully completed course work, completed pursuant to the requirements of this Section, may be applied to the course work requirements to obtain a real estate broker's or salesperson's license as provided by rule. The Advisory Council may recommend through the Board to the Department and the Department may adopt requirements for approved courses, course content, and the approval of courses, instructors, and schools, as well as school and instructor fees. The Department may establish continuing education requirements for licensed leasing agents, by rule, with the advice of the Advisory Council and Board.

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

- (a) It is unlawful for any person, corporation, limited liability company, registered limited liability partnership, or partnership to act as a managing broker, real estate broker, real estate salesperson, or leasing agent or to advertise or assume to act as such broker, salesperson, or leasing agent without a properly issued sponsor card or a license issued under this Act by the Department, either directly or through its authorized designee.
- (b) No corporation shall be granted a license or engage in the business or capacity, either directly or indirectly, of a real estate broker, unless every officer of the corporation who actively participates in the real estate activities of the corporation holds a license as a managing broker or broker and unless every employee who acts as a salesperson, or leasing agent for the corporation holds a license as a broker, salesperson, or leasing agent.
- (c) No partnership shall be granted a license or engage in the business or serve in the capacity, either directly or indirectly, of a real estate broker, unless every general partner in the partnership holds a license as a managing broker or broker and unless every employee who acts as a salesperson or leasing agent for the partnership holds a license as a broker, salesperson, or leasing agent. In the case of a registered limited liability partnership (LLP), every partner in the LLP must hold a license as a managing broker or broker and every employee who acts as a salesperson or leasing agent must hold a license as a broker, salesperson, or leasing agent.
- (d) No limited liability company shall be granted a license or engage in the business or serve in the

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capacity, either directly or indirectly, of a broker unless every manager in the limited liability company or every member in a member managed limited liability company holds a license as a managing broker or broker and unless every other member and employee who acts as a salesperson or leasing agent for the limited liability company holds a license as a broker, salesperson, or leasing agent.

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

Sec. 5-20. Exemptions from broker, salesperson, or leasing agent license requirement.

The requirement for holding a license under this Article 5 shall not apply to:

- (1) Any person, partnership, or corporation that as owner or lessor performs any of the acts described in the definition of “broker” under Section 1-10 of this Act with reference to property owned or leased by it, or to the regular employees thereof with respect to the property so owned or leased, where such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, provided that such regular employees do not perform any of the acts described in the definition of “broker” under Section 1-10 of this Act in connection with a vocation of selling or leasing any real estate or the improvements thereon not so owned or leased.
- (2) An attorney in fact acting under a duly executed and recorded power of attorney to convey real estate from the owner or lessor or the services rendered by an attorney at law in the performance of the attorney’s duty as an attorney at law.
- (3) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while acting under a court order or under the authority of a will or testamentary trust.
- (4) Any person acting as a resident manager for the owner or any employee acting as the resident manager for a broker managing an apartment building, duplex, or apartment complex, when the resident manager resides on the premises, the premises is his or her primary residence, and the resident manager is engaged in the leasing of the property of which he or she is the resident manager.
- (5) Any officer or employee of a federal agency in the conduct of official duties.
- (6) Any officer or employee of the State government or any political subdivision thereof performing official duties.
- (7) Any multiple listing service or other similar information exchange that is engaged in the collection and dissemination of information concerning real estate available for sale, purchase, lease, or exchange for the purpose of providing licensees with a system by which licensees may cooperatively share information along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.
- (8) Railroads and other public utilities regulated by the State of Illinois, or the officers or full time employees thereof, unless the performance of any licensed activities is in connection with the sale, purchase, lease, or other disposition of real estate or investment therein not needing the approval of the appropriate State regulatory authority.
- (9) Any medium of advertising in the routine course of selling or publishing advertising along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

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

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

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

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

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

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

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

(D) the license issued under the Auction License Act has not been disciplined for violation of those provisions of Article 20 of the Auction License Act dealing with or related to the sale or lease of real estate at auction.

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

Sec. 5-25. Good moral character.

When an applicant has had his or her license revoked on a prior occasion or when an applicant is found to have committed any of the practices enumerated in Section 20-20 of this Act or when an applicant has been convicted of or enters a plea of guilty or nolo contendere to forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or any other similar offense or offenses or has been convicted of a felony involving moral turpitude in any court of competent jurisdiction in this or any other state, district, or territory of the United States or of a foreign country, the Board may consider the prior revocation, conduct, or conviction in its determination of the applicant's moral character and whether to grant the applicant a license. In its consideration of the prior revocation, conduct, or conviction, the Board shall take into account the nature of the conduct, any aggravating or

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extenuating circumstances, the time elapsed since the revocation, conduct, or conviction, the rehabilitation or restitution performed by the applicant, and any other factors that the Board deems relevant. When an applicant has made a false statement of material fact on his or her application, the false statement may in itself be sufficient grounds to revoke or refuse to issue a license.

Sec. 5-26. Requirements for licensure as a salesperson.

(a) Every applicant for licensure as a salesperson must meet the following qualifications:

- (1) Be at least 21 years of age. The minimum age of 21 years shall be waived for any person seeking a license as a real estate salesperson who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department;
- (2) Be of good moral character;
- (3) Successfully complete a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education, which shall be verified under oath by the applicant;
- (4) Provide satisfactory evidence of having completed at least 45 hours of instruction in real estate courses approved by the Advisory Council, except applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing;
- (5) Shall personally take and pass a written examination authorized by the Department; and
- (6) Present a valid application for issuance of a license accompanied by a sponsor card and the fees specified by rule.

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

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

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

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

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

- (1) Be at least 21 years of age. After April 30, 2011, the minimum age of 21 years shall be waived for any person seeking a license as a broker who has attained the age of 18 and can provide evidence of the successful completion of at least 4 semesters of post-secondary school study as a full-time student or the equivalent, with major emphasis on real estate courses, in a school approved by the Department;
- (2) Be of good moral character;
- (3) Successfully complete a 4-year course of study in a high school or secondary school approved by the Illinois State Board of Education or an equivalent course of study as determined

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by an examination conducted by the Illinois State Board of Education which shall be verified under oath by the applicant;

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

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

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

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

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

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

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

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

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

(1) be at least 21 years of age;

(2) be of good moral character;

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

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

(5) provide satisfactory evidence of having completed at least 165 hours, 120 of which shall be those hours required pre and post-licensure to obtain a broker's license, and 45 additional hours completed within the year immediately preceding the filing of an application for a managing broker's license, which hours shall focus on brokerage administration and management and include at least 15 hours in the classroom or by other interactive delivery method presenting

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instructional and real time discussion between the instructor and the students;

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

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

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

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

Sec. 5-30. (Repealed).

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

(a) The Department shall authorize examinations at such times and places as it may designate. The examination shall be of a character to give a fair test of the qualifications of the applicant to practice as a managing broker, broker, salesperson, or leasing agent. Applicants for examination as a managing broker, broker, salesperson, or leasing agent shall be required to pay, either to the Department or the designated testing service, a fee covering the cost of providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee. An applicant shall be eligible to take the examination only after successfully completing the education requirements and attaining the minimum age provided for in Article 5 of this Act. Each applicant shall be required to establish compliance with the eligibility requirements in the manner provided by the rules promulgated for the administration of this Act.

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

(c) If an applicant has failed an examination 4 times, the applicant must repeat the pre-license education required to sit for the examination. For the purposes of this Section, the fifth attempt shall be the same as the first. Approved education, as prescribed by this Act for licensure as a salesperson or broker, shall be valid for 4 years after the date of satisfactory completion of the education.

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

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

(a) The sponsoring broker shall prepare upon forms provided by the Department and deliver to each licensee employed by or associated with the sponsoring broker a sponsor card certifying that the person whose name appears thereon is in fact employed by or associated with the sponsoring broker. The sponsoring broker shall send a duplicate of each sponsor card, along with a valid license or other authorization as provided by rule and the appropriate fee, to the Department within 24 hours of issuance of the sponsor card. It is a violation of this Act for any broker to issue a sponsor card to any licensee or applicant unless the licensee or applicant presents in hand a valid license or other authorization as provided by rule.

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(b) When a licensee terminates his or her employment or association with a sponsoring broker or the employment is terminated by the sponsoring broker, the licensee shall obtain from the sponsoring broker his or her license endorsed by the sponsoring broker indicating the termination. The sponsoring broker shall surrender to the Department a copy of the license of the licensee within 2 days of the termination or shall notify the Department in writing of the termination and explain why a copy of the license is not surrendered. Failure of the sponsoring broker to surrender the license shall subject the sponsoring broker to discipline under Section 20-20 of this Act. The license of any licensee whose association with a sponsoring broker is terminated shall automatically become inoperative immediately upon the termination unless the licensee accepts employment or becomes associated with a new sponsoring broker pursuant to subsection (c) of this Section.

(c) When a licensee accepts employment or association with a new sponsoring broker, the new sponsoring broker shall send to the Department a duplicate sponsor card, along with the licensee's endorsed license or an affidavit of the licensee of why the endorsed license is not surrendered, and shall pay the appropriate fee prescribed by rule to cover administrative expenses attendant to the changes in the registration of the licensee.

Sec. 5-41. Change of address.

A licensee shall notify the Department of the address or addresses, and of every change of address, where the licensee practices as a leasing agent, salesperson, broker or managing broker.

Sec. 5-45. Offices.

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

(b) The sponsoring broker shall name a managing broker for each branch office and the sponsoring broker shall be responsible for supervising all managing brokers. The sponsoring broker shall notify the Department in writing of the name of all managing brokers of the sponsoring broker and the office or offices they manage. Any person initially named as a managing broker after April 30, 2011 must either (i) be licensed as a managing broker or (ii) meet all the requirements to be licensed as a managing broker except the required education and examination and secure the managing broker's license within 90 days of being named as a managing broker. Any changes in managing brokers shall be reported to the Department in writing within 15 days of the change. Failure to do so shall subject the sponsoring broker to discipline under Section 20-20 of this Act.

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

(d) Except as provided in this Section, each sponsoring broker shall maintain a definite office, or place of business within this State for the transaction of real estate business, shall conspicuously display an identification sign on the outside of his or her office of adequate size and visibility. The office or place of business shall not be located in any retail or financial business establishment unless it is separated from the other business by a separate and distinct area within the establishment. A broker who is licensed in this State by examination or pursuant to the provisions of Section 5-60 of this Act shall not be required to maintain a definite office or place of business in this State provided all of the following conditions are met:

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- (1) the broker maintains an active broker's license in the broker's state of domicile;
- (2) the broker maintains an office in the broker's state of domicile; and
- (3) the broker has filed with the Department written statements appointing the Secretary to act as the broker's agent upon whom all judicial and other process or legal notices directed to the licensee may be served and agreeing to abide by all of the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submitting to the jurisdiction of the Department.

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

(e) Upon the loss of a managing broker who is not replaced by the sponsoring broker or in the event of the death or adjudicated disability of the sole proprietor of an office, a written request for authorization allowing the continued operation of the office may be submitted to the Department within 15 days of the loss. The Department may issue a written authorization allowing the continued operation, provided that a licensed broker, or in the case of the death or adjudicated disability of a sole proprietor, the representative of the estate, assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operation of the office. No such written authorization shall be valid for more than 60 days unless extended by the Department for good cause shown and upon written request by the broker or representative.

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

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

- (1) provide evidence of having completed 30 hours of post-license education in courses approved by the Advisory Council and having passed a written examination approved by the Department and administered by a licensed pre-license school; or
- (2) provide evidence of passing a Department-approved proficiency examination administered by a licensed pre-license school, which proficiency examination may only be taken one time by any one individual salesperson; and
- (3) present a valid application for a broker's license no later than April 30, 2012 accompanied by a sponsor card and the fees specified by rule.

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

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

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

(a) A new license for managing brokers is created effective May 1, 2011. The following transition rules shall apply for those brokers listed as managing brokers with the Department as of April 30, 2011.

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Those individuals licensed as brokers and listed as managing brokers with the Department as of April 30, 2011 must meet the following qualifications to obtain a managing broker's license:

- (1) provide evidence of having completed the 45 hours of broker management education approved by the Advisory Council and having passed a written examination approved by the Department and administered by a licensed pre-license school; or
 - (2) provide evidence of passing a Department-approved proficiency examination administered by a licensed pre-license school, which proficiency examination may only be taken one time by any one individual broker; and
 - (3) present a valid application for a managing broker's license no later than April 30, 2012 accompanied by a sponsor card and the fees specified by rule.
- (b) The education requirements specified in item (1) of subsection (a) of this Section do not apply to applicants who are currently admitted to practice law by the Supreme Court of Illinois and are currently in active standing.

Sec. 5-50. Expiration and renewal of managing broker, broker, salesperson, or leasing agent license; sponsoring broker; register of licensees; pocket card.

- (a) The expiration date and renewal period for each license issued under this Act shall be set by rule, except that the first renewal period ending after the effective date of this Act for those licensed as a salesperson shall be extended through April 30, 2012. Except as otherwise provided in this Section, the holder of a license may renew the license within 90 days preceding the expiration date thereof by completing the continuing education required by this Act and paying the fees specified by rule.
- (b) An individual whose first license is that of a broker received after April 30, 2011, must provide evidence of having completed 30 hours of post-license education in courses approved by the Advisory Council, 15 hours of which must consist of situational and case studies presented in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students, and personally take and pass an examination approved by the Department prior to the first renewal of their broker's license.
- (c) Any salesperson until April 30, 2011 or any managing broker, broker, or leasing agent whose license under this Act has expired shall be eligible to renew the license during the 2-year period following the expiration date, provided the managing broker, broker, salesperson, or leasing agent pays the fees as prescribed by rule and completes continuing education and other requirements provided for by the Act or by rule. Beginning on May 1, 2012, a managing broker licensee, broker, or leasing agent whose license has been expired for more than 2 years but less than 5 years may have it restored by (i) applying to the Department, (ii) paying the required fee, (iii) completing the continuing education requirements for the most recent pre-renewal period that ended prior to the date of the application for reinstatement, and (iv) filing acceptable proof of fitness to have his or her license restored, as set by rule. A managing broker, broker, or leasing agent whose license has been expired for more than 5 years shall be required to meet the requirements for a new license.
- (d) Notwithstanding any other provisions of this Act to the contrary, any managing broker, broker, salesperson, or leasing agent whose license expired while he or she was (i) on active duty with the Armed Forces of the United States or called into service or training by the state militia, (ii) engaged in training or education under the supervision of the United States preliminary to induction into military service, or (iii) serving as the Coordinator of Real Estate in the State of Illinois or as an employee of the Department may have his or her license renewed, reinstated or restored without paying any lapsed

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renewal fees if within 2 years after the termination of the service, training or education by furnishing the Department with satisfactory evidence of service, training, or education and it has been terminated under honorable conditions.

(e) The Department shall establish and maintain a register of all persons currently licensed by the State and shall issue and prescribe a form of pocket card. Upon payment by a licensee of the appropriate fee as prescribed by rule for engagement in the activity for which the licensee is qualified and holds a license for the current period, the Department shall issue a pocket card to the licensee. The pocket card shall be verification that the required fee for the current period has been paid and shall indicate that the person named thereon is licensed for the current renewal period as a managing broker, broker, salesperson, or leasing agent as the case may be. The pocket card shall further indicate that the person named thereon is authorized by the Department to engage in the licensed activity appropriate for his or her status (managing broker, broker, salesperson, or leasing agent). Each licensee shall carry on his or her person his or her pocket card or, if such pocket card has not yet been issued, a properly issued sponsor card when engaging in any licensed activity and shall display the same on demand.

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

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

Sec. 5-55. (Repealed).

Sec. 5-60. Managing broker licensed in another state; broker licensed in another state; salesperson licensed in another state; reciprocal agreements; agent for service of process.

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

- (1) the managing broker holds a managing broker's license in a state that has entered into a reciprocal agreement with the Department;
- (2) the standards for that state for licensing as a managing broker are substantially equal to or greater than the minimum standards in the State of Illinois;
- (3) the managing broker has been actively practicing as a managing broker in the managing broker's state of licensure for a period of not less than 2 years, immediately prior to the date of application;
- (4) the managing broker furnishes the Department with a statement under seal of the proper licensing authority of the state in which the managing broker is licensed showing that the managing broker has an active managing broker's license, that the managing broker is in good standing, and that no complaints are pending against the managing broker in that state;
- (5) the managing broker passes a test on Illinois specific real estate brokerage laws; and

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- (6) the managing broker was licensed by an examination in the state that has entered into a reciprocal agreement with the Department.
- (b) A broker's license may be issued by the Department to a broker or its equivalent licensed under the laws of another state of the United States, under the following conditions:
- (1) the broker holds a broker's license in a state that has entered into a reciprocal agreement with the Department;
 - (2) the standards for that state for licensing as a broker are substantially equivalent to or greater than the minimum standards in the State of Illinois;
 - (3) if the application is made prior to May 1, 2012, then the broker has been actively practicing as a broker in the broker's state of licensure for a period of not less than 2 years, immediately prior to the date of application;
 - (4) the broker furnishes the Department with a statement under seal of the proper licensing authority of the state in which the broker is licensed showing that the broker has an active broker's license, that the broker is in good standing, and that no complaints are pending against the broker in that state;
 - (5) the broker passes a test on Illinois specific real estate brokerage laws; and
 - (6) the broker was licensed by an examination in a state that has entered into a reciprocal agreement with the Department.
- (c) Prior to May 1, 2011, a salesperson may, in the discretion of the Department, be issued a salesperson's license provided all of the following conditions are met:
- (1) the salesperson maintains an active license in the state that has entered into a reciprocal agreement with the Department;
 - (2) the salesperson passes a test on Illinois specific real estate brokerage laws; and
 - (3) the salesperson was licensed by an examination in the state that has entered into a reciprocal agreement with the Department.

The broker with whom the salesperson is associated shall comply with the provisions of this Act and issue the salesperson a sponsor card upon the form provided by the Department.

- (d) As a condition precedent to the issuance of a license to a managing broker, broker, or salesperson pursuant to this Section, the managing broker or salesperson shall agree in writing to abide by all the provisions of this Act with respect to his or her real estate activities within the State of Illinois and submit to the jurisdiction of the Department as provided in this Act. The agreement shall be filed with the Department and shall remain in force for so long as the managing broker, broker or salesperson is licensed by this State and thereafter with respect to acts or omissions committed while licensed as a broker or salesperson in this State.
- (e) Prior to the issuance of any license to any managing broker, broker, or salesperson licensed pursuant to this Section, verification of active licensure issued for the conduct of such business in any other state must be filed with the Department by the managing broker, broker, or salesperson, and the same fees must be paid as provided in this Act for the obtaining of a managing broker's, broker's or salesperson's license in this State.

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(f) Licenses previously granted under reciprocal agreements with other states shall remain in force so long as the Department has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by the Department for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license.

(g) Prior to the issuance of a license to a nonresident managing broker, broker or salesperson, the managing broker, broker or salesperson shall file with the Department a designation in writing that appoints the Secretary to act as his or her agent upon whom all judicial and other process or legal notices directed to the managing broker, broker or salesperson may be served. Service upon the agent so designated shall be equivalent to personal service upon the licensee. Copies of the appointment, certified by the Secretary, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. In the written designation, the managing broker, broker or salesperson shall agree that any lawful process against the licensee that is served upon the agent shall be of the same legal force and validity as if served upon the licensee and that the authority shall continue in force so long as any liability remains outstanding in this State. Upon the receipt of any process or notice, the Secretary shall forthwith mail a copy of the same by certified mail to the last known business address of the licensee.

(h) Any person holding a valid license under this Section shall be eligible to obtain a resident managing broker's license, a broker's license, or, prior to May 1, 2011, a salesperson's license without examination should that person change their state of domicile to Illinois and that person otherwise meets the qualifications for licensure under this Act.

Sec. 5-65. Fees.

The Department shall provide by rule for fees to be paid by applicants and licensees to cover the reasonable costs of the Department in administering and enforcing the provisions of this Act. The Department may also provide by rule for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

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

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

(b) Except as otherwise provided in this Section, each person who applies for renewal of his or her license as a managing broker, real estate broker, or real estate salesperson must successfully complete 6 hours of real estate continuing education courses approved by the Advisory Council for each year of the pre-renewal period. Broker licensees must successfully complete a 6-hour broker management continuing education course approved by the Department for the pre-renewal period ending April 30, 2010. In addition, beginning with the pre-renewal period for managing broker licensees that begins after the effective date of this Act, those licensees renewing or obtaining a managing broker's license must successfully complete a 12-hour broker management continuing education course approved by the Department each pre-renewal period. The broker management continuing education course must be completed in the classroom or by other interactive delivery method presenting instruction and real time discussion between the instructor and the students. Successful completion of the course shall include achieving a passing score as provided by rule on a test developed and administered in accordance with rules adopted by the Department. No license may be renewed except upon the successful completion of the required courses or their equivalent or upon a waiver of those requirements for good cause shown as determined by the Secretary with the recommendation of the Advisory Council. The requirements of

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this Article are applicable to all managing brokers, brokers, and salespersons except those brokers and salespersons who, during the pre-renewal period:

- (1) serve in the armed services of the United States;
- (2) serve as an elected State or federal official;
- (3) serve as a full-time employee of the Department; or
- (4) are admitted to practice law pursuant to Illinois Supreme Court rule.

(c) A person licensed as a salesperson as of April 30, 2011 shall not be required to complete the 18 hours of continuing education for the pre-renewal period ending April 30, 2012 if that person takes the 30-hour post-licensing course to obtain a broker's license. A person licensed as a broker as of April 30, 2011 shall not be required to complete the 12 hours of broker management continuing education for the pre-renewal period ending April 30, 2012, unless that person passes the proficiency exam provided for in Section 5-47 of this Act to qualify for a managing broker's license.

(d) A person receiving an initial license during the 90 days before the renewal date shall not be required to complete the continuing education courses provided for in subsection (b) of this Section as a condition of initial license renewal.

(e) The continuing education requirement for salespersons, brokers and managing brokers shall consist of a core curriculum and an elective curriculum, to be established by the Advisory Council. In meeting the continuing education requirements of this Act, at least 3 hours per year or their equivalent, 6 hours for each two-year pre-renewal period, shall be required to be completed in the core curriculum. In establishing the core curriculum, the Advisory Council shall consider subjects that will educate licensees on recent changes in applicable laws and new laws and refresh the licensee on areas of the license law and the Department policy that the Advisory Council deems appropriate, and any other areas that the Advisory Council deems timely and applicable in order to prevent violations of this Act and to protect the public. In establishing the elective curriculum, the Advisory Council shall consider subjects that cover the various aspects of the practice of real estate that are covered under the scope of this Act. However, the elective curriculum shall not include any offerings referred to in Section 5-85 of this Act.

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

- (1) license law and escrow;
- (2) antitrust;
- (3) fair housing;
- (4) agency;
- (5) appraisal;
- (6) property management;
- (7) residential brokerage;
- (8) farm property management;
- (9) rights and duties of sellers, buyers, and brokers;

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(10) commercial brokerage and leasing; and

(11) real estate financing.

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

(h) Credit hours may be earned for self-study programs approved by the Advisory Council.

(i) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

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

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

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

Sec. 5-75. Out-of-state continuing education credit.

If a renewal applicant has earned continuing education hours in another state or territory for which he or she is claiming credit toward full compliance in Illinois, the Advisory Council shall review, approve, or disapprove those hours based upon whether the course is one that would be approved under Section 5-70 of this Act, whether the course meets the basic requirements for continuing education under this Act, and any other criteria that is provided by statute or rule.

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

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

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

Sec. 5-85. Offerings not meeting continuing education requirements.

The following offerings do not meet the continuing education requirements:

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- (1) Examination preparation offerings, except as provided in Section 5-70 of this Act.
- (2) Offerings in mechanical office and business skills such as typing, speed reading, memory improvement, advertising, or psychology of sales.
- (3) Sales promotion or other meetings held in conjunction with the general business of the attendee or his or her employer.
- (4) Meetings that are a normal part of in-house staff or employee training.

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

ARTICLE 10. COMPENSATION AND BUSINESS PRACTICES

Sec. 10-5. Payment of compensation.

- (a) No licensee shall pay compensation directly to a licensee sponsored by another broker for the performance of licensed activities. No licensee sponsored by a broker may pay compensation to any licensee other than his or her sponsoring broker for the performance of licensed activities unless the licensee paying the compensation is a principal to the transaction. However, a non-sponsoring broker may pay compensation directly to a licensee sponsored by another or a person who is not sponsored by a broker if the payments are made pursuant to terms of an employment agreement that was previously in place between a licensee and the non-sponsoring broker, and the payments are for licensed activity performed by that person while previously sponsored by the now non-sponsoring broker.
- (b) No licensee sponsored by a broker shall accept compensation for the performance of activities under this Act except from the broker by whom the licensee is sponsored, except as provided in this Section.
- (c) Any person that is a licensed personal assistant for another licensee may only be compensated in his or her capacity as a personal assistant by the sponsoring broker for that licensed personal assistant.
- (d) One sponsoring broker may pay compensation directly to another sponsoring broker for the performance of licensed activities.

Sec. 10-10. Disclosure of compensation.

- (a) A licensee must disclose to a client the sponsoring broker's compensation and policy with regard to cooperating with brokers who represent other parties in a transaction.
- (b) A licensee must disclose to a client all sources of compensation related to the transaction received by the licensee from a third party.
- (c) If a licensee refers a client to a third party in which the licensee has greater than a 1% ownership interest or from which the licensee receives or may receive dividends or other profit sharing distributions, other than a publicly held or traded company, for the purpose of the client obtaining services related to the transaction, then the licensee shall disclose that fact to the client at the time of making the referral.
- (d) If in any one transaction a sponsoring broker receives compensation from both the buyer and seller or lessee and lessor of real estate, the sponsoring broker shall disclose in writing to a client the fact that

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the compensation is being paid by both buyer and seller or lessee and lessor.

(e) Nothing in the Act shall prohibit the cooperation with or a payment of compensation to a person not domiciled in this State or country who is licensed as a real estate broker in his or her state or country of domicile or to a resident of a country that does not require a person to be licensed to act as a real estate broker if the person complies with the laws of the country in which that person resides and practices there as a real estate broker.

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

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

(b) No action or suit shall be instituted, nor recovery therein be had, in any court of this State by any person, partnership, registered limited liability partnership, limited liability company, or corporation for compensation for any act done or service performed, the doing or performing of which is prohibited by this Act to other than licensed managing brokers, brokers, salespersons, or leasing agents unless the person, partnership, registered limited liability partnership, limited liability company, or corporation was duly licensed hereunder as a managing broker, broker, salesperson, or leasing agent under this Act at the time that any such act was done or service performed that would give rise to a cause of action for compensation.

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

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

Sec. 10-20. Sponsoring broker; employment agreement.

(a) A licensee may perform activities as a licensee only for his or her sponsoring broker. A licensee must have only one sponsoring broker at any one time.

(b) Every broker who employs licensees or has an independent contractor relationship with a licensee shall have a written employment agreement with each such licensee. The broker having this written employment agreement with the licensee must be that licensee's sponsoring broker.

(c) Every sponsoring broker must have a written employment agreement with each licensee the broker sponsors. The agreement shall address the employment or independent contractor relationship terms, including without limitation supervision, duties, compensation, and termination.

(d) Every sponsoring broker must have a written employment agreement with each licensed personal assistant who assists a licensee sponsored by the sponsoring broker. This requirement applies to all licensed personal assistants whether or not they perform licensed activities in their capacity as a personal assistant. The agreement shall address the employment or independent contractor relationship terms, including without limitation supervision, duties, compensation, and termination.

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(e) Notwithstanding the fact that a sponsoring broker has an employment agreement with a licensee, a sponsoring broker may pay compensation directly to a corporation solely owned by that licensee that has been formed for the purpose of receiving compensation earned by the licensee. A corporation formed for the purpose herein stated in this subsection (e) shall not be required to be licensed under this Act so long as the person who is the sole shareholder of the corporation is licensed.

Sec. 10-25. Expiration of brokerage agreement.

No licensee shall obtain any written brokerage agreement that does not provide for automatic expiration within a definite period of time. No notice of termination at the final expiration thereof shall be required. Any written brokerage agreement not containing a provision for automatic expiration shall be void. When the license of any sponsoring broker is suspended or revoked, any brokerage agreement with the sponsoring broker shall be deemed to expire upon the effective date of the suspension or revocation.

Sec. 10-27. Disclosure of licensee status.

Each licensee shall disclose, in writing, his or her status as a licensee to all parties in a transaction when the licensee is selling, leasing, or purchasing any interest, direct or indirect, in the real estate that is the subject of the transaction.

Sec. 10-30. Advertising.

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

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

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

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

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

(A) On “By Owner” yard signs, the sponsored or inoperative licensee shall indicate “broker owned” or “agent owned.” “By Owner” advertisements used in any medium of advertising shall include the term “broker owned” or “agent owned.”

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

(C) A sponsored or inoperative licensee shall not use the sponsoring broker's name or the sponsoring broker's company name in connection with the sale, lease, or advertisement of the property nor utilize the sponsoring broker's or company's name in connection with the sale, lease, or advertising of the property in a manner likely to create confusion among the public as to whether or not the services of a real estate company are being utilized or whether or not a real estate company has an ownership interest in the property.

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

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

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

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

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

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

Sec. 10-35. Internet and related advertising.

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

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

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

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

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

Sec. 10-40. Company policy.

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Every brokerage company or entity, other than a sole proprietorship with no other sponsored licensees, shall adopt a company or office policy dealing with topics such as:

- (1) the agency policy of the entity;
- (2) fair housing, nondiscrimination and harassment;
- (3) confidentiality of client information;
- (4) advertising;
- (5) training and supervision of sponsored licensees;
- (6) required disclosures and use of forms;
- (7) handling of risk management matters; and
- (8) handling of earnest money and escrows.

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

ARTICLE 15. AGENCY RELATIONSHIPS

Sec. 15-5. Legislative intent.

(a) The General Assembly finds that application of the common law of agency to the relationships among real estate brokers and salespersons and consumers of real estate brokerage services has resulted in misunderstandings and consequences that have been contrary to the best interests of the public. The General Assembly further finds that the real estate brokerage industry has a significant impact upon the economy of the State of Illinois and that it is in the best interest of the public to provide codification of the relationships between real estate brokers and salespersons and consumers of real estate brokerage services in order to prevent detrimental misunderstandings and misinterpretations of the relationships by consumers, real estate brokers, and salespersons and thus promote and provide stability in the real estate market. This Article 15 is enacted to govern the relationships between consumers of real estate brokerage services and real estate brokers and salespersons to the extent not governed by an individual written agreement between a sponsoring broker and a consumer, providing that there is a relationship other than designated agency. This Article 15 applies to the exclusion of the common law concepts of principal and agent and to the fiduciary duties, which have been applied to real estate brokers, salespersons, and real estate brokerage services.

(b) The General Assembly further finds that this Article 15 is not intended to prescribe or affect contractual relationships between real estate brokers and the broker's affiliated licensees.

(c) This Article 15 may serve as a basis for private rights of action and defenses by sellers, buyers, landlords, tenants, real estate brokers, and real estate salespersons. The private rights of action, however, do not extend to the provisions of any other Articles of this Act.

Sec. 15-10. Relationships between licensees and consumers.

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Licensees shall be considered to be representing the consumer they are working with as a designated agent for the consumer unless:

- (1) there is a written agreement between the sponsoring broker and the consumer providing that there is a different relationship; or
- (2) the licensee is performing only ministerial acts on behalf of the consumer.

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

(a) A licensee representing a client shall:

- (1) Perform the terms of the brokerage agreement between a broker and the client.
- (2) Promote the best interest of the client by:
 - (A) Seeking a transaction at the price and terms stated in the brokerage agreement or at a price and terms otherwise acceptable to the client.
 - (B) Timely presenting all offers to and from the client, unless the client has waived this duty.
 - (C) Disclosing to the client material facts concerning the transaction of which the licensee has actual knowledge, unless that information is confidential information. Material facts do not include the following when located on or related to real estate that is not the subject of the transaction: (i) physical conditions that do not have a substantial adverse effect on the value of the real estate, (ii) fact situations, or (iii) occurrences.
 - (D) Timely accounting for all money and property received in which the client has, may have, or should have had an interest.
 - (E) Obeying specific directions of the client that are not otherwise contrary to applicable statutes, ordinances, or rules.
 - (F) Acting in a manner consistent with promoting the client's best interests as opposed to a licensee's or any other person's self-interest.
- (3) Exercise reasonable skill and care in the performance of brokerage services.
- (4) Keep confidential all confidential information received from the client.
- (5) Comply with all requirements of this Act and all applicable statutes and regulations, including without limitation fair housing and civil rights statutes.

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

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

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

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

Sec. 15-20. Failure to disclose information not affecting physical condition.

No cause of action shall arise against a licensee for the failure to disclose: (i) that an occupant of the property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition; (ii) that the property was the site of an act or occurrence that had no effect on the physical condition of the property or its environment or the structures located thereon; (iii) fact situations on property that is not the subject of the transaction; or (iv) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction.

Sec. 15-25. Licensee's relationship with customers.

(a) Licensees shall treat all customers honestly and shall not negligently or knowingly give them false information. A licensee engaged by a seller client shall timely disclose to customers who are prospective buyers all latent material adverse facts pertaining to the physical condition of the property that are actually known by the licensee and that could not be discovered by a reasonably diligent inspection of the property by the customer. A licensee shall not be liable to a customer for providing false information to the customer if the false information was provided to the licensee by the licensee's client and the licensee did not have actual knowledge that the information was false. No cause of action shall arise on behalf of any person against a licensee for revealing information in compliance with this Section.

(b) A licensee representing a client in a real estate transaction may provide assistance to a customer by performing ministerial acts. Performing those ministerial acts shall not be construed in a manner that would violate the brokerage agreement with the client, and performing those ministerial acts for the customer shall not be construed in a manner as to form a brokerage agreement with the customer.

Sec. 15-30. Duties after termination of brokerage agreement.

Except as may be provided in a written agreement between the broker and the client, neither a sponsoring broker nor any licensee affiliated with the sponsoring broker owes any further duties to the client after termination, expiration, or completion of performance of the brokerage agreement, except:

- (1) to account for all moneys and property relating to the transaction; and
- (2) to keep confidential all confidential information received during the course of the brokerage agreement.

Sec. 15-35. Agency relationship disclosure.

(a) A licensee shall advise a consumer in writing of the following no later than beginning to work as a designated agent on behalf of the consumer:

- (1) That a designated agency relationship exists, unless there is written agreement between the sponsoring broker and the consumer providing for a different brokerage relationship.
- (2) The name or names of his or her designated agent or agents. The written disclosure can be

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included in a brokerage agreement or be a separate document, a copy of which is retained by the sponsoring broker for the licensee.

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

(c) A licensee shall disclose in writing to a customer that the licensee is not acting as the agent of the customer at a time intended to prevent disclosure of confidential information from a customer to a licensee, but in no event later than the preparation of an offer to purchase or lease real property.

Sec. 15-40. Compensation does not determine agency.

Compensation does not determine agency relationship. The payment or promise of payment of compensation to a licensee is not determinative of whether an agency relationship has been created between any licensee and a consumer.

Sec. 15-45. Dual agency.

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

“The undersigned (insert name(s)), (“Licensee”), may undertake a dual representation (represent both the seller or landlord and the buyer or tenant) for the sale or lease of property. The undersigned acknowledge they were informed of the possibility of this type of representation.

Before signing this document please read the following: Representing more than one party to a transaction presents a conflict of interest since both clients may rely upon Licensee's advice and the client's respective interests may be adverse to each other. Licensee will undertake this representation only with the written consent of ALL clients in the transaction. Any agreement between the clients as to a final contract price and other terms is a result of negotiations between the clients acting in their own best interests and on their own behalf. You acknowledge that Licensee has explained the implications of dual representation, including the risks involved, and understand that you have been advised to seek independent advice from your advisors or attorneys before signing any documents in this transaction.

WHAT A LICENSEE CAN DO FOR CLIENTS WHEN ACTING AS A DUAL AGENT

1. Treat all clients honestly.
2. Provide information about the property to the buyer or tenant.
3. Disclose all latent material defects in the property that are known to the Licensee.
4. Disclose financial qualification of the buyer or tenant to the seller or landlord.
5. Explain real estate terms.
6. Help the buyer or tenant to arrange for property inspections.
7. Explain closing costs and procedures.

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8. Help the buyer compare financing alternatives.
9. Provide information about comparable properties that have sold so both clients may make educated decisions on what price to accept or offer.

WHAT LICENSEE CANNOT DISCLOSE TO CLIENTS WHEN ACTING AS A DUAL AGENT

1. Confidential information that Licensee may know about a client, without that client's permission.
2. The price or terms the seller or landlord will take other than the listing price without permission of the seller or landlord.
3. The price or terms the buyer or tenant is willing to pay without permission of the buyer or tenant.
4. A recommended or suggested price or terms the buyer or tenant should offer.
5. A recommended or suggested price or terms the seller or landlord should counter with or accept.

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

(b) The dual agency disclosure form provided for in subsection (a) of this Section must be presented by a licensee, who offers dual representation, to the client at the time the brokerage agreement is entered into and may be signed by the client at that time or at any time before the licensee acts as a dual agent as to the client.

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

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

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

(e) In the case of dual agency, each client and the licensee possess only actual knowledge and information. There shall be no imputation of knowledge or information among or between clients, brokers, or their affiliated licensees.

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

Sec. 15-50. Designated agency.

(a) A sponsoring broker entering into an agreement with any person for the listing of property or for the purpose of representing any person in the buying, selling, exchanging, renting, or leasing of real estate may specifically designate those licensees employed by or affiliated with the sponsoring broker who will be acting as legal agents of that person to the exclusion of all other licensees employed by or affiliated with the sponsoring broker. A sponsoring broker entering into an agreement under the provisions of this Section shall not be considered to be acting for more than one party in a transaction if the licensees specifically designated as legal agents of a person are not representing more than one party in a transaction.

(b) A sponsoring broker designating affiliated licensees to act as agents of clients shall take ordinary and necessary care to protect confidential information disclosed by a client to his or her designated agent.

(c) A designated agent may disclose to his or her sponsoring broker or persons specified by the sponsoring broker confidential information of a client for the purpose of seeking advice or assistance for the benefit of the client in regard to a possible transaction. Confidential information shall not be disclosed by the sponsoring broker or other specified representative of the sponsoring broker unless otherwise required by this Act or requested or permitted by the client who originally disclosed the confidential information.

Sec. 15-55. No subagency.

A broker is not considered to be a subagent of a client of another broker solely by reason of membership or other affiliation by the brokers in a multiple listing service or other similar information source, and an offer of subagency may not be made through a multiple listing service or other similar information source.

Sec. 15-60. Vicarious liability.

A consumer shall not be vicariously liable for the acts or omissions of a licensee in providing licensed activities for or on behalf of the consumer.

Sec. 15-65. Regulatory enforcement.

Nothing contained in this Article limits the Department in its regulation of licensees under other Articles of this Act and the substantive rules adopted by the Department. The Department, with the advice of the Board, is authorized to promulgate any rules that may be necessary for the implementation and enforcement of this Article 15.

Sec. 15-70. Actions for damages.

(a) In any action brought under this Article 15, the court may, in its discretion, award only actual damages and court costs or grant injunctive relief, when appropriate.

(b) Any action under this Article 15 shall be forever barred unless commenced within 2 years after the

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person bringing the action knew or should reasonably have known of such act or omission. In no event shall the action be brought more than 5 years after the date on which the act or omission occurred. If the person entitled to bring the action is under the age of 18 or under legal disability the period of limitations shall not begin to run until the disability is removed.

Sec. 15-75. Exclusive brokerage agreements.

All exclusive brokerage agreements must specify that the sponsoring broker, through one or more sponsored licensees, must provide, at a minimum, the following services:

- (1) accept delivery of and present to the client offers and counteroffers to buy, sell, or lease the client's property or the property the client seeks to purchase or lease;
- (2) assist the client in developing, communicating, negotiating, and presenting offers, counteroffers, and notices that relate to the offers and counteroffers until a lease or purchase agreement is signed and all contingencies are satisfied or waived; and
- (3) answer the client's questions relating to the offers, counteroffers, notices, and contingencies.

ARTICLE 20. DISCIPLINARY PROVISIONS

Sec. 20-5. Index of decisions.

The Department shall maintain an index of formal decisions regarding the issuance, refusal to issue, renewal, refusal to renew, revocation, and suspension of licenses and probationary or other disciplinary action taken under this Act on or after December 31, 1999. The index shall be available to the public during regular business hours.

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

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

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

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

Sec. 20-15. Violations.

The commission of a single act prohibited by this Act or prohibited by the rules promulgated under this Act or a violation of a disciplinary order issued under this Act constitutes a violation of this Act.

Sec. 20-20. Grounds for discipline.

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

- (1) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.
- (2) The conviction of, plea of guilty or plea of nolo contendere to a felony or misdemeanor, an essential element of which is dishonesty or fraud or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, in this State, or any other jurisdiction.
- (3) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or a mental illness or disability.
- (4) Practice under this Act as a licensee in a retail sales establishment from an office, desk, or space that is not separated from the main retail business by a separate and distinct area within the establishment.
- (5) Disciplinary action of another state or jurisdiction against the licensee or other authorization to practice as a managing broker, broker, salesperson, or leasing agent if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for discipline set forth in this Act. A certified copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof.
- (6) Engaging in the practice of real estate brokerage without a license or after the licensee's license was expired or while the license was inoperative.
- (7) Cheating on or attempting to subvert the Real Estate License Exam or continuing education exam.
- (8) Aiding or abetting an applicant to subvert or cheat on the Real Estate License Exam or continuing education exam administered pursuant to this Act.
- (9) Advertising that is inaccurate, misleading, or contrary to the provisions of the Act.
- (10) Making any substantial misrepresentation or untruthful advertising.
- (11) Making any false promises of a character likely to influence, persuade, or induce.
- (12) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through licensees, employees, agents, advertising, or otherwise.
- (13) Any misleading or untruthful advertising, or using any trade name or insignia of membership in any real estate organization of which the licensee is not a member.
- (14) Acting for more than one party in a transaction without providing written notice to all parties for whom the licensee acts.
- (15) Representing or attempting to represent a broker other than the sponsoring broker.

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

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

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

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

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

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

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

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

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

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

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

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

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

(26) Displaying a "for rent" or "for sale" sign on any property without the written consent of an

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owner or his or her duly authorized agent or advertising by any means that any property is for sale or for rent without the written consent of the owner or his or her authorized agent.

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

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

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

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

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

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

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

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

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

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

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

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

(33) Negotiating a sale, exchange, or lease of real estate directly with any person if the licensee

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knows that the person has an exclusive brokerage agreement with another broker, unless specifically authorized by that broker.

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

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

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

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

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

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

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

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

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

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

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

(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department may refuse to issue or renew or may revoke or suspend that person’s license or may take other disciplinary

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action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

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

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

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

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

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

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

(b) Whenever in the opinion of the Department a person violates a provision of this Act, the Department

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may issue a ruling to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

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

Sec. 20-22. Violations.

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

Sec. 20-25. Returned checks; fees.

Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fee of \$50. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to pay all expenses of processing this application. The Secretary may waive the fees due under this Section in individual cases where the Secretary finds that the fees would be unreasonable or unnecessarily burdensome.

Sec. 20-30. (Repealed).

Sec. 20-35. (Repealed).

Sec. 20-40. (Repealed).

Sec. 20-45. (Repealed).

Sec. 20-50. Illegal discrimination.

When there has been an adjudication in a civil or criminal proceeding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department, upon the recommendation of the Board as to the extent of the suspension or revocation, shall suspend or revoke the license of that licensee in a timely manner, unless the adjudication is in the appeal process. When there has been an order in an administrative proceeding finding that a licensee has illegally discriminated while engaged in any activity for which a license is required under this Act, the Department, upon recommendation of the Board as to the nature and extent of the discipline, shall take one or more of the disciplinary actions provided for in Section 20-20 of this Act in a timely manner, unless the

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administrative order is in the appeal process.

Sec. 20-55. Illinois Administrative Procedure Act.

The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation, or renewal of the license is specifically excluded. For the purposes of this Act, the notice required under the Illinois Administrative Procedure Act is deemed sufficient when mailed to the last known address of record.

Sec. 20-60. Investigations notice and hearing.

The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render services or any person holding or claiming to hold a license under this Act. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Article 20 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Board under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Board may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

Sec. 20-62. Record of proceedings; transcript.

The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding.

Sec. 20-63. Subpoenas; depositions; oaths.

The Department has the power to subpoena documents, books, records, or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths authorized in an Act that is administered by the Department.

Sec. 20-64. Board; rehearing.

At the conclusion of a hearing, a copy of the Board's report shall be served upon the applicant or li-

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censee by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion, or if a motion for rehearing is denied, then upon denial, and except as provided in Section 20-72 of this Act, the Secretary may enter an order in accordance with the recommendations of the Board. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, then the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Sec. 20-65. Temporary suspension.

The Secretary may temporarily suspend the license of a licensee without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 20-61 of this Act, if the Secretary finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. In the event that the Secretary temporarily suspends the license without a hearing before the Board, a hearing shall be commenced within 30 days after the suspension has occurred. The suspended licensee may seek a continuance of the hearing during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

Sec. 20-66. Appointment of a hearing officer.

The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee. The hearing officer has full authority to conduct the hearing. Any Board member may attend the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board. The Board shall review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary and all parties to the proceeding. If the Secretary disagrees with a recommendation of the Board or of the hearing officer, then the Secretary may issue an order in contravention of the recommendation.

Sec. 20-67. Order or certified copy; prima facie proof.

An order, or certified copy of an order, over the seal of the Department and purporting to be signed by the Secretary is prima facie proof that (i) the signature is the genuine signature of the Secretary, (ii) the Secretary is duly appointed and qualified, and (iii) the Board and its members are qualified to act.

Sec. 20-68. Surrender of license.

Upon the revocation or suspension of a license, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, the Department has the right to seize the license.

Sec. 20-69. Restoration of a suspended or revoked license.

At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee, upon the written recommendation of the Board, unless after an investigation and a hearing the Board determines that restoration is not in the public interest.

Sec. 20-70. (Repealed).

Sec. 20-72. Secretary; rehearing.

If the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or any other discipline of an applicant or licensee, then he

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or she may order a rehearing by the same or other examiners.

Sec. 20-73. Certifications of record; costs.

The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Sec. 20-75. Administrative Review venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term “administrative decision” is defined in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the court in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

Sec. 20-80. (Repealed).

Sec. 20-82. Fines and penalties; Real Estate Recovery Fund.

All fines and penalties collected under this Act by the Department shall be deposited in the Real Estate Recovery Fund.

Sec. 20-85. Recovery from Real Estate Recovery Fund.

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

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

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

(b) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must name as parties defendant to that action any and all individual licensees or their employees who allegedly committed or are responsible for acts or omissions giving rise to a right of recovery from the Real Estate Recovery Fund. Failure to name as parties defendant such licensees or their employees shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. The aggrieved party may also name as additional parties defendant any corporations, limited liability companies, partnerships, registered limited liability partnership, or other business associations that may be responsible for acts giving rise to a right of recovery from the Real Estate Recovery Fund.

(c) When any aggrieved person commences action for a judgment that may result in collection from the Real Estate Recovery Fund, the aggrieved person must notify the Department in writing to this effect within 7 days of the commencement of the action. Failure to so notify the Department shall preclude recovery from the Real Estate Recovery Fund of any portion of any judgment received in such an action. After receiving notice of the commencement of such an action, the Department upon timely application shall be permitted to intervene as a party defendant to that action.

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

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

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

(g) When any aggrieved person recovers a valid judgment in any court of competent jurisdiction against any licensee or an unlicensed employee of any broker, upon the grounds of fraud, misrepresentation, discrimination, or deceit, the aggrieved person may, upon the termination of all proceedings, including review and appeals in connection with the judgment, file a verified claim in the court in which the judg-

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ment was entered and, upon 30 days' written notice to the Department, and to the person against whom the judgment was obtained, may apply to the court for an order directing payment out of the Real Estate Recovery Fund of the amount unpaid upon the judgment, not including interest on the judgment, and subject to the limitations stated in Section 20-85 of this Act. The aggrieved person must set out in that verified claim and at an evidentiary hearing to be held by the court upon the application the aggrieved party shall be required to show that the aggrieved person:

- (1) Is not a spouse of the debtor or the personal representative of such spouse.
- (2) Has complied with all the requirements of this Section.
- (3) Has obtained a judgment stating the amount thereof and the amount owing thereon, not including interest thereon, at the date of the application.
- (4) Has made all reasonable searches and inquiries to ascertain whether the judgment debtor is possessed of real or personal property or other assets, liable to be sold or applied in satisfaction of the judgment.
- (5) By such search has discovered no personal or real property or other assets liable to be sold or applied, or has discovered certain of them, describing them as owned by the judgment debtor and liable to be so applied and has taken all necessary action and proceedings for the realization thereof, and the amount thereby realized was insufficient to satisfy the judgment, stating the amount so realized and the balance remaining due on the judgment after application of the amount realized.
- (6) Has diligently pursued all remedies against all the judgment debtors and all other persons liable to the aggrieved person in the transaction for which recovery is sought from the Real Estate Recovery Fund, including the filing of an adversary action to have the debts declared non-dischargeable in any bankruptcy petition matter filed by any judgment debtor or person liable to the aggrieved person.

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

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

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

(j) If, at any time, the money deposited in the Real Estate Recovery Fund is insufficient to satisfy any

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duly authorized claim or portion thereof, the Department shall, when sufficient money has been deposited in the Real Estate Recovery Fund, satisfy such unpaid claims or portions thereof, in the order that such claims or portions thereof were originally filed, plus accumulated interest at the rate prescribed in Section 12-109 of the Code of Civil Procedure.

Sec. 20-95. Power of the Department to defend.

When the Department receives any process, notice, order, or other document provided for or required under Section 20-90 of this Act, it may enter an appearance, file an answer, appear at the court hearing, defend the action, or take whatever other action it deems appropriate on behalf and in the name of the defendant and take recourse through any appropriate method of review on behalf of and in the name of the defendant.

Sec. 20-100. Subrogation of the Department to rights of judgment creditor.

When, upon the order of the court, the Department has paid from the Real Estate Recovery Fund any sum to the judgment creditor, the Department shall be subrogated to all of the rights of the judgment creditor and the judgment creditor shall assign all rights, title, and interest in the judgment to the Department and any amount and interest so recovered by the Department on the judgment shall be deposited in the Real Estate Recovery Fund.

Sec. 20-105. Waiver of rights for failure to comply.

The failure of an aggrieved person to comply with this Act relating to the Real Estate Recovery Fund shall constitute a waiver of any rights under Sections 20-85 and 20-90 of this Act.

Sec. 20-110. Disciplinary actions of the Department not limited.

Nothing contained in Sections 20-80 through 20-100 of this Act limits the authority of the Department to take disciplinary action against any licensee for a violation of this Act or the rules of the Department, nor shall the repayment in full of all obligations to the Real Estate Recovery Fund by any licensee nullify or modify the effect of any other disciplinary proceeding brought pursuant to this Act.

Sec. 20-115. Time limit on action.

No action may be taken by the Department against any person for violation of the terms of this Act or its rules unless the action is commenced within 5 years after the occurrence of the alleged violation.

Sec. 20-120. (Repealed).

Sec. 20-125. No private right of action.

Except as otherwise expressly provided for in this Act, nothing in this Act shall be construed to grant to any person a private right of action for damages or to enforce the provisions of this Act or the rules issued under this Act.

ARTICLE 25. ADMINISTRATION OF LICENSES

Sec. 25-5. The Department; powers and duties.

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The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties as are prescribed by this Act. The Department may contract with third parties for services or the development of courses necessary for the proper administration of this Act.

Sec. 25-10. Real Estate Administration and Disciplinary Board; duties.

There is created the Real Estate Administration and Disciplinary Board. The Board shall be composed of 9 persons appointed by the Governor. Members shall be appointed to the Board subject to the following conditions:

- (1) All members shall have been residents and citizens of this State for at least 6 years prior to the date of appointment.
- (2) Six members shall have been actively engaged as brokers or salespersons or both for at least the 10 years prior to the appointment.
- (3) Three members of the Board shall be public members who represent consumer interests.

None of these members shall be (i) a person who is licensed under this Act or a similar Act of another jurisdiction, (ii) the spouse or family member of a licensee, (iii) a person who has an ownership interest in a real estate brokerage business, or (iv) a person the Department determines to have any other connection with a real estate brokerage business or a licensee. The members' terms shall be 4 years or until their successor is appointed, and the expiration of their terms shall be staggered. Appointments to fill vacancies shall be for the unexpired portion of the term. No member shall be reappointed to the Board for a term that would cause his or her service on the Board to be longer than 12 years in a lifetime. The membership of the Board should reasonably reflect the geographic distribution of the licensee population in this State. In making the appointments, the Governor shall give due consideration to the recommendations by members and organizations of the profession. The Governor may terminate the appointment of any member for cause that in the opinion of the Governor reasonably justifies the termination. Cause for termination shall include without limitation misconduct, incapacity, neglect of duty, or missing 4 board meetings during any one calendar year. Each member of the Board may receive a per diem stipend in an amount to be determined by the Secretary. Each member shall be paid his or her necessary expenses while engaged in the performance of his or her duties. Such compensation and expenses shall be paid out of the Real Estate License Administration Fund. The Secretary shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and examination of candidates under this Act. The Department, after notifying and considering the recommendations of the Board, if any, may issue rules, consistent with the provisions of this Act, for the administration and enforcement thereof and may prescribe forms that shall be used in connection therewith. Five Board members shall constitute a quorum. A quorum is required for all Board decisions.

Sec. 25-13. Rules.

The Department, after notifying and considering the recommendations of the Board, if any, shall adopt, promulgate, and issue any rules that may be necessary for the implementation and enforcement of this Act.

Sec. 25-14. Reliance on advisory letters.

Licensees or their representatives may seek an advisory letter from the Department as to matters arising

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under this Act or the rules promulgated pursuant to this Act. The Department shall promulgate rules as to the process of seeking and obtaining an advisory letter and topics and areas on which advisory rules will be issued by the Department. A licensee is entitled to rely upon an advisory letter from the Department and will not be disciplined by the Department for actions taken in reliance on the advisory letter.

Sec. 25-15. Real Estate Coordinator; duties.

There shall be in the Department a Real Estate Coordinator, appointed by the Secretary, who shall hold a currently valid broker's license, which shall be surrendered to the Department during the appointment. The Real Estate Coordinator shall have the following duties and responsibilities:

- (1) act as Chairperson of the Board, ex-officio, without vote;
- (2) be the direct liaison between the Department, the profession, and real estate organizations and associations;
- (3) prepare and circulate to licensees any educational and informational material that the Department deems necessary for providing guidance or assistance to licensees;
- (4) appoint any necessary committees to assist in the performance of the functions and duties of the Department under this Act; and
- (5) subject to the administrative approval of the Secretary, supervise all real estate activities.

In designating the Real Estate Coordinator, the Secretary shall give due consideration to recommendations by members and organizations of the profession.

Sec. 25-20. Staff.

The Department shall employ a minimum of one investigator per 10,000 licensees and one prosecutor per 20,000 licensees in order to have sufficient staff to perform the Department's obligations under the Act.

Sec. 25-21. Peer review advisors.

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

Sec. 25-25. Real Estate Research and Education Fund.

A special fund to be known as the Real Estate Research and Education Fund is created and shall be held in trust in the State Treasury. Annually, on September 15th, the State Treasurer shall cause a transfer of \$125,000 to the Real Estate Research and Education Fund from the Real Estate License Administration Fund. The Real Estate Research and Education Fund shall be administered by the Department. Money deposited in the Real Estate Research and Education Fund may be used for research and education at state institutions of higher education or other organizations for research and the advancement of educa-

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tion in the real estate industry. Of the \$125,000 annually transferred into the Real Estate Research and Education Fund, \$15,000 shall be used to fund a scholarship program for persons of minority racial origin who wish to pursue a course of study in the field of real estate. For the purposes of this Section, “course of study” means a course or courses that are part of a program of courses in the field of real estate designed to further an individual’s knowledge or expertise in the field of real estate. These courses shall include without limitation courses that a salesperson licensed under this Act must complete to qualify for a real estate broker’s license, courses that a broker licensed under this Act must complete to qualify for a managing broker’s license, courses required to obtain the Graduate Realtors Institute designation, and any other courses or programs offered by accredited colleges, universities, or other institutions of higher education in Illinois. The scholarship program shall be administered by the Department or its designee. Moneys in the Real Estate Research and Education Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund and all earnings, interest, and dividends received from such investments shall be deposited in the Real Estate Research and Education Fund and may be used for the same purposes as moneys transferred to the Real Estate Research and Education Fund. Moneys in the Real Estate Research and Education Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

Sec. 25-30. Real Estate License Administration Fund; audit.

A special fund to be known as the Real Estate License Administration Fund is created in the State Treasury. All fees received by the Department under this Act shall be deposited in the Real Estate License Administration Fund. The moneys deposited in the Real Estate License Administration Fund shall be appropriated to the Department for expenses of the Department and the Board in the administration of this Act and for the administration of any Act administered by the Department providing revenue to this Fund. Moneys in the Real Estate License Administration Fund may be invested and reinvested in the same manner as funds in the Real Estate Recovery Fund. All earnings received from such investment shall be deposited in the Real Estate License Administration Fund and may be used for the same purposes as fees deposited in the Real Estate License Administration Fund. Moneys in the Real Estate License Administration Fund may be transferred to the Professions Indirect Cost Fund as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois. Upon the completion of any audit of the Department, as prescribed by the Illinois State Auditing Act, which includes an audit of the Real Estate License Administration Fund, the Department shall make the audit open to inspection by any interested person.

Sec. 25-35. Real Estate Recovery Fund.

A special fund to be known as the Real Estate Recovery Fund is created in the State Treasury. All fines and penalties received by the Department pursuant to Article 20 of this Act shall be deposited into the State Treasury and held in the Real Estate Recovery Fund. The money in the Real Estate Recovery Fund shall be used by the Department exclusively for carrying out the purposes established by this Act. If, at any time, the balance remaining in the Real Estate Recovery Fund is less than \$750,000, the State Treasurer shall cause a transfer of moneys to the Real Estate Recovery Fund from the Real Estate License Administration Fund in an amount necessary to establish a balance of \$800,000 in the Real Estate Recovery Fund. These funds may be invested and reinvested in the same manner as authorized for pension funds in Article 1 of the Illinois Pension Code. All earnings, interest, and dividends received from investment of funds in the Real Estate Recovery Fund shall be deposited into the Real Estate License Administration Fund and shall be used for the same purposes as other moneys deposited in the Real Estate License Administration Fund.

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

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(a) A special fund to be known as the Real Estate Audit Fund is created in the State Treasury. If, at any time, the balance in the Real Estate Audit Fund is less than \$25,000, the State Treasurer shall cause a transfer of \$200,000 from the Real Estate License Administration Fund to the Real Estate Audit Fund. The moneys held in the Real Estate Audit Fund shall be used exclusively by the Department to conduct audits of special accounts of moneys belonging to others held by a broker.

(b) Upon receipt of a complaint or evidence by the Department sufficient to cause the Department to reasonably believe that funds required to be maintained in a special account by a broker have been misappropriated, the broker shall, within 30 days of written notice, submit to an audit of all special accounts. Such audit shall be performed by a licensed certified public accountant, shall result in a written report by the accountant, and shall specifically refer to the escrow and record-keeping requirements of this Act and the rules adopted under this Act. If it is found, pursuant to an order issued by the Secretary, that moneys required to be maintained in a special account by a broker were misappropriated, as further defined by rule, the broker shall reimburse the Department, in addition to any other discipline or civil penalty imposed, for the cost of the audit performed pursuant to this Section. The Department may file in circuit court for a judgment to enforce the collection of the reimbursement of the cost of such audit. Any reimbursement collected by the Department shall be deposited into the Real Estate Audit Fund.

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

Sec. 25-40. Exclusive State powers and functions; municipal powers.

It is declared to be the public policy of this State, pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power or function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units, except as otherwise provided in this Act. Nothing in this Section shall be construed to affect or impair the validity of Section 11-11.1-1 of the Illinois Municipal Code, as amended, or to deny to the corporate authorities of any municipality the powers granted in the Illinois Municipal Code to enact ordinances prescribing fair housing practices; defining unfair housing practices; establishing Fair Housing or Human Relations Commissions and standards for the operation of these commissions in the administration and enforcement of such ordinances; prohibiting discrimination based on race, color, creed, ancestry, national origin or physical or mental handicap in the listing, sale, assignment, exchange, transfer, lease, rental, or financing of real property for the purpose of the residential occupancy thereof; and prescribing penalties for violations of such ordinances.

ARTICLE 30. SCHOOLS AND INSTRUCTORS

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

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(a) No person shall operate a pre-license school or school branch without possessing a valid pre-license school or school branch license issued by the Department. No person shall act as a pre-license instructor at a pre-license school or school branch without possessing a valid pre-license instructor license issued by the Department. Every person who desires to obtain a pre-license school, school branch, or pre-license instructor license shall make application to the Department in writing in form and substance satisfactory to the Department and pay the required fees prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. The Department shall issue a pre-license school, school branch, or pre-license instructor license to applicants who meet qualification criteria established by rule. The Department may refuse to issue, suspend, revoke, or otherwise discipline a pre-license school, school branch, or pre-license instructor license or may withdraw approval of a course offered by a pre-license school for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

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

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

(d) The Department or the Advisory Council may, after notice, cause a pre-license school to attend an informal conference before the Advisory Council for failure to comply with any requirement for licensure or for failure to comply with any provision of this Act or the rules for the administration of this Act. The Advisory Council shall make a recommendation to the Board as a result of its findings at the conclusion of any such informal conference.

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

Sec. 30-10. Advisory Council; powers and duties.

There is created within the Department an Advisory Council to be comprised of 5 members appointed by the Governor. The members' terms shall be 4 years or until their successor is appointed and the expiration of their terms shall be staggered. No member shall be reappointed to the Advisory Council for a term that would cause his or her service on the Advisory Council to be longer than 12 years in a lifetime. Two of the members shall be licensees who are current members of the Board, one member shall be a representative of an Illinois real estate trade organization who is not a member of the Board, one member shall be a representative of a licensed pre-license school or continuing education school, and one member shall be a representative of an institution of higher education that offers pre-license and continuing education courses. The Real Estate Coordinator shall serve as the chairman of the Advisory Council, *ex officio*, without vote. Three Advisory Council members shall constitute a quorum. A quorum is required for all Advisory Council decisions. The Advisory Council shall recommend criteria for the licensing and renewal of pre-license schools, pre-license instructors, continuing education schools, and continuing education instructors; review applications for these licenses to determine if the applicants meet the qualifications for licensure established in this Act and by rule; approve pre-license school and continuing education curricula; and make recommendations to the Board regarding rules to be adopted for the conduct of schools and instructors and the administration of the education provisions of this Act.

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

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(a) Only continuing education schools in possession of a valid continuing education school license may provide real estate continuing education courses that will satisfy the requirements of this Act. Pre-license schools licensed to offer pre-license education courses for salespersons, brokers and managing brokers shall qualify for a continuing education school license upon completion of an application and the submission of the required fee. Every entity that desires to obtain a continuing education school license shall make application to the Department in writing in forms prescribed by the Department and pay the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number.

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

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

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

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

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

(5) The ability to provide each participant who successfully completes an approved program with a certificate of completion signed by the administrator of a licensed continuing education school on forms provided by the Department.

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

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

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

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

(A) appropriate credentials;

(B) competence as a teacher;

(C) knowledge of content area; and

(D) qualification by experience.

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

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

(c) Advertising and promotion of continuing education activities must be carried out in a responsible fashion, clearly showing the educational objectives of the activity, the nature of the audience that may

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benefit from the activity, the cost of the activity to the participant and the items covered by the cost, the amount of credit that can be earned, and the credentials of the faculty.

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

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

(f) All continuing education schools shall submit, at the time of initial application and with each license renewal, a list of courses with course materials to be offered by the continuing education school. The Department, however, shall establish a mechanism whereby continuing education schools may apply for and obtain approval for continuing education courses that are submitted after the time of initial application or renewal. The Department shall provide to each continuing education school a certificate for each approved continuing education course. All continuing education courses shall be valid for the period coinciding with the term of license of the continuing education school. All continuing education schools shall provide a copy of the certificate of the continuing education course within the course materials given to each student or shall display a copy of the certificate of the continuing education course in a conspicuous place at the location of the class.

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

(h) The Department, upon the recommendation of the Advisory Council, may temporarily suspend a licensed continuing education school's approved courses without hearing and refuse to accept successful completion of or participation in any of these continuing education courses for continuing education credit from that school upon the failure of that continuing education school to comply with the provisions of this Act or the rules for the administration of this Act, until such time as the Department receives satisfactory assurance of compliance. The Department shall notify the continuing education school of the noncompliance and may initiate disciplinary proceedings pursuant to this Act. The Department may refuse to issue, suspend, revoke, or otherwise discipline the license of a continuing education school or may withdraw approval of a continuing education course for good cause. Failure to comply with the requirements of this Section or any other requirements established by rule shall be deemed to be good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act.

Sec. 30-20. Fees for continuing education school license; renewal; term.

All applications for a continuing education school license shall be accompanied by a nonrefundable application fee in an amount established by rule. All continuing education schools shall be required to submit a renewal application, the required fee as established by rule, and a listing of the courses to be offered during the year to renew their continuing education school licenses. The term for a continuing education school license shall be 2 years and as established by rule. The fees collected under this Article 30 shall be deposited in the Real Estate License Administration Fund and shall be used to defray the cost of administration of the program and per diem of the Advisory Council as determined by the Secretary.

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

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(a) No such person shall act as a continuing education instructor at a continuing education school or branch without possessing a valid continuing education instructor license and satisfying any other qualification criteria established by the Department by rule.

(b) After the effective date of this Act, every person who desires to obtain a continuing education instructor's license shall attend and successfully complete a one-day instructor development workshop, as approved by the Department. The term of licensure for a continuing education instructor shall be 2 years and as established by rule. Every person who desires to obtain a continuing education instructor license shall make application to the Department in writing on forms prescribed by the Office, accompanied by the fee prescribed by rule. In addition to any other information required to be contained in the application, every application for an original or renewed license shall include the applicant's Social Security number. The Department shall issue a continuing education instructor license to applicants who meet qualification criteria established by this Act or rule.

(c) The Department may refuse to issue, suspend, revoke, or otherwise discipline a continuing education instructor for good cause. Disciplinary proceedings shall be conducted by the Board in the same manner as other disciplinary proceedings under this Act. All continuing education instructors must teach at least one course within the period of licensure or take an instructor training program approved by the Department in lieu thereof.

Sec. 30-30. (Repealed).

ARTICLE 35. TRANSITION RULES

Sec. 35-5. Savings provisions.

(a) This Act is intended to replace the Real Estate License Act of 1983 in all respects.

(b) Beginning December 31, 1999, the rights, powers, and duties exercised by the Office of Banks and Real Estate under the Real Estate License Act of 1983 shall continue to be vested in, be the obligation of, and shall be exercised by the Office of Banks and Real Estate under the provisions of this Act.

(c) This Act does not affect any act done, ratified, or cancelled, or any right occurring or established, or any action or proceeding had or commenced in an administrative, civil, or criminal cause before December 31, 1999, by the Office of Banks and Real Estate under the Real Estate License Act of 1983, and those actions or proceedings may be prosecuted and continued by the Office of Banks and Real Estate under this Act.

(d) This Act does not affect any license, certificate, permit, or other form of licensure or authorization issued by the Office of Banks and Real Estate under the Real Estate License Act of 1983, and all such licenses, certificates, permits, or other form of licensure or authorization shall continue to be valid under the terms and conditions of this Act.

(e) The rules adopted by the Office of Banks and Real Estate relating to the Real Estate License Act of 1983, unless inconsistent with the provisions of this Act, are not affected by this Act, and on December 31, 1999 those rules become the rules under this Act. The Office of Banks and Real Estate shall, as soon as practicable, adopt new or amended rules consistent with the provisions of this Act.

(f) This Act does not affect any discipline, suspension, or termination taken under the Real Estate

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License Act of 1983 and that discipline, suspension, or termination shall be continued under this Act.

(g) This Act does not affect any appointments, term limitations, years served, or other matters relating to individuals serving on any board or council under the Real Estate License Act of 1983, and these appointments, term limitations, years served, and other matters shall be continued under this Act.

Sec. 35-10. Money in Funds.

Transfer of moneys and appropriations moneys held in or appropriations to the Real Estate License Administration Fund, Real Estate Recovery Fund, or Real Estate Research and Education Fund for the purpose of administering and enforcing the Real Estate License Act of 1983 shall be transferred to and held in those same funds for the purpose of administering and enforcing the provisions of this Act.

ARTICLE 999. EFFECTIVE DATE

Sec. 999-99. Effective date. This Act takes effect December 31, 1999.



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