

1 AN ACT concerning regulation.

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

4 Section 5. The Auction License Act is amended by changing
5 Sections 5-10, 10-1, 10-5, 10-15, 10-20, 10-27, 10-30, 10-35,
6 10-40, 10-45, 10-50, 20-5, 20-15, 20-20, 20-25, 20-30, 20-35,
7 20-40, 20-45, 20-50, 20-55, 20-60, 20-65, 20-70, 20-75, 20-80,
8 20-90, 20-95, 30-5, 30-10, 30-15, 30-20, 30-25, 30-30, 30-40,
9 30-45, 30-50, and 30-55 and by adding Section 20-100 as
10 follows:

11 (225 ILCS 407/5-10)

12 (Section scheduled to be repealed on January 1, 2010)

13 Sec. 5-10. Definitions. As used in this Act:

14 "Advertisement" means any written, oral, or electronic
15 communication that contains a promotion, inducement, or offer
16 to conduct an auction or offer to provide an auction service,
17 including but not limited to brochures, pamphlets, radio and
18 television scripts, telephone and direct mail solicitations,
19 electronic media, and other means of promotion.

20 "Advisory Board" means the Auctioneer Advisory Board.

21 "Associate auctioneer" means a person who conducts an
22 auction, but who is under the direct supervision of, and is
23 sponsored by, a licensed auctioneer or auction firm.

1 "Auction" means the sale or lease of property, real or
2 personal, by means of exchanges between an auctioneer or
3 associate auctioneer and prospective purchasers or lessees,
4 which consists of a series of invitations for offers made by
5 the auctioneer or associate auctioneer and offers by
6 prospective purchasers or lessees for the purpose of obtaining
7 an acceptable offer for the sale or lease of the property,
8 including the sale or lease of property via mail,
9 telecommunications, or the Internet.

10 "Auction contract" means a written agreement between an
11 auctioneer, associate auctioneer, or auction firm and a seller
12 or sellers.

13 "Auction firm" means any corporation, partnership, or
14 limited liability company that acts as an auctioneer and
15 provides an auction service.

16 "Auction school" means any educational institution, public
17 or private, which offers a curriculum of auctioneer education
18 and training approved by the Department ~~Office of Banks and~~
19 ~~Real Estate~~.

20 "Auction service" means the service of arranging,
21 managing, advertising, or conducting auctions.

22 "Auctioneer" means a person or entity who, for another, for
23 a fee, compensation, commission, or any other valuable
24 consideration at auction or with the intention or expectation
25 of receiving valuable consideration by the means of or process
26 of an auction or sale at auction or providing an auction

1 service, offers, negotiates, or attempts to negotiate an
2 auction contract, sale, purchase, or exchange of goods,
3 chattels, merchandise, personal property, real property, or
4 any commodity that may be lawfully kept or offered for sale by
5 or at auction.

6 ~~"Commissioner" means the Commissioner of the Office of
7 Banks and Real Estate or his or her designee.~~

8 "Department" means the Department of Financial and
9 Professional Regulation.

10 ~~"Director" means the Director of Auction Regulation.~~

11 "Goods" means chattels, movable goods, merchandise, or
12 personal property or commodities of any form or type that may
13 be lawfully kept or offered for sale.

14 "Licensee" means any person licensed under this Act.

15 "Managing auctioneer" means any person licensed as an
16 auctioneer who manages and supervises licensees sponsored by an
17 auction firm or auctioneer.

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

19 "Person" means an individual, association, partnership,
20 corporation, or limited liability company or the officers,
21 directors, or employees of the same.

22 "Pre-renewal period" means the 24 months prior to the
23 expiration date of a license issued under this Act.

24 "Secretary" means the Secretary of the Department of
25 Financial and Professional Regulation or his or her designee.

26 "Sponsoring auctioneer" means the auctioneer or auction

1 firm who has issued a sponsor card to a licensed associate
2 auctioneer or auctioneer.

3 "Sponsor card" means the temporary permit issued by the
4 sponsoring auctioneer certifying that the licensee named
5 thereon is employed by or associated with the sponsoring
6 auctioneer and the sponsoring auctioneer shall be responsible
7 for the actions of the sponsored licensee.

8 (Source: P.A. 91-603, eff. 1-1-00; 92-16, eff. 6-28-01.)

9 (225 ILCS 407/10-1)

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

11 Sec. 10-1. Necessity of license; exemptions.

12 (a) It is unlawful for any person, corporation, limited
13 liability company, partnership, or other entity to conduct an
14 auction, provide an auction service, hold himself or herself
15 out as an auctioneer, or advertise his or her services as an
16 auctioneer in the State of Illinois without a license issued by
17 the Department ~~OBRE~~ under this Act, except at:

18 (1) an auction conducted solely by or for a
19 not-for-profit organization for charitable purposes;

20 (2) an auction conducted by the owner of the property,
21 real or personal;

22 (3) an auction for the sale or lease of real property
23 conducted by a licensee under the Real Estate License Act,
24 or its successor Acts, in accordance with the terms of that
25 Act;

1 (4) an auction conducted by a business registered as a
2 market agency under the federal Packers and Stockyards Act
3 (7 U.S.C. 181 et seq.) or under the Livestock Auction
4 Market Law;

5 (5) an auction conducted by an agent, officer, or
6 employee of a federal agency in the conduct of his or her
7 official duties; and

8 (6) an auction conducted by an agent, officer, or
9 employee of the State government or any political
10 subdivision thereof performing his or her official duties.

11 (b) Nothing in this Act shall be construed to apply to a
12 new or used vehicle dealer or a vehicle auctioneer licensed by
13 the Secretary of State of Illinois, or to any employee of the
14 licensee, who is a resident of the State of Illinois, while the
15 employee is acting in the regular scope of his or her
16 employment for the licensee while conducting an auction that is
17 not open to the public, provided that only new or used vehicle
18 dealers, rebuilders, automotive parts recyclers, scrap
19 processors, or out-of-state salvage vehicle buyers licensed by
20 the Secretary of State or licensed by another jurisdiction may
21 buy property at the auction, or to sales by or through the
22 licensee.

23 (c) Nothing in this Act shall be construed to prohibit a
24 person under the age of 18 from selling property under \$250 in
25 value while under the direct supervision of a licensed
26 auctioneer.

1 (d) Nothing in this Act, except Section 10-27, shall be
2 construed to apply to a person while providing an Internet
3 auction listing service as defined in Section 10-27.

4 (Source: P.A. 91-603, eff. 1-1-00; 92-798, eff. 8-15-02.)

5 (225 ILCS 407/10-5)

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

7 Sec. 10-5. Requirements for auctioneer license;
8 application. Every person who desires to obtain an auctioneer
9 license under this Act shall:

10 (1) apply to the Department ~~OBRE~~ on forms provided by
11 the Department ~~OBRE~~ accompanied by the required fee;

12 (2) be at least 18 years of age;

13 (3) have attained a high school diploma or successfully
14 completed an equivalent course of study determined by an
15 examination conducted by the Illinois State Board of
16 Education;

17 (4) ~~personally take and~~ pass a written examination
18 authorized by the Department ~~OBRE~~ to prove competence,
19 including but not limited to general knowledge of Illinois
20 and federal laws pertaining to personal property
21 contracts, auctions, real property, ~~relevant provisions of~~
22 ~~Article 4 of the Uniform Commercial Code,~~ ethics, and other
23 topics relating to the auction business; and

24 (5) submit to the Department ~~OBRE~~ a properly completed
25 45-Day Permit Sponsor Card on forms provided by the

1 Department ~~OBRE~~.

2 (Source: P.A. 91-603, eff. 1-1-00.)

3 (225 ILCS 407/10-15)

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

5 Sec. 10-15. Requirements for associate auctioneer license;
6 application. Every person who desires to obtain an associate
7 auctioneer license under this Act shall:

8 (1) apply to the Department ~~OBRE~~ on forms provided by
9 the Department ~~OBRE~~ accompanied by the required fee;

10 (2) be at least 18 years of age;

11 (3) have attained a high school diploma or successfully
12 completed an equivalent course of study determined by an
13 examination conducted by the Illinois State Board of
14 Education;

15 (4) ~~personally take and~~ pass a written examination
16 authorized by the Department ~~OBRE~~ to prove competence,
17 including but not limited to general knowledge of Illinois
18 and federal laws pertaining to personal property
19 contracts, auctions, real property, ~~relevant provisions of~~
20 ~~Article 4 of the Uniform Commercial Code,~~ ethics, and other
21 topics relating to the auction business; and

22 (5) submit to the Department ~~OBRE~~ a properly completed
23 45-day permit sponsor card on forms provided by the
24 Department ~~OBRE~~.

25 (Source: P.A. 91-603, eff. 1-1-00.)

1 (225 ILCS 407/10-20)

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

3 Sec. 10-20. Requirements for auction firm license;
4 application. Any corporation, limited liability company, or
5 partnership who desires to obtain an auction firm license
6 shall:

7 (1) apply to the Department ~~OBRE~~ on forms provided by
8 the Department ~~OBRE~~ accompanied by the required fee; and

9 (2) provide evidence to the Department ~~OBRE~~ that the
10 auction firm has a properly licensed managing auctioneer.

11 (Source: P.A. 91-603, eff. 1-1-00.)

12 (225 ILCS 407/10-27)

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

14 Sec. 10-27. Registration of Internet Auction Listing
15 Service.

16 (a) For the purposes of this Section:

17 (1) "Internet Auction Listing Service" means a website
18 on the Internet, or other interactive computer service that
19 is designed to allow or advertised as a means of allowing
20 users to offer personal property or services for sale or
21 lease to a prospective buyer or lessee through an on-line
22 bid submission process using that website or interactive
23 computer service and that does not examine, set the price,
24 or prepare the description of the personal property or

1 service to be offered, or in any way utilize the services
2 of a natural person as an auctioneer.

3 (2) "Interactive computer service" means any
4 information service, system, or access software provider
5 that provides or enables computer access by multiple users
6 to a computer server, including specifically a service or
7 system that provides access to the Internet.

8 (b) It is unlawful for any person, corporation, limited
9 liability company, partnership, or other entity to provide an
10 Internet auction listing service in the State of Illinois for
11 compensation without being registered with the Department
12 ~~Office of Banks and Real Estate (OBRE)~~ when:

13 (1) the person, corporation, limited liability
14 company, partnership, or other entity providing the
15 Internet auction listing service is located in the State of
16 Illinois;

17 (2) the prospective seller or seller, prospective
18 lessor or lessor, or prospective purchaser or purchaser is
19 located in the State of Illinois and is required to agree
20 to terms with the person, corporation, limited liability
21 company, partnership, or other entity providing the
22 Internet auction listing service, no matter where that
23 person, corporation, limited liability company,
24 partnership, or other entity is located; or

25 (3) the personal property or services offered for sale
26 or lease are located or will be provided in the State of

1 Illinois.

2 (c) Any person, corporation, limited liability company,
3 partnership, or other entity that provides an Internet auction
4 listing service in the State of Illinois for compensation under
5 any of the circumstances listed in subsection (b) shall
6 register with the Department ~~OBRE~~ on forms provided by the
7 Department ~~OBRE~~ accompanied by the required fee as provided by
8 rule. Such registration shall include information as required
9 by the Department ~~OBRE~~ and established by rule as the
10 Department ~~OBRE~~ deems necessary to enable users of the Internet
11 auction listing service in Illinois to identify the entity
12 providing the service and to seek redress or further
13 information from such entity. The fee shall be sufficient to
14 cover the reasonable costs of the Department ~~OBRE~~ in
15 administering and enforcing the provisions of this Section. The
16 registrant shall be required to certify:

17 (1) that the registrant does not act as the agent of
18 users who sell items on its website, and acts only as a
19 venue for user transactions;

20 (2) that the registrant requires sellers and bidders to
21 register with the website and provide their name, address,
22 telephone number and e-mail address;

23 (3) that the registrant retains such information for a
24 period of at least 2 years;

25 (4) that the registrant retains transactional
26 information consisting of at least seller identification,

1 high bidder identification, and item sold for at least 2
2 years from the close of a transaction, and has a mechanism
3 to identify all transactions involving a particular seller
4 or buyer;

5 (5) that the registrant has a mechanism to receive
6 complaints or inquiries from users;

7 (6) that the registrant adopts and reasonably
8 implements a policy of suspending, in appropriate
9 circumstances, the accounts of users who, based on the
10 registrant's investigation, are proven to have engaged in a
11 pattern of activity that appears to be deliberately
12 designed to defraud consumers on the registrant's website;
13 and

14 (7) that the registrant will comply with the Department
15 ~~OBRE~~ and law enforcement requests for stored data in its
16 possession, subject to the requirements of applicable law.

17 (d) The Department ~~OBRE~~ may refuse to accept a registration
18 which is incomplete or not accompanied by the required fee. The
19 Department ~~OBRE~~ may impose a civil penalty not to exceed
20 \$10,000 upon any Internet auction listing service that
21 intentionally fails to register as required by this Section,
22 and may impose such penalty or revoke, suspend, or place on
23 probation or administrative supervision the registration of
24 any Internet auction listing service that:

25 (1) intentionally makes a false or fraudulent material
26 representation or material misstatement or

1 misrepresentation to the Department ~~OBRE~~ in connection
2 with its registration, including in the certification
3 required under subsection (c);

4 (2) is convicted of any crime, an essential element of
5 which is dishonesty, fraud, larceny, embezzlement, or
6 obtaining money, property, or credit by false pretenses or
7 by means of a confidence game; or is convicted in this or
8 another state of a crime that is a felony under the laws of
9 this State; or is convicted of a felony in a federal court;

10 (3) is adjudged to be a person under legal disability
11 or subject to involuntary admission or to meet the standard
12 for judicial admission as provided in the Mental Health and
13 Developmental Disabilities Code;

14 (4) has been subject to discipline by another state,
15 the District of Columbia, a territory of the United States,
16 a foreign nation, a governmental agency, or any other
17 entity authorized to impose discipline if at least one of
18 the grounds for that discipline is the same as or
19 equivalent to one of the grounds for discipline set forth
20 in this Section or for failing to report to the Department
21 ~~OBRE~~, within 30 days, any adverse final action taken
22 against the registrant by any other licensing or
23 registering jurisdiction, government agency, law
24 enforcement agency, or court, or liability for conduct that
25 would constitute grounds for action as set forth in this
26 Section;

1 (5) fails to make available to the Department ~~OBRE~~
2 personnel during normal business hours all records and
3 related documents maintained in connection with the
4 activities subject to registration under this Section;

5 (6) makes or files false records or reports in
6 connection with activities subject to registration,
7 including but not limited to false records or reports filed
8 with State agencies;

9 (7) fails to provide information within 30 days in
10 response to a written request made by the Department ~~OBRE~~
11 to a person designated in the registration for receipt of
12 such requests; or

13 (8) fails to perform any act or procedure described in
14 subsection (c) of this Section.

15 (e) Registrations issued pursuant to this Section shall
16 expire on September 30 of odd-numbered years. A registrant
17 shall submit a renewal application to the Department ~~OBRE~~ on
18 forms provided by the Department ~~OBRE~~ along with the required
19 fee as established by rule.

20 (f) Operating an Internet auction listing service under any
21 of the circumstances listed in subsection (b) without being
22 currently registered under this Section is declared to be
23 adverse to the public welfare, to constitute a public nuisance,
24 and to cause irreparable harm to the public welfare. The
25 Secretary ~~Commissioner of OBRE~~, the Attorney General of the
26 State of Illinois, the State's Attorney of any county in the

1 State, or any other person may maintain an action and apply for
2 injunctive relief in any circuit court to enjoin the person or
3 entity from engaging in such practice.

4 (g) The provisions of Sections 20-25, 20-30, 20-35, 20-40,
5 20-45, 20-50, 20-55, 20-60 and 20-75 of this Act shall apply to
6 any actions of the Department ~~OBRE~~ exercising its authority
7 under subsection (d) as if a person required to register under
8 this Section were a person holding or claiming to hold a
9 license under this Act.

10 (h) The Department ~~OBRE~~ shall have the authority to adopt
11 such rules as may be necessary to implement or interpret the
12 provisions of this Section.

13 (Source: P.A. 92-798, eff. 8-15-02.)

14 (225 ILCS 407/10-30)

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

16 Sec. 10-30. Expiration, renewal, and continuing education.

17 (a) License expiration dates, renewal periods, renewal
18 fees, and procedures for renewal of licenses issued under this
19 Act shall be set by rule of the Department. An entity may renew
20 its license by paying the required fee and by meeting the
21 renewal requirements adopted by the Department under this
22 Section. A license issued under this Act shall expire every 2
23 years beginning on September 30, 2001. The OBRE shall issue a
24 renewal license without examination to an applicant upon
25 submission of a completed renewal application and payment of

1 ~~the required fee.~~

2 (b) All renewal applicants must provide proof as determined
3 by the Department of having met the continuing education
4 requirements set forth by the Department by rule. At a minimum,
5 the rules shall require an applicant for renewal licensure as
6 an auctioneer or associate auctioneer to provide proof of the
7 completion of at least 12 hours of continuing education during
8 the pre-renewal period preceding the expiration date of the
9 license from schools approved by the Department, as established
10 by rule. ~~The OBRE shall develop a program for continuing~~
11 ~~education as established in Article 25 of this Act. No~~
12 ~~auctioneer or associate auctioneer shall receive a renewal~~
13 ~~license without completing 12 hours of approved continuing~~
14 ~~education course work during the pre-renewal period prior to~~
15 ~~the expiration date of the license from continuing education~~
16 ~~schools that are approved by the OBRE, as established in~~
17 ~~Article 25 of this Act. The applicant shall verify on the~~
18 ~~application that he or she:~~

19 ~~(1) has complied with the continuing education~~
20 ~~requirements; or~~

21 ~~(2) is exempt from the continuing education~~
22 ~~requirements because it is his or her first renewal and he~~
23 ~~or she was initially licensed as an auctioneer or associate~~
24 ~~auctioneer during the pre-renewal period prior to the~~
25 ~~expiration date.~~

26 (c) The Department, in its discretion, may waive

1 enforcement of the continuing education requirements of this
2 Section and shall adopt rules defining the standards and
3 criteria for such waiver. ~~A renewal applicant may request a~~
4 ~~waiver of the continuing education requirements under~~
5 ~~subsection (d) of this Section, but shall not practice as an~~
6 ~~auctioneer or associate auctioneer until such waiver is granted~~
7 ~~and a renewal license is issued.~~

8 (d) (Blank). ~~The Commissioner, with the recommendation of~~
9 ~~the Advisory Board, may grant a renewal applicant a waiver from~~
10 ~~all or part of the continuing education requirements for the~~
11 ~~pre-renewal period if the applicant was not able to fulfill the~~
12 ~~requirements as a result of the following conditions:~~

13 ~~(1) Service in the armed forces of the United States~~
14 ~~during a substantial part of the pre-renewal period.~~

15 ~~(2) Service as an elected State or federal official.~~

16 ~~(3) Service as a full-time employee of the OBRE.~~

17 ~~(4) Other extreme circumstances as recommended by the~~
18 ~~Advisory Board.~~

19 (Source: P.A. 91-603, eff. 1-1-00.)

20 (225 ILCS 407/10-35)

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

22 Sec. 10-35. Completed 45-day permit sponsor card;
23 termination by sponsoring auctioneer; inoperative status.

24 (a) No auctioneer or associate auctioneer shall conduct an
25 auction or provide an auction service without being properly

1 sponsored by a licensed auctioneer or auction firm.

2 (b) The sponsoring auctioneer or sponsoring auction firm
3 shall prepare upon forms provided by the Department ~~OBRE~~ and
4 deliver to each auctioneer or associate auctioneer employed by
5 or associated with the sponsoring auctioneer or sponsoring
6 auction firm a properly completed duplicate 45-day permit
7 sponsor card certifying that the person whose name appears
8 thereon is in fact employed by or associated with said
9 sponsoring auctioneer or sponsoring auction firm. The
10 sponsoring auctioneer or sponsoring auction firm shall send the
11 original 45-day permit sponsor card, along with a valid
12 terminated license or other authorization as provided by rule
13 and the appropriate fee, to the Department ~~OBRE~~ within 24 hours
14 after the issuance of the sponsor card. It is a violation of
15 this Act for any sponsoring auctioneer or sponsoring auction
16 firm to issue a sponsor card to any auctioneer, associate
17 auctioneer, or applicant, unless the auctioneer, associate
18 auctioneer, or applicant presents in hand a valid terminated
19 license or other authorization, as provided by rule.

20 (c) An auctioneer may be self-sponsored or may be sponsored
21 by another licensed auctioneer or auction firm.

22 (d) An associate auctioneer must be sponsored by a licensed
23 auctioneer or auction firm.

24 (e) When an auctioneer or associate auctioneer terminates
25 his or her employment or association with a sponsoring
26 auctioneer or sponsoring auction firm or the employment or

1 association is terminated by the sponsoring auctioneer or
2 sponsoring auction firm, the terminated licensee shall obtain
3 from that sponsoring auctioneer or sponsoring auction firm his
4 or her license endorsed by the sponsoring auctioneer or
5 sponsoring auction firm indicating the termination. The
6 terminating sponsoring auctioneer or sponsoring auction firm
7 shall send a copy of the terminated license within 5 days after
8 the termination to the Department ~~OBRE~~ or shall notify the
9 Department ~~OBRE~~ in writing of the termination and explain why a
10 copy of the terminated license was not surrendered.

11 (f) The license of any auctioneer or associate auctioneer
12 whose association with a sponsoring auctioneer or sponsoring
13 auction firm has terminated shall automatically become
14 inoperative immediately upon such termination, unless the
15 terminated licensee accepts employment or becomes associated
16 with a new sponsoring auctioneer or sponsoring auction firm
17 pursuant to subsection (g) of this Section. An inoperative
18 licensee under this Act shall not conduct an auction or provide
19 auction services while the license is in inoperative status.

20 (g) When a terminated or inoperative auctioneer or
21 associate auctioneer accepts employment or becomes associated
22 with a new sponsoring auctioneer or sponsoring auction firm,
23 the new sponsoring auctioneer or sponsoring auction firm shall
24 send to the Department ~~OBRE~~ a properly completed 45-day permit
25 sponsor card, the terminated license, and the appropriate fee.

26 (Source: P.A. 91-603, eff. 1-1-00.)

1 (225 ILCS 407/10-40)

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

3 Sec. 10-40. Restoration.

4 (a) A licensee whose license has lapsed or expired shall
5 have 2 years from the expiration date to restore his or her
6 license without examination. The expired licensee shall make
7 application to the Department ~~OBRE~~ on forms provided by the
8 Department ~~OBRE~~, including a properly completed 45-day permit
9 sponsor card, provide evidence of successful completion of 12
10 hours of approved continuing education during the period of
11 time the license had lapsed, and pay all lapsed fees and
12 penalties as established by administrative rule.

13 (b) Notwithstanding any other provisions of this Act to the
14 contrary, any licensee whose license under this Act has expired
15 is eligible to restore such license without paying any lapsed
16 fees and penalties provided that the license expired while the
17 licensee was:

18 (1) on active duty with the United States Army, United
19 States ~~State~~ Marine Corps, United States Navy, United
20 States Air Force, United States Coast Guard, the State
21 Militia called into service or training;

22 (2) engaged in training or education under the
23 supervision of the United States prior to induction into
24 military service; or

25 (3) serving as an employee of the Department ~~OBRE~~,

1 while the employee was required to surrender his or her
2 license due to a possible conflict of interest.

3 A licensee shall be eligible to restore a license under the
4 provisions of this subsection for a period of 2 years following
5 the termination of the service, education, or training by
6 providing a properly completed application and 45-day permit
7 sponsor card, provided that the termination was by other than
8 dishonorable discharge and provided that the licensee
9 furnishes the Department ~~OBRE~~ with an affidavit specifying that
10 the licensee has been so engaged.

11 (c) At any time after the suspension, revocation, placement
12 on probationary status, or other disciplinary action taken
13 under this Act with reference to any license, the Department
14 ~~OBRE~~ may restore the license to the licensee without
15 examination upon the order of the Secretary ~~Commissioner~~, if
16 the licensee submits a properly completed application and
17 45-day permit sponsor card, pays appropriate fees, and
18 otherwise complies with the conditions of the order.

19 (Source: P.A. 91-603, eff. 1-1-00; revised 10-11-05.)

20 (225 ILCS 407/10-45)

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

22 Sec. 10-45. Nonresident auctioneer reciprocity.

23 (a) A person holding a license to engage in auctions issued
24 to him or her by the proper authority of a state, territory, or
25 possession of the United States of America or the District of

1 Columbia that has licensing requirements equal to or
2 substantially equivalent to the requirements of this State and
3 that otherwise meets the requirements of this Act may obtain a
4 license under this Act without examination, provided:

5 (1) that the Department ~~OBRE~~ has entered into a valid
6 reciprocal agreement with the proper authority of the
7 state, territory, or possession of the United States of
8 America or the District of Columbia from which the
9 nonresident applicant has a valid license;

10 (2) that the applicant provides the Department ~~OBRE~~
11 with a certificate of good standing from the applicant's
12 resident state;

13 (3) that the applicant completes and submits an
14 application as provided by the Department ~~OBRE~~; and

15 (4) that the applicant pays all applicable fees
16 required under this Act.

17 (b) A nonresident applicant shall file an irrevocable
18 consent with the Department ~~OBRE~~ that actions may be commenced
19 against the applicant or nonresident licensee in a court of
20 competent jurisdiction in this State by the service of summons,
21 process, or other pleading authorized by the law upon the
22 Secretary ~~Commissioner~~. The consent shall stipulate and agree
23 that service of the process, summons, or pleading upon the
24 Secretary ~~Commissioner~~ shall be taken and held in all courts to
25 be valid and binding as if actual service had been made upon
26 the applicant in Illinois. If a summons, process, or other

1 pleading is served upon the Secretary ~~Commissioner~~, it shall be
2 by duplicate copies, one of which shall be retained by the
3 Department ~~OBRE~~ and the other immediately forwarded by
4 certified or registered mail to the last known business address
5 of the applicant or nonresident licensee against whom the
6 summons, process, or other pleading may be directed.

7 (Source: P.A. 91-603, eff. 1-1-00.)

8 (225 ILCS 407/10-50)

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

10 Sec. 10-50. Fees. Fees shall be determined by rule and
11 shall be non-refundable. ~~The OBRE shall provide by~~
12 ~~administrative rule for fees to be paid by applicants,~~
13 ~~licensees, and schools to cover the reasonable costs of the~~
14 ~~OBRE in administering and enforcing the provisions of this Act.~~

15 The Department ~~OBRE~~ shall provide by administrative rule for
16 fees to be collected from licensees and applicants to cover the
17 statutory requirements for funding the Auctioneer Recovery
18 Fund. The Department ~~OBRE~~ may also provide by administrative
19 rule for general fees to cover the reasonable expenses of
20 carrying out other functions and responsibilities under this
21 Act.

22 (Source: P.A. 91-603, eff. 1-1-00.)

23 (225 ILCS 407/20-5)

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

1 Sec. 20-5. Unlicensed practice; civil penalty.

2 (a) Any person who practices, offers to practice, attempts
3 to practice, or holds oneself out to practice as an auctioneer,
4 an associate auctioneer, an auction firm, or any other licensee
5 under this Act without being licensed under this Act shall, in
6 addition to any other penalty provided by law, pay a civil
7 penalty fine to the Department ~~OBRE~~ in an amount not to exceed
8 \$10,000 for each offense as determined by the Department ~~OBRE~~.
9 The civil penalty fine shall be assessed by the Department ~~OBRE~~
10 after a hearing is held in accordance with the provisions set
11 forth in this Act regarding a hearing for the discipline of a
12 license.

13 (b) The Department ~~OBRE~~ has the authority and power to
14 investigate any and all unlicensed activity pursuant to this
15 Act.

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

21 (d) Conducting an auction or providing an auction service
22 in Illinois without holding a valid and current license under
23 this Act is declared to be adverse to the public welfare, to
24 constitute a public nuisance, and to cause irreparable harm to
25 the public welfare. The Secretary ~~Commissioner~~, the Attorney
26 General, the State's Attorney of any county in the State, or

1 any other person may maintain an action in the name of the
2 People of the State of Illinois and may apply for injunctive
3 relief in any circuit court to enjoin the person or entity from
4 engaging in such practice.

5 Upon the filing of a verified petition in a circuit court,
6 the court, if satisfied by affidavit or otherwise that the
7 person or entity has been engaged in the practice of auctioning
8 without a valid and current license, may enter a temporary
9 restraining order without notice or bond enjoining the
10 defendant from further practice. Only the showing of
11 non-licensure, by affidavit or otherwise, is necessary in order
12 for a temporary injunction to be issued. A copy of the verified
13 complaint shall be served upon the defendant and the
14 proceedings shall thereafter be conducted as in other civil
15 cases except as modified by this Section. If it is established
16 that the defendant has been or is engaged in unlawful practice,
17 the court may enter an order or judgment perpetually enjoining
18 the defendant from further practice. In all proceedings
19 hereunder, the court, in its discretion, may apportion the
20 costs among the parties interested in the action, including
21 cost of filing the complaint, service of process, witness fees
22 and expenses, court reporter charges, and reasonable
23 attorneys' fees. In case of violation of any injunctive order
24 entered under the provisions of this Section, the court may
25 summarily try and punish the offender for contempt of court.
26 These injunction proceedings shall be in addition to, and not

1 in lieu of, all penalties and other remedies provided in this
2 Act.

3 (Source: P.A. 91-603, eff. 1-1-00.)

4 (225 ILCS 407/20-15)

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

6 Sec. 20-15. Disciplinary actions; grounds. The Department
7 ~~OBRE~~ may refuse to issue or renew a license, may place on
8 probation or administrative supervision, suspend, or revoke
9 any license or may reprimand or take other disciplinary or
10 non-disciplinary action as the Department may deem proper,
11 including the imposition of fines ~~otherwise discipline or~~
12 ~~impose a civil fine~~ not to exceed \$10,000 for each violation
13 upon anyone licensed under this Act for any of the following
14 reasons ~~upon any licensee hereunder for any one or any~~
15 ~~combination of the following causes:~~

16 (1) False or fraudulent representation or material
17 misstatement in furnishing information to the Department
18 ~~OBRE~~ in obtaining or seeking to obtain a license.

19 (2) Violation of any provision of this Act or the rules
20 promulgated pursuant to this Act.

21 (3) Conviction of or entry of a plea of guilty or nolo
22 contendere to any crime that is a felony, an essential
23 element of which is dishonesty or fraud, or larceny,
24 embezzlement, or obtaining money, property, or credit by
25 false pretenses or by means of a confidence game,

1 conviction in this or another state of a crime that is a
2 felony under the laws of this State, or conviction of a
3 felony in a federal court.

4 (4) Being adjudged to be a person under legal
5 disability or subject to involuntary admission or to meet
6 the standard for judicial admission as provided in the
7 Mental Health and Developmental Disabilities Code.

8 (5) Discipline of a licensee by another state, the
9 District of Columbia, a territory of the United States, a
10 foreign nation, a governmental agency, or any other entity
11 authorized to impose discipline if at least one of the
12 grounds for that discipline is the same as or the
13 equivalent to one of the grounds for discipline set forth
14 in this Act or for failing to report to the Department
15 ~~OBRE~~, within 30 days, any adverse final action taken
16 against the licensee by any other licensing jurisdiction,
17 government agency, law enforcement agency, or court, or
18 liability for conduct that would constitute grounds for
19 action as set forth in this Act.

20 (6) Engaging in the practice of auctioneering,
21 conducting an auction, or providing an auction service
22 without a license or after the license was expired,
23 revoked, suspended, or terminated or while the license was
24 inoperative.

25 (7) Attempting to subvert or cheat on the auctioneer
26 exam or any continuing education exam, or aiding or

1 abetting another to do the same.

2 (8) Directly or indirectly giving to or receiving from
3 a person, firm, corporation, partnership, or association a
4 fee, commission, rebate, or other form of compensation for
5 professional service not actually or personally rendered.

6 (9) Making any substantial misrepresentation or
7 untruthful advertising.

8 (10) Making any false promises of a character likely to
9 influence, persuade, or induce.

10 (11) Pursuing a continued and flagrant course of
11 misrepresentation or the making of false promises through a
12 licensee, agent, employee, advertising, or otherwise.

13 (12) Any misleading or untruthful advertising, or
14 using any trade name or insignia of membership in any
15 auctioneer association or organization of which the
16 licensee is not a member.

17 (13) Commingling funds of others with his or her own
18 funds or failing to keep the funds of others in an escrow
19 or trustee account.

20 (14) Failure to account for, remit, or return any
21 moneys, property, or documents coming into his or her
22 possession that belong to others, acquired through the
23 practice of auctioneering, conducting an auction, or
24 providing an auction service within 30 days of the written
25 request from the owner of said moneys, property, or
26 documents.

1 (15) Failure to maintain and deposit into a special
2 account, separate and apart from any personal or other
3 business accounts, all moneys belonging to others
4 entrusted to a licensee while acting as an auctioneer,
5 associate auctioneer, auction firm, or as a temporary
6 custodian of the funds of others.

7 (16) Failure to make available to Department ~~OBRE~~
8 personnel during normal business hours all escrow and
9 trustee records and related documents maintained in
10 connection with the practice of auctioneering, conducting
11 an auction, or providing an auction service within 24 hours
12 after a request from Department ~~OBRE~~ personnel.

13 (17) Making or filing false records or reports in his
14 or her practice, including but not limited to false records
15 or reports filed with State agencies.

16 (18) Failing to voluntarily furnish copies of all
17 written instruments prepared by the auctioneer and signed
18 by all parties to all parties at the time of execution.

19 (19) Failing to provide information within 30 days in
20 response to a written request made by the Department ~~OBRE~~.

21 (20) Engaging in any act that constitutes a violation
22 of Section 2-102, 3-103, or 3-105 of the Illinois Human
23 Rights Act.

24 (21) Causing a payment from the Auction Recovery Fund.

25 (22) Engaging in dishonorable, unethical, or
26 unprofessional conduct of a character likely to deceive,

1 defraud, or harm the public.

2 (23) Offering or advertising real estate for sale or
3 lease at auction without a valid broker or salesperson's
4 license under the Real Estate License Act of 1983, or any
5 successor Act, unless exempt from licensure under the terms
6 of the Real Estate License Act of 2001 ~~1983~~, or any
7 successor Act.

8 (24) Physical illness, mental illness, or other
9 impairment including without limitation deterioration
10 through the aging process, mental illness, or disability
11 that results in the inability to practice the profession
12 with reasonable judgment, skill, and safety.

13 (25) A pattern of practice or other behavior that
14 demonstrates incapacity or incompetence to practice under
15 this Act.

16 (26) Being named as a perpetrator in an indicated
17 report by the Department of Children and Family Services
18 under the Abused and Neglected Child Reporting Act and upon
19 proof by clear and convincing evidence that the licensee
20 has caused a child to be an abused child or a neglected
21 child as defined in the Abused and Neglected Child
22 Reporting Act.

23 (27) Habitual or excessive use or addiction to alcohol,
24 narcotics, stimulants, or any other chemical agent or drug
25 that results in a licensee's inability to practice with
26 reasonable judgment, skill, or safety.

1 (28) Wilfully failing to report an instance of
2 suspected child abuse or neglect as required by the Abused
3 and Neglected Child Reporting Act.

4 The entry of an order by a circuit court establishing that
5 any person holding a license under this Act is subject to
6 involuntary admission or judicial admission, as provided for in
7 the Mental Health and Developmental Disabilities Code,
8 operates as an automatic suspension of that license. That
9 person may have his or her license restored only upon the
10 determination by a circuit court that the patient is no longer
11 subject to involuntary admission or judicial admission and the
12 issuance of an order so finding and discharging the patient and
13 upon the Board's recommendation to the Department that the
14 license be restored. Where circumstances so indicate, the Board
15 may recommend to the Department that it require an examination
16 prior to restoring a suspended license.

17 If the Department or Board finds an individual unable to
18 practice because of the reasons set forth in this Section, the
19 Department or Board may require that individual to submit to
20 care, counseling, or treatment by physicians approved or
21 designated by the Department or Board, as a condition, term, or
22 restriction for continued, reinstated, or renewed licensure to
23 practice; or, in lieu of care, counseling, or treatment, the
24 Department may file, or the Board may recommend to the
25 Department to file, a complaint to immediately suspend, revoke,
26 or otherwise discipline the license of the individual. An

1 individual whose license was granted, continued, reinstated,
2 renewed, disciplined or supervised subject to such terms,
3 conditions, or restrictions, and who fails to comply with such
4 terms, conditions, or restrictions, shall be referred to the
5 Secretary for a determination as to whether the individual
6 shall have his or her license suspended immediately, pending a
7 hearing by the Department. In instances in which the Secretary
8 immediately suspends a person's license under this Section, a
9 hearing on that person's license must be convened by the
10 Department within 21 days after the suspension and completed
11 without appreciable delay. The Department and Board shall have
12 the authority to review the subject individual's record of
13 treatment and counseling regarding the impairment to the extent
14 permitted by applicable federal statutes and regulations
15 safeguarding the confidentiality of medical records.

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

21 In enforcing this Section, the Department or Board, upon a
22 showing of a possible violation, may compel an individual
23 licensed to practice under this Act, or who has applied for
24 licensure under this Act, to submit to a mental or physical
25 examination, or both, as required by and at the expense of the
26 Department. The Department or Board may order the examining

1 physician to present testimony concerning the mental or
2 physical examination of the licensee or applicant. No
3 information shall be excluded by reason of any common law or
4 statutory privilege relating to communications between the
5 licensee or applicant and the examining physician. The
6 examining physicians shall be specifically designated by the
7 Board or Department. The individual to be examined may have, at
8 his or her own expense, another physician of his or her choice
9 present during all aspects of this examination. Failure of an
10 individual to submit to a mental or physical examination when
11 directed shall be grounds for suspension of his or her license
12 until the individual submits to the examination, if the
13 Department finds that, after notice and hearing, the refusal to
14 submit to the examination was without reasonable cause.

15 (Source: P.A. 91-603, eff. 1-1-00.)

16 (225 ILCS 407/20-20)

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

18 Sec. 20-20. Termination without hearing for failure to pay
19 taxes, child support, or a student loan. The Department ~~OBRE~~
20 may terminate or otherwise discipline any license issued under
21 this Act without hearing if the appropriate administering
22 agency provides adequate information and proof that the
23 licensee has:

- 24 (1) failed to file a return, to pay the tax, penalty,
25 or interest shown in a filed return, or to pay any final

1 assessment of tax, penalty, or interest, as required by any
2 tax act administered by the Illinois Department of Revenue
3 until the requirements of the tax act are satisfied;

4 (2) failed to pay any court ordered child support as
5 determined by a court order or by referral from the
6 Department of Healthcare and Family Services (formerly
7 Illinois Department of Public Aid); or

8 (3) failed to repay any student loan or assistance as
9 determined by the Illinois Student Assistance
10 Commission. If a license is terminated or otherwise
11 disciplined pursuant to this Section, the licensee may
12 request a hearing as provided by this Act within 30 days of
13 notice of termination or discipline.

14 (Source: P.A. 91-603, eff. 1-1-00; revised 12-15-05.)

15 (225 ILCS 407/20-25)

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

17 Sec. 20-25. Investigation. The Department ~~OBRE~~ may
18 investigate the actions or qualifications of any person or
19 persons holding or claiming to hold a license under this Act,
20 ~~who shall hereinafter be called the respondent.~~

21 (Source: P.A. 91-603, eff. 1-1-00.)

22 (225 ILCS 407/20-30)

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

24 Sec. 20-30. Consent orders. Notwithstanding any provisions

1 concerning the conduct of hearings and recommendations for
2 disciplinary actions, the Department ~~OBRE~~ has the authority to
3 negotiate agreements with licensees and applicants resulting
4 in disciplinary consent orders. The consent orders may provide
5 for any form of discipline provided for in this Act. The
6 consent orders shall provide that they were not entered into as
7 a result of any coercion by the Department ~~OBRE~~. Any consent
8 order shall be accepted by or rejected by the Secretary
9 ~~Commissioner~~ in a timely manner.

10 (Source: P.A. 91-603, eff. 1-1-00.)

11 (225 ILCS 407/20-35)

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

13 Sec. 20-35. Subpoenas; attendance of witnesses; oaths.

14 (a) The Department ~~OBRE~~ shall have the power to issue
15 subpoenas ad testificandum (subpoena for documents) and to
16 bring before it any persons and to take testimony, either
17 orally or by deposition or both, with the same fees and mileage
18 and in the same manner as prescribed in civil cases in the
19 courts of this State. The Department ~~OBRE~~ shall have the power
20 to issue subpoenas duces tecum and to bring before it any
21 documents, papers, files, books, and records with the same
22 costs and in the same manner as prescribed in civil cases in
23 the courts of this State.

24 (b) Any circuit court may, upon application of the
25 Department ~~OBRE~~ or its designee or of the applicant, licensee,

1 or person holding a certificate of licensure against whom
2 proceedings under this Act are pending, enter an order
3 compelling the enforcement of any Department ~~OBRE~~ subpoena
4 issued in connection with any hearing or investigation.

5 (c) The Secretary ~~Commissioner~~ or his or her designee or
6 the Board shall have power to administer oaths to witnesses at
7 any hearing that the Department ~~OBRE~~ is authorized to conduct
8 and any other oaths authorized in any Act administered by the
9 Department ~~OBRE~~.

10 (Source: P.A. 91-603, eff. 1-1-00.)

11 (225 ILCS 407/20-40)

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

13 Sec. 20-40. Hearings; record of hearings.

14 (a) The Department ~~OBRE~~ shall have the authority to conduct
15 hearings before the Advisory Board on proceedings to revoke,
16 suspend, place on probation or administrative review,
17 reprimand, or refuse to issue or renew any license under this
18 Act or to impose a civil penalty not to exceed \$10,000 upon any
19 licensee under this Act.

20 (b) The Department ~~OBRE~~, at its expense, shall preserve a
21 record of all proceedings at the formal hearing of any case
22 involving the discipline of any license under this Act. The
23 notice of hearing, complaint and all other documents in the
24 nature of pleadings and written motions filed in the
25 proceedings, the transcript of testimony, the report of the

1 Board, and the order of the Department ~~OBRE~~ shall be the record
2 of proceeding. At all hearings or prehearing conference, the
3 Department ~~OBRE~~ and the respondent shall be entitled to have a
4 court reporter in attendance for purposes of transcribing the
5 proceeding or prehearing conference.

6 (Source: P.A. 91-603, eff. 1-1-00.)

7 (225 ILCS 407/20-45)

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

9 Sec. 20-45. Notice. The Department ~~OBRE~~ shall (i) notify
10 the respondent in writing at least 30 days prior to the date
11 set for the hearing of any charges made and the time and place
12 for the hearing of the charges to be heard under oath and (ii)
13 inform the respondent that, upon failure to file an answer
14 before the date originally set for the hearing, default will be
15 taken against the respondent and the respondent's license may
16 be suspended, revoked, or otherwise disciplined as the
17 Department ~~OBRE~~ may deem proper before taking any disciplinary
18 action with regard to any license under this Act.

19 If the respondent fails to file an answer after receiving
20 notice, the respondent's license may, in the discretion of the
21 Department ~~OBRE~~, be revoked, suspended, or otherwise
22 disciplined as deemed proper, without a hearing, if the act or
23 acts charged constitute sufficient grounds for such action
24 under this Act.

25 At the time and place fixed in the notice, the Department

1 ~~OPRE~~ shall proceed to hearing of the charges and both the
2 respondent and the complainant shall be accorded ample
3 opportunity to present in person or by counsel such statements,
4 testimony, evidence, and argument as may be pertinent to the
5 charges or any defense thereto.

6 (Source: P.A. 91-603, eff. 1-1-00.)

7 (225 ILCS 407/20-50)

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

9 Sec. 20-50. Board's findings of fact, conclusions of law,
10 and recommendation to the Secretary ~~Commissioner~~. At the
11 conclusion of the hearing, the Advisory Board shall present to
12 the Secretary ~~Commissioner~~ a written report of its findings of
13 facts, conclusions of law, and recommendations regarding
14 discipline or a fine. The report shall contain a finding
15 whether or not the accused person violated this Act or failed
16 to comply with the conditions required in this Act. The
17 Advisory Board shall specify the nature of the violation or
18 failure to comply and shall make its recommendations to the
19 Secretary ~~Commissioner~~.

20 If the Secretary ~~Commissioner~~ disagrees in any regard with
21 the report of the Advisory Board, the Secretary ~~Commissioner~~
22 may issue an order in contravention of the report. The
23 Secretary ~~Commissioner~~ shall provide a written report to the
24 Advisory Board on any deviation and shall specify with
25 particularity the reasons for that action in the final order.

1 (Source: P.A. 91-603, eff. 1-1-00.)

2 (225 ILCS 407/20-55)

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

4 Sec. 20-55. Motion for rehearing; rehearing. In any hearing
5 involving the discipline of a license, a copy of the Advisory
6 Board's report shall be served upon the respondent by the
7 Department ~~OBRE~~, either personally or as provided in this Act
8 for the service of the notice of hearing. Within 20 calendar
9 days after the service, the respondent may present to the
10 Department ~~OBRE~~ a motion in writing for a rehearing, which
11 shall specify the particular grounds for rehearing.

12 If no motion for rehearing is filed, then upon the
13 expiration of the time specified for filing a motion, or if a
14 motion for rehearing is denied, then upon denial, the Secretary
15 ~~Commissioner~~ may enter an order in accordance with the
16 recommendations of the Advisory Board, except as provided for
17 in this Act. If the respondent orders a transcript of the
18 record from the reporting service and pays for it within the
19 time for filing a motion for rehearing, the 20 calendar day
20 period within which a motion for rehearing may be filed shall
21 commence upon the delivery of the transcript to the respondent.

22 Whenever the Secretary ~~Commissioner~~ is not satisfied that
23 substantial justice has been done in the hearing or in the
24 Advisory Board's report, the Secretary ~~Commissioner~~ may order a
25 rehearing by the same.

1 (Source: P.A. 91-603, eff. 1-1-00.)

2 (225 ILCS 407/20-60)

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

4 Sec. 20-60. Order; certified copy. An order or a certified
5 copy of an order, over the seal of the Department ~~OBRE~~ and
6 purporting to be signed by the Secretary ~~Commissioner~~ or his or
7 her designee, shall be prima facie proof that:

8 (1) the signature is the genuine signature of the
9 Secretary ~~Commissioner~~ or his or her designee;

10 (2) the Secretary ~~Commissioner~~ is duly appointed and
11 qualified; and

12 (3) the Advisory Board is duly appointed and qualified.

13 (Source: P.A. 91-603, eff. 1-1-00.)

14 (225 ILCS 407/20-65)

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

16 Sec. 20-65. Restoration of license. At any time after the
17 suspension or revocation of any license, the Department ~~OBRE~~
18 may restore the license to the accused person upon the written
19 recommendation of the Advisory Board, unless after an
20 investigation and a hearing the Advisory Board determines that
21 restoration is not in the public interest.

22 (Source: P.A. 91-603, eff. 1-1-00.)

23 (225 ILCS 407/20-70)

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

2 Sec. 20-70. Surrender of license. Upon the revocation or
3 suspension of any license the licensee shall immediately
4 surrender the license to the Department ~~OBRE~~. If the licensee
5 fails to do so, the Department ~~OBRE~~ shall have the right to
6 seize the license.

7 (Source: P.A. 91-603, eff. 1-1-00.)

8 (225 ILCS 407/20-75)

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

10 Sec. 20-75. Administrative Review Law. All final
11 administrative decisions of the Department ~~OBRE~~ are subject to
12 judicial review under the Administrative Review Law and its
13 rules. The term "administrative decision" is defined as in
14 Section 3-101 of the Code of Civil Procedure.

15 Proceedings for judicial review shall be commenced in the
16 circuit court of the county in which the party applying for
17 review resides, but if the party is not a resident of this
18 State, the venue shall be in Cook or Sangamon County.

19 Pending final decision on the review, the acts, orders,
20 sanctions, and rulings of the Department ~~OBRE~~ regarding any
21 license shall remain in full force and effect, unless modified
22 or suspended by a court order pending final judicial decision.
23 The Department ~~OBRE~~ shall not be required to certify any record
24 to the court, file any answer in court, or otherwise appear in
25 any court in a judicial review proceeding, unless there is

1 filed in the court, with the complaint, a receipt from the
2 Department ~~OBRE~~ acknowledging payment of the costs of
3 furnishing and certifying the record. Failure on the part of
4 the plaintiff to file a receipt in court shall be grounds for
5 dismissal of the action.

6 (Source: P.A. 91-603, eff. 1-1-00.)

7 (225 ILCS 407/20-80)

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

9 Sec. 20-80. Summary suspension. The Secretary ~~Commissioner~~
10 may temporarily suspend any license pursuant to this Act,
11 without hearing, simultaneously with the institution of
12 proceedings for a hearing provided for in this Act, if the
13 Secretary ~~Commissioner~~ finds that the evidence indicates that
14 the public interest, safety, or welfare requires emergency
15 action. In the event that the Secretary ~~Commissioner~~
16 temporarily suspends any license without a hearing, a hearing
17 shall be held within 30 calendar days after the suspension has
18 begun. The suspended licensee may seek a continuance of the
19 hearing during which the suspension shall remain in effect. The
20 proceeding shall be concluded without appreciable delay.

21 (Source: P.A. 91-603, eff. 1-1-00.)

22 (225 ILCS 407/20-90)

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

24 Sec. 20-90. Cease and desist orders. The Department ~~OBRE~~

1 may issue cease and desist orders to persons who engage in
2 activities prohibited by this Act. Any person in violation of a
3 cease and desist order obtained by the Department ~~OBRE~~ is
4 subject to all of the remedies provided by law.

5 (Source: P.A. 91-603, eff. 1-1-00.)

6 (225 ILCS 407/20-95)

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

8 Sec. 20-95. Returned checks; fine. A person who delivers a
9 check or other payment to the Department ~~OBRE~~ that is returned
10 to the Department ~~OBRE~~ unpaid by the financial institution upon
11 which it is drawn shall pay to the Department ~~OBRE~~, in addition
12 to the amount already owed to the Department ~~OBRE~~, a fee of
13 \$50. The Department ~~OBRE~~ shall notify the person that his or
14 her check has been returned and that the person shall pay to
15 the Department ~~OBRE~~ by certified check or money order the
16 amount of the returned check plus the \$50 fee within 30
17 calendar days after the date of the notification. If, after the
18 expiration of 30 calendar days of the notification, the person
19 has failed to submit the necessary remittance, the Department
20 ~~OBRE~~ shall automatically terminate the license or deny the
21 application without a hearing. If, after termination or denial,
22 the person seeks a license, he or she shall petition the
23 Department ~~OBRE~~ for restoration and he or she may be subject to
24 additional discipline or fines. The Secretary ~~Commissioner~~ may
25 waive the fines due under this Section in individual cases

1 where the Secretary ~~Commissioner~~ finds that the fines would be
2 unreasonable or unnecessarily burdensome.

3 (Source: P.A. 91-603, eff. 1-1-00; 92-146, eff. 1-1-02.)

4 (225 ILCS 407/20-100 new)

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

6 Sec. 20-100. Violations. A person who is found to have
7 violated any provision of this Act is guilty of a Class A
8 misdemeanor for the first offense and a Class 4 felony for the
9 second and any subsequent offense.

10 (225 ILCS 407/30-5)

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

12 Sec. 30-5. The Department ~~OBRE~~; powers and duties. The
13 Department ~~OBRE~~ shall exercise the powers and duties prescribed
14 by the Civil Administrative Code of Illinois for the
15 administration of licensing acts and shall exercise such other
16 powers and duties as prescribed by this Act. The Department
17 ~~OBRE~~ may contract with third parties for services necessary for
18 the proper administration of this Act.

19 (Source: P.A. 91-603, eff. 1-1-00.)

20 (225 ILCS 407/30-10)

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

22 Sec. 30-10. Rules. The Department ~~OBRE~~, after notifying and
23 considering the recommendations of the Advisory Board, if any,

1 shall adopt any rules that may be necessary for the
2 administration, implementation and enforcement of this Act.

3 (Source: P.A. 91-603, eff. 1-1-00.)

4 (225 ILCS 407/30-15)

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

6 Sec. 30-15. Auction Regulation Administration Fund. A
7 special fund to be known as the Auction Regulation
8 Administration Fund is created in the State Treasury. All fees
9 received by the Department ~~OBRE~~ under this Act shall be
10 deposited into the Auction Regulation Administration Fund.
11 Subject to appropriation, the moneys deposited into the Auction
12 Regulation Administration Fund shall be used by the Department
13 ~~OBRE~~ for the administration of this Act. Moneys in the Auction
14 Regulation Administration Fund may be invested and reinvested
15 in the same manner as authorized for pension funds in Article
16 14 of the Illinois Pension Code. All earnings, interest, and
17 dividends received from investment of funds in the Auction
18 Regulation Administration Fund shall be deposited into the
19 Auction Regulation Administration Fund and shall be used for
20 the same purposes as other moneys deposited in the Auction
21 Regulation Administration Fund.

22 This fund shall be created on July 1, 1999. The State
23 Treasurer shall cause a transfer of \$300,000 to the Auction
24 Regulation Administration Fund from the Real Estate License
25 Administration Fund on August 1, 1999. The State Treasurer

1 shall cause a transfer of \$200,000 on August 1, 2000 and a
2 transfer of \$100,000 on January 1, 2002 from the Auction
3 Regulation Administration Fund to the Real Estate License
4 Administration Fund, or if there is a sufficient fund balance
5 in the Auction Regulation Administration Fund to properly
6 administer this Act, the Department ~~OBRE~~ may recommend to the
7 State Treasurer to cause a transfer from the Auction Regulation
8 Administration Fund to the Real Estate License Administration
9 Fund on a date and in an amount which is accelerated, but not
10 less than set forth in this Section. In addition to the license
11 fees required under this Act, each initial applicant for
12 licensure under this Act shall pay to the Department ~~OBRE~~ an
13 additional \$100 for deposit into the Auction Regulation
14 Administration Fund for a period of 2 years or until such time
15 the original transfer amount to the Auction Regulation
16 Administration Fund from the Real Estate License
17 Administration Fund is repaid.

18 Moneys in the Auction Regulation Administration Fund may be
19 transferred to the Professions Indirect Cost Fund, as
20 authorized under Section 2105-300 of the Department of
21 Professional Regulation Law of the Civil Administrative Code of
22 Illinois.

23 Upon completion of any audit of the Department ~~OBRE~~ as
24 prescribed by the Illinois State Auditing Act, which includes
25 an audit of the Auction Regulation Administration Fund, the
26 Department ~~OBRE~~ shall make the audit open to inspection by any

1 interested party.

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

3 (225 ILCS 407/30-20)

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

5 Sec. 30-20. Auction Recovery Fund. A special fund to be
6 known as the Auction Recovery Fund is created in the State
7 Treasury. The moneys in the Auction Recovery Fund shall be used
8 by the Department ~~OBRE~~ exclusively for carrying out the
9 purposes established pursuant to the provisions of Section
10 30-35 of this Act.

11 The sums received by the Department ~~OBRE~~ pursuant to the
12 provisions of Sections 20-5 through Sections 20-20 of this Act
13 shall be deposited into the State Treasury and held in the
14 Auction Recovery Fund. In addition to the license fees required
15 under this Act, each initial and renewal applicant shall pay to
16 the Department ~~OBRE~~ an additional \$25 for deposit into the
17 Auction Recovery Fund for a period of 2 years after the
18 effective date of this Act. After such time the Auction
19 Regulation Administration Fund has totally repaid the Real
20 Estate License Administration Fund, the State Treasurer shall
21 cause a transfer of \$50,000 from the Auction Regulation
22 Administration Fund to the Auction Recovery Fund annually on
23 January 1 so as to sustain a minimum balance of \$400,000 in the
24 Auction Recovery Fund. If the fund balance in the Auction
25 Recovery Fund on January 1 of any year after 2002 is less than

1 \$100,000, in addition to the renewal license fee required under
2 this Act, each renewal applicant shall pay the Department ~~OBRE~~
3 an additional \$25 fee for deposit into the Auction Recovery
4 Fund.

5 The funds held in the Auction Recovery Fund may be invested
6 and reinvested in the same manner as funds in the Auction
7 Regulation Administration Fund. All earnings received from
8 investment may be deposited into the Auction Recovery Fund and
9 may be used for the same purposes as other moneys deposited
10 into the Auction Recovery Fund or may be deposited into the
11 Auction Education Fund as provided in Section 30-25 of this Act
12 and as established by rule.

13 (Source: P.A. 91-603, eff. 1-1-00.)

14 (225 ILCS 407/30-25)

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

16 Sec. 30-25. Auction Education Fund. A special fund to be
17 known as the Auction Education Fund is created in the State
18 Treasury. The Auction Education Fund shall be administered by
19 the Department ~~OBRE~~. Subject to appropriation, moneys
20 deposited into the Auction Education Fund may be used for the
21 advancement of education in the auction industry, as
22 established by rule. The moneys deposited in the Auction
23 Education Fund may be invested and reinvested in the same
24 manner as funds in the Auction Regulation Administration Fund.
25 All earnings received from investment shall be deposited into

1 the Auction Education Fund and may be used for the same
2 purposes as other moneys deposited into the Auction Education
3 Fund.

4 (Source: P.A. 91-603, eff. 1-1-00.)

5 (225 ILCS 407/30-30)

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

7 Sec. 30-30. Auction Advisory Board.

8 (a) There is hereby created the Auction Advisory Board. The
9 Advisory Board shall consist of 7 members and shall be
10 appointed by the Secretary ~~Commissioner~~. In making the
11 appointments, the Secretary ~~Commissioner~~ shall give due
12 consideration to the recommendations by members and
13 organizations of the industry, including but not limited to the
14 Illinois State Auctioneers Association. Five ~~Four~~ members of
15 the Advisory Board shall be licensed auctioneers, except that
16 for the initial appointments, these members may be persons
17 without a license, but who have been auctioneers for at least 5
18 years preceding their appointment to the Advisory Board. One
19 member shall be a public member who represents the interests of
20 consumers and who is not licensed under this Act or the spouse
21 of a person licensed under this Act or who has any
22 responsibility for management or formation of policy of or any
23 financial interest in the auctioneering profession or any other
24 connection with the profession. One member shall be actively
25 engaged in the real estate industry and licensed as a broker or

1 salesperson. The Advisory Board shall annually elect one of its
2 members to serve as Chairperson ~~One member shall be the~~
3 ~~Director of Auction Regulation, ex officio, and shall serve as~~
4 ~~the Chairperson of the Advisory Board.~~

5 (b) Members shall be appointed for a term of 4 years,
6 except that of the initial appointments, 3 members shall be
7 appointed to serve a term of 3 years and 4 members shall be
8 appointed to serve a term of 4 years, ~~including the Director.~~
9 The Secretary Commissioner shall fill a vacancy for the
10 remainder of any unexpired term. Each member shall serve on the
11 Advisory Board until his or her successor is appointed and
12 qualified. No person shall be appointed to serve more than 2
13 terms, including the unexpired portion of a term due to
14 vacancy. To the extent practicable, the Secretary Commissioner
15 shall appoint members to insure that the various geographic
16 regions of the State are properly represented on the Advisory
17 Board.

18 (c) A majority of the Advisory Board members currently
19 appointed shall constitute a quorum. A vacancy in the
20 membership of the Advisory Board shall not impair the right of
21 a quorum to exercise all of the rights and perform all the
22 duties of the Board.

23 (d) Each member of the Advisory Board shall receive a per
24 diem stipend in an amount to be determined by the Secretary
25 ~~Commissioner~~. Each member shall be paid his or her necessary
26 expenses while engaged in the performance of his or her duties.

1 (e) Members of the Advisory Board shall be immune from suit
2 in an action based upon any disciplinary proceedings or other
3 acts performed in good faith as members of the Advisory Board.

4 (f) The Advisory Board shall meet monthly or as convened by
5 the Chairperson.

6 (g) The Advisory Board shall advise the Department ~~OBRE~~ on
7 matters of licensing and education and make recommendations to
8 the Department ~~OBRE~~ on those matters and shall hear and make
9 recommendations to the Secretary ~~Commissioner~~ on disciplinary
10 matters that require a formal evidentiary hearing.

11 (h) The Secretary ~~Commissioner~~ shall give due
12 consideration to all recommendations of the Advisory Board.

13 (Source: P.A. 91-603, eff. 1-1-00.)

14 (225 ILCS 407/30-40)

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

16 Sec. 30-40. Auction Recovery Fund; recovery; actions;
17 procedures. The Department ~~OBRE~~ shall maintain an Auction
18 Recovery Fund from which any person aggrieved by an act,
19 representation, transaction, or the conduct of a duly licensed
20 auctioneer, associate auctioneer or auction firm that
21 constitutes a violation of this Act or the regulations
22 promulgated pursuant thereto or that constitutes embezzlement
23 of money or property or results in money or property being
24 unlawfully obtained from any person by false pretenses,
25 artifice, trickery, or forgery or by reason of any fraud,

1 misrepresentation, discrimination or deceit by or on the part
2 of any licensee or the unlicensed employee of any auctioneer,
3 associate auctioneer, or auction firm and that results in a
4 loss of actual cash money as opposed to losses in market value,
5 may recover. The aggrieved person may recover, by order of the
6 circuit court of the county where the violation occurred, an
7 amount of not more than \$10,000 from the fund for damages
8 sustained by the act, representation, transaction, or conduct,
9 together with the costs of suit and attorneys' fees incurred in
10 connection therewith of not to exceed 15% of the amount of the
11 recovery ordered paid from the Fund. However, no licensed
12 auctioneer, associate auctioneer, or auction firm may recover
13 from the Fund, unless the court finds that the person suffered
14 a loss resulting from intentional misconduct. The court order
15 shall not include interest on the judgment.

16 The maximum liability against the Fund arising out of any
17 one act by any auctioneer, associate auctioneer, or auction
18 firm shall be \$50,000, and the judgment order shall spread the
19 award equitably among all aggrieved persons.

20 (Source: P.A. 91-603, eff. 8-16-99.)

21 (225 ILCS 407/30-45)

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

23 Sec. 30-45. Auction Recovery Fund; collection.

24 (a) No action for a judgment that subsequently results in
25 an order for collection from the Auction Recovery Fund shall be

1 started later than 2 years after the date on which the
2 aggrieved person knew or, through the use of reasonable
3 diligence, should have known of the acts or omissions giving
4 rise to a right of recovery from the Auction Recovery Fund.

5 (b) When any aggrieved person commences action for a
6 judgment that may result in collection from the Auction
7 Recovery Fund, the aggrieved person must name as parties to
8 that action any and all individual auctioneers, associate
9 auctioneers, auction firms, or their employees or agents who
10 allegedly committed or are responsible for acts or omissions
11 giving rise to a right of recovery from the Auction Recovery
12 Fund. Failure to name these individuals as parties shall
13 preclude recovery from the Auction Recovery Fund of any portion
14 of the judgment received in the action.

15 (c) When any aggrieved person commences action for a
16 judgment that may result in collection from the Auction
17 Recovery Fund, the aggrieved person must notify the Department
18 ~~OBRE~~ in writing to this effect at the time of the commencement
19 of the action. Failure to so notify the Department ~~OBRE~~ shall
20 preclude recovery from the Auction Recovery Fund of any portion
21 of the judgment received in the action. After receiving notice
22 of the commencement of such an action, the Department ~~OBRE~~,
23 upon timely application, shall be permitted to intervene as a
24 party to that action.

25 (d) When an aggrieved party commences action for a judgment
26 that may result in collection from the Auction Recovery Fund

1 and the court in which the action is commenced enters judgment
2 by default against the defendant and in favor of the aggrieved
3 party, the court shall, upon motion of the Department ~~OBRE~~, set
4 aside that judgment by default. After a judgment by default has
5 been set aside, the Department ~~OBRE~~ shall appear as a party to
6 that action and thereafter the court shall require proof of the
7 allegations in the pleading upon which relief is sought.

8 (e) The aggrieved person shall give written notice to the
9 Department ~~OBRE~~ within 30 days after the entry of any judgment
10 that may result in collection from the Auction Recovery Fund.
11 That aggrieved person shall provide the Department ~~OBRE~~ 20 days
12 written notice of all supplementary proceeding so as to allow
13 the Department ~~OBRE~~ to participate in all efforts to collect on
14 the judgment.

15 (f) When any aggrieved person recovers a valid judgment in
16 any court of competent jurisdiction against any licensee or an
17 unlicensed employee or agent of any licensee on the grounds of
18 fraud, misrepresentation, discrimination, or deceit, the
19 aggrieved person may, upon the termination of all proceedings,
20 including review and appeals in connection with the judgment,
21 file a verified claim in the court in which the judgment was
22 entered and, upon 30 days written notice to the Department ~~OBRE~~
23 and to the person against whom the judgment was obtained, may
24 apply to the court for an order directing payment out of the
25 Auction Recovery Fund of the amount unpaid upon the judgment,
26 not including interest on the judgment, and subject to the

1 limitation stated in Section 30-40 of this Act. The aggrieved
2 person must set out in that verified claim and at an
3 evidentiary hearing to be held by the court that the aggrieved
4 person:

5 (1) is not the spouse of the debtor or the personal
6 representative of the spouse;

7 (2) has complied with all the requirements of this
8 Section;

9 (3) has obtained a judgment stating the amount thereof
10 and the amount owing thereon, not including interest
11 thereon, at the date of the application;

12 (4) has made all reasonable searches and inquiries to
13 ascertain whether the judgment debtor possesses real or
14 personal property or other assets which may be sold or
15 applied in satisfaction of the judgment;

16 (5) has discovered no personal or real property or
17 other assets liable to be sold or applied, or has
18 discovered certain of them, describing them owned by the
19 judgment debtor and liable to be so applied, and has taken
20 all necessary action and proceeding for the realization
21 thereof, and the amount thereby realized was insufficient
22 to satisfy the judgment, stating the amount so realized and
23 the balance remaining due on the judgment after application
24 of the amount realized;

25 (6) has diligently pursued all remedies against all the
26 judgment debtors and all other persons liable to the

1 aggrieved person in the transaction for which recovery is
2 sought from the Auction Recovery Fund;

3 (7) has filed an adversary action to have the debts
4 declared non-dischargeable in any bankruptcy petition
5 matter filed by any judgment debtor or person liable to the
6 aggrieved person. The aggrieved person shall also be
7 required to prove the amount of attorney's fees sought to
8 be recovered and the reasonableness of those fees up to the
9 maximum allowed pursuant to Section 30-40 of this Act.

10 (g) The court shall make an order directed to the
11 Department ~~OBRE~~ requiring payment from the Auction Recovery
12 Fund of whatever sum it finds to be payable upon the claim,
13 pursuant to and in accordance with the limitations contained in
14 Section 30-40 of this Act, if the court is satisfied, upon the
15 hearing, of the truth of all matters required to be shown by
16 the aggrieved person by subsection (f) of this Section and that
17 the aggrieved person has fully pursued and exhausted all
18 remedies available for recovering the amount awarded by the
19 judgment of the court.

20 (h) If the Department ~~OBRE~~ pays from the Auction Recovery
21 Fund any amount in settlement of a claim or toward satisfaction
22 of a judgment against any licensee, or employee or agent of any
23 licensee, the license of said licensee shall be automatically
24 terminated without hearing upon the issuance of a court order
25 authorizing payment from the Auction Recovery Fund. No petition
26 for restoration of the license shall be heard until repayment

1 of the amount paid from the Auction Recovery Fund on their
2 account has been made in full, plus interest at the rate
3 prescribed in Section 12-109 of the Code of Civil Procedure. A
4 discharge in bankruptcy shall not relieve a person from the
5 penalties and disabilities provided in this subsection.

6 (i) If, at any time, the money deposited in the Auction
7 Recovery Fund is insufficient to satisfy any duly authorized
8 claim or portion thereof, the Department ~~OBRE~~ shall, when
9 sufficient money has been deposited in the Auction Recovery
10 Fund, satisfy such unpaid claims or portions thereof, in the
11 order that the claims or portions thereof were originally
12 filed, plus accumulated interest at the rate prescribed in
13 Section 12-109 of the Code of Civil Procedure.

14 (Source: P.A. 91-603, eff. 1-1-00.)

15 (225 ILCS 407/30-50)

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

17 Sec. 30-50. Contractual agreements. The Department ~~OBRE~~
18 may enter into contractual agreements with third parties to
19 carry out the provisions of this Act.

20 (Source: P.A. 91-603, eff. 1-1-00.)

21 (225 ILCS 407/30-55)

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

23 Sec. 30-55. Reciprocal agreements. The Department ~~OBRE~~
24 shall have the authority to enter into reciprocal licensing

1 agreements with the proper authority of a state, territory, or
2 possession of the United States or the District of Columbia
3 having licensing requirements equal to or substantially
4 equivalent to the requirements of this State.

5 (Source: P.A. 91-603, eff. 1-1-00.)

6 (225 ILCS 407/10-25 rep.)

7 (225 ILCS 407/Art. 25 rep.)

8 (225 ILCS 407/30-5 rep.)

9 Section 10. The Auction License Act is amended by repealing
10 Sections 10-25 and 30-5 and Article 25.