**Section 140.51 Definitions of Terms Used in the Act and the Rules**

a) As used in the Act and this Part, unless the context otherwise requires, the term:

 "Act or Law" means the Illinois Business Brokers Act of 1995 [815 ILCS 307].

 "Advertising" means any circular, disclosure statement, advertisement, or other material or any communication by radio, television, pictures or the transmittal or sending or of any communication via the non-proprietary, nonprofit, public computer network (commonly known as the "Internet") or similar means.

 "Affiliate" of, or a person "affiliated" with, a specified person means a person who, directly or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

 "Applicant" means the person making application for registration.

 "Branch Office":

 Branch office means any office, residence or other place or location in this State where the business of a registered business broker is conducted and which is owned or controlled by, or operated directly, or indirectly for the benefit of, the registered business broker and where the business of the business broker is conducted by a principal, agent or employee for such registered business broker.

 The principal office located in this State of the registered business broker shall not be considered a branch office.

 Except as otherwise provided in this Section, each office, residence or other place or location where business is being conducted in this State on behalf of a registered business broker shall be considered a branch office for the registered business broker.

 "Date of Filing" means the date that all of the required documents are received by the Securities Department and all the required fees are paid to the Secretary of State. A document shall not be deemed to be filed if any material information required by the Act or this Part is omitted or the document is illegible.

 "Director" means any director of a corporation or any person performing similar functions with respect to any organization whether incorporated or unincorporated.

 "Domicile" means, when applied to a business, that entity's principal place of business and, where applicable, that entity's place of incorporation.

 "Dominant Element of a Transaction" as used in Section 10-5.15 of the Act means any transaction in which (1) 50% or more of the purchase price or 50% or more of the net asset value of the business being sold is real estate; or (2) real estate is an integral part of the business being sold. The percentage of the transaction made up of the purchase price or net asset value of the real estate shall be based upon the reasonable expectation of the person potentially acting as a business broker and the client at the time the brokerage contract or agreement for services is entered into; or (3) real estate is the single largest part of the transaction.

 "Employee" does not include a director, trustee or officer.

 "Federal Banking Act of 1933" means the Federal Banking Act of 1933 (12 U.S.C. 227), and the Rules and Regulations thereunder as in effect on January 1, 1996.

 "Hearing" means a proceeding conducted by the Securities Department in which the rights, privileges, immunities, duties or obligations of any person or party are required by law to be determined by the Secretary of State only after opportunity for a hearing.

 "Insolvency" means the rendering of a business broker financially unable to perform any contractual obligations of its business brokering duties.

 "Offer or Offer to Sell" includes every attempt to dispose of a business for value or solicitation of an offer to purchase a business.

 "Officer" means the president; any vice president in charge of a principal business unit, division or function; the secretary; the treasurer; any principal financial officer, comptroller or principal accounting officer; any other officer performing a principal policy-making function and any other person performing similar functions with respect to any organization whether incorporated or unincorporated.

 "Ongoing Business" means an existing business that, for at least six months prior to the offer, has been operated from a specific, but not necessarily the same, location, has been open for business to the general public and has substantially all of the equipment and supplies necessary to operate the business.

 "Principal" means any officer, director, partner, member, trustee, or manager who is responsible for the supervision and management of the daily business operations in this State of a business broker required to be registered under the Act.

 "Proposed Client" means any person who has executed a disclosure statement which he or she received from a business broker and returned or caused to be returned to the business broker.

 "Real Estate" means and includes leaseholds, as well as any other interest or estate in land, whether corporeal, incorporeal, freehold or non-freehold, and whether the real estate is situated in Illinois or elsewhere.

 "Rules" refers to all rules adopted by the Secretary of State pursuant to the Act.

 "Sale or Sell" means every contract or agreement of sale, contract to sell, or the disposition of a business or interest in a business for value.

 "Secretary of State" means the Securities Department of the Office of the Illinois Secretary of State or the Secretary of State or the Securities Director, or his or her designee, as the case may be.

 "Section" refers to a Section of this Part unless a reference to the Act is specifically made.

b) A Section of this Part which defines a term without express reference to the Act or to this Part or to a portion thereof or hereof defines such term for all purposes as used both in the Act and in this Part. Terms defined in the Act and not defined in this Part have the meanings given them in the Act.

(Source: Amended at 25 Ill. Reg. 1779, effective January 10, 2001)