

1 AN ACT concerning professional regulation.

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

4 Section 5. The Real Estate License Act of 2000 is amended  
5 by changing Sections 1-10, 5-30, 5-50, 5-70, and 20-20 and by  
6 adding Section 15-75 as follows:

7 (225 ILCS 454/1-10)

8 (Section scheduled to be repealed on January 1, 2010)

9 Sec. 1-10. Definitions. In this Act, unless the context  
10 otherwise requires:

11 "Act" means the Real Estate License Act of 2000.

12 "Advisory Council" means the Real Estate Education  
13 Advisory Council created under Section 30-10 of this Act.

14 "Agency" means a relationship in which a real estate broker  
15 or licensee, whether directly or through an affiliated  
16 licensee, represents a consumer by the consumer's consent,  
17 whether express or implied, in a real property transaction.

18 "Applicant" means any person, as defined in this Section,  
19 who applies to OBRE for a valid license as a real estate  
20 broker, real estate salesperson, or leasing agent.

21 "Blind advertisement" means any real estate advertisement  
22 that does not include the sponsoring broker's business name and  
23 that is used by any licensee regarding the sale or lease of  
24 real estate, including his or her own, licensed activities, or  
25 the hiring of any licensee under this Act. The broker's  
26 business name in the case of a franchise shall include the  
27 franchise affiliation as well as the name of the individual  
28 firm.

29 "Board" means the Real Estate Administration and  
30 Disciplinary Board of OBRE.

31 "Branch office" means a sponsoring broker's office other  
32 than the sponsoring broker's principal office.

1 "Broker" means an individual, partnership, limited  
2 liability company, corporation, or registered limited  
3 liability partnership other than a real estate salesperson or  
4 leasing agent who for another and for compensation, or with the  
5 intention or expectation of receiving compensation, either  
6 directly or indirectly:

7 (1) Sells, exchanges, purchases, rents, or leases real  
8 estate.

9 (2) Offers to sell, exchange, purchase, rent, or lease  
10 real estate.

11 (3) Negotiates, offers, attempts, or agrees to  
12 negotiate the sale, exchange, purchase, rental, or leasing  
13 of real estate.

14 (4) Lists, offers, attempts, or agrees to list real  
15 estate for sale, lease, or exchange.

16 (5) Buys, sells, offers to buy or sell, or otherwise  
17 deals in options on real estate or improvements thereon.

18 (6) Supervises the collection, offer, attempt, or  
19 agreement to collect rent for the use of real estate.

20 (7) Advertises or represents himself or herself as  
21 being engaged in the business of buying, selling,  
22 exchanging, renting, or leasing real estate.

23 (8) Assists or directs in procuring or referring of  
24 prospects, intended to result in the sale, exchange, lease,  
25 or rental of real estate.

26 (9) Assists or directs in the negotiation of any  
27 transaction intended to result in the sale, exchange,  
28 lease, or rental of real estate.

29 (10) Opens real estate to the public for marketing  
30 purposes.

31 (11) Sells, leases, or offers for sale or lease real  
32 estate at auction.

33 "Brokerage agreement" means a written or oral agreement  
34 between a sponsoring broker and a consumer for licensed  
35 activities to be provided to a consumer in return for  
36 compensation or the right to receive compensation from another.

1 Brokerage agreements may constitute either a bilateral or a  
2 unilateral agreement between the broker and the broker's client  
3 depending upon the content of the brokerage agreement. All  
4 exclusive brokerage agreements shall be in writing.

5 "Client" means a person who is being represented by a  
6 licensee.

7 "Commissioner" means the Commissioner of Banks and Real  
8 Estate or a person authorized by the Commissioner, the Office  
9 of Banks and Real Estate Act, or this Act to act in the  
10 Commissioner's stead.

11 "Compensation" means the valuable consideration given by  
12 one person or entity to another person or entity in exchange  
13 for the performance of some activity or service. Compensation  
14 shall include the transfer of valuable consideration,  
15 including without limitation the following:

- 16 (1) commissions;
- 17 (2) referral fees;
- 18 (3) bonuses;
- 19 (4) prizes;
- 20 (5) merchandise;
- 21 (6) finder fees;
- 22 (7) performance of services;
- 23 (8) coupons or gift certificates;
- 24 (9) discounts;
- 25 (10) rebates;
- 26 (11) a chance to win a raffle, drawing, lottery, or  
27 similar game of chance not prohibited by any other law or  
28 statute;
- 29 (12) retainer fee; or
- 30 (13) salary.

31 "Confidential information" means information obtained by a  
32 licensee from a client during the term of a brokerage agreement  
33 that (i) was made confidential by the written request or  
34 written instruction of the client, (ii) deals with the  
35 negotiating position of the client, or (iii) is information the  
36 disclosure of which could materially harm the negotiating

1 position of the client, unless at any time:

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

4 (2) the disclosure is required by law; or

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

7 "Confidential information" shall not be considered to  
8 include material information about the physical condition of  
9 the property.

10 "Consumer" means a person or entity seeking or receiving  
11 licensed activities.

12 "Continuing education school" means any person licensed by  
13 OBRE as a school for continuing education in accordance with  
14 Section 30-15 of this Act.

15 "Credit hour" means 50 minutes of classroom instruction in  
16 course work that meets the requirements set forth in rules  
17 adopted by OBRE.

18 "Customer" means a consumer who is not being represented by  
19 the licensee but for whom the licensee is performing  
20 ministerial acts.

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

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

28 "Director" means the Director of the Real Estate Division,  
29 OBRE.

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

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

9 "Escrow moneys" means all moneys, promissory notes or any  
10 other type or manner of legal tender or financial consideration  
11 deposited with any person for the benefit of the parties to the  
12 transaction. A transaction exists once an agreement has been  
13 reached and an accepted real estate contract signed or lease  
14 agreed to by the parties. Escrow moneys includes without  
15 limitation earnest moneys and security deposits, except those  
16 security deposits in which the person holding the security  
17 deposit is also the sole owner of the property being leased and  
18 for which the security deposit is being held.

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

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

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

35 "License" means the document issued by OBRE certifying that  
36 the person named thereon has fulfilled all requirements

1 prerequisite to licensure under this Act.

2 "Licensed activities" means those activities listed in the  
3 definition of "broker" under this Section.

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

7 "Listing presentation" means a communication between a  
8 real estate broker or salesperson and a consumer in which the  
9 licensee is attempting to secure a brokerage agreement with the  
10 consumer to market the consumer's real estate for sale or  
11 lease.

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

16 "Medium of advertising" means any method of communication  
17 intended to influence the general public to use or purchase a  
18 particular good or service or real estate.

19 "Ministerial acts" means those acts that a licensee may  
20 perform for a consumer that are informative or clerical in  
21 nature and do not rise to the level of active representation on  
22 behalf of a consumer. Examples of these acts include without  
23 limitation (i) responding to phone inquiries by consumers as to  
24 the availability and pricing of brokerage services, (ii)  
25 responding to phone inquiries from a consumer concerning the  
26 price or location of property, (iii) attending an open house  
27 and responding to questions about the property from a consumer,  
28 (iv) setting an appointment to view property, (v) responding to  
29 questions of consumers walking into a licensee's office  
30 concerning brokerage services offered or particular  
31 properties, (vi) accompanying an appraiser, inspector,  
32 contractor, or similar third party on a visit to a property,  
33 (vii) describing a property or the property's condition in  
34 response to a consumer's inquiry, (viii) completing business or  
35 factual information for a consumer on an offer or contract to  
36 purchase on behalf of a client, (ix) showing a client through a

1 property being sold by an owner on his or her own behalf, or  
2 (x) referral to another broker or service provider.

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

4 "Office" means a real estate broker's place of business  
5 where the general public is invited to transact business and  
6 where records may be maintained and licenses displayed, whether  
7 or not it is the broker's principal place of business.

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

13 "Personal assistant" means a licensed or unlicensed person  
14 who has been hired for the purpose of aiding or assisting a  
15 sponsored licensee in the performance of the sponsored  
16 licensee's job.

17 "Pocket card" means the card issued by OBRE to signify that  
18 the person named on the card is currently licensed under this  
19 Act.

20 "Pre-license school" means a school licensed by OBRE  
21 offering courses in subjects related to real estate  
22 transactions, including the subjects upon which an applicant is  
23 examined in determining fitness to receive a license.

24 "Pre-renewal period" means the period between the date of  
25 issue of a currently valid license and the license's expiration  
26 date.

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

32 "Real Estate Administration and Disciplinary Board" or  
33 "Board" means the Real Estate Administration and Disciplinary  
34 Board created by Section 25-10 of this Act.

35 "Salesperson" means any individual, other than a real  
36 estate broker or leasing agent, who is employed by a real

1 estate broker or is associated by written agreement with a real  
2 estate broker as an independent contractor and participates in  
3 any activity described in the definition of "broker" under this  
4 Section.

5 "Sponsoring broker" means the broker who has issued a  
6 sponsor card to a licensed salesperson, another licensed  
7 broker, or a leasing agent.

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

14 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;  
15 91-603, eff. 1-1-00; 91-702, eff. 5-12-00; 92-217, eff.  
16 8-2-01.)

17 (225 ILCS 454/5-30)

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

19 Sec. 5-30. Education requirements to obtain an original  
20 broker or salesperson license.

21 (a) All applicants for a broker's license, except  
22 applicants who meet the criteria set forth in subsection (c) of  
23 this Section shall (i) give satisfactory evidence of having  
24 completed at least 120 classroom hours, 45 of which shall be  
25 those hours required to obtain a salesperson's license plus 15  
26 hours in brokerage administration courses, in real estate  
27 courses approved by the Advisory Council or (ii) for applicants  
28 who currently hold a valid real estate salesperson's license,  
29 give satisfactory evidence of having completed at least 75  
30 hours in real estate courses, not including the courses that  
31 are required to obtain a salesperson's license, approved by the  
32 Advisory Council.

33 (b) All applicants for a salesperson's license, except  
34 applicants who meet the criteria set forth in subsection (c) of  
35 this Section shall give satisfactory evidence that they have

1 completed at least 45 hours of instruction in real estate  
2 courses approved by the Advisory Council.

3 (c) The requirements specified in subsections (a) and (b)  
4 of this Section do not apply to applicants who: ~~(1) are~~  
5 currently admitted to practice law by the Supreme Court of  
6 Illinois and are currently in active standing, ~~or (2) show~~  
7 ~~evidence of receiving a baccalaureate degree including courses~~  
8 ~~involving real estate or related material from a college or~~  
9 ~~university approved by the Advisory Council.~~

10 (d) A minimum of 15 of the required hours of pre-license  
11 education shall be in the areas of Article 15 of this Act,  
12 disclosure and environmental issues, or any other currently  
13 topical areas that are determined by the Advisory Council.

14 (Source: P.A. 91-245, eff. 12-31-99.)

15 (225 ILCS 454/5-50)

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

17 Sec. 5-50. Expiration date and renewal period of broker,  
18 salesperson, or leasing agent license; sponsoring broker;  
19 register of licensees; pocket card.

20 (a) The expiration date and renewal period for each license  
21 issued under this Act shall be set by rule. Except as otherwise  
22 provided in Section 5-55 of this Act, the holder of a license  
23 may renew the license within 90 days preceding the expiration  
24 date thereof by paying the fees specified by rule. Upon written  
25 request from the sponsoring broker, OBRE shall prepare and mail  
26 to the sponsoring broker a listing of licensees under this Act  
27 who, according to the records of OBRE, are sponsored by that  
28 broker. Every licensee associated with or employed by a broker  
29 whose license is revoked, suspended, terminated, or expired  
30 shall be considered as inoperative until such time as the  
31 sponsoring broker's license is reinstated or renewed, or the  
32 licensee changes employment as set forth in subsection (c) of  
33 Section 5-40 of this Act.

34 (b) OBRE shall establish and maintain a register of all  
35 persons currently licensed by the State and shall issue and

1 prescribe a form of pocket card. Upon payment by a licensee of  
2 the appropriate fee as prescribed by rule for engagement in the  
3 activity for which the licensee is qualified and holds a  
4 license for the current period, OBRE shall issue a pocket card  
5 to the licensee. The pocket card shall be verification that the  
6 required fee for the current period has been paid and shall  
7 indicate that the person named thereon is licensed for the  
8 current renewal period as a broker, salesperson, or leasing  
9 agent as the case may be. The pocket card shall further  
10 indicate that the person named thereon is authorized by OBRE to  
11 engage in the licensed activity appropriate for his or her  
12 status (broker, salesperson, or leasing agent). Each licensee  
13 shall carry on his or her person his or her pocket card or, if  
14 such pocket card has not yet been issued, a properly issued  
15 sponsor card when engaging in any licensed activity and shall  
16 display the same on demand.

17 (c) Any person licensed as a broker shall be entitled at  
18 any renewal date to change his or her license status from  
19 broker to salesperson.

20 (Source: P.A. 91-245, eff. 12-31-99.)

21 (225 ILCS 454/5-70)

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

23 Sec. 5-70. Continuing education requirement; broker or  
24 salesperson.

25 (a) The requirements of this Section apply to all licensees  
26 ~~who have had a license for less than 15 years as of January 1,~~  
27 ~~1992.~~

28 (b) Except as otherwise provided in this Section, each  
29 person who applies for renewal of his or her license as a real  
30 estate broker or real estate salesperson must successfully  
31 complete real estate continuing education courses approved by  
32 the Advisory Council at the rate of 6 hours per year or its  
33 equivalent. In addition, beginning with the pre-renewal period  
34 for broker licensees that begins after the effective date of  
35 this amendatory Act of the 93rd General Assembly, to renew a

1 real estate broker's license, the licensee must successfully  
2 complete a 6-hour broker management continuing education  
3 course approved by OBRE. Successful completion of the course  
4 shall include achieving a passing score as provided by rule on  
5 a test developed and administered in accordance with rules  
6 adopted by the OBRE. Beginning on the first day of the  
7 pre-renewal period for broker licensees that begins after the  
8 effective date of this amendatory Act of the 93rd General  
9 Assembly, the 6-hour broker management continuing education  
10 course must be completed by all persons receiving their initial  
11 broker's license within 180 days after the date of initial  
12 licensure as a broker. No license may be renewed except upon  
13 the successful completion of the required courses or their  
14 equivalent or upon a waiver of those requirements for good  
15 cause shown as determined by the Commissioner with the  
16 recommendation of the Advisory Council. The requirements of  
17 this Article are applicable to all brokers and salespersons  
18 except those brokers and salespersons who, during the  
19 pre-renewal period:

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

25 (c) A person who is issued an initial license as a real  
26 estate salesperson less than one year prior to the expiration  
27 date of that license shall not be required to complete  
28 continuing education as a condition of license renewal. A  
29 person who is issued an initial license as a real estate broker  
30 less than one year prior to the expiration date of that license  
31 and who has not been licensed as a real estate salesperson  
32 during the pre-renewal period shall not be required to complete  
33 continuing education as a condition of license renewal. A  
34 person receiving an initial license as a real estate broker  
35 during the 90 days before the broker renewal date shall not be  
36 required to complete the broker management continuing

1 education course provided for in subsection (b) of this Section  
2 as a condition of initial license renewal.

3 (d) The continuing education requirement for salespersons  
4 and brokers shall consist of a core curriculum and an elective  
5 curriculum, to be established by the Advisory Council. In  
6 meeting the continuing education requirements of this Act, at  
7 least 3 hours per year or their equivalent shall be required to  
8 be completed in the core curriculum. In establishing the core  
9 curriculum, the Advisory Council shall consider subjects that  
10 will educate licensees on recent changes in applicable laws and  
11 new laws and refresh the licensee on areas of the license law  
12 and OBRE policy that the Advisory Council deems appropriate,  
13 and any other areas that the Advisory Council deems timely and  
14 applicable in order to prevent violations of this Act and to  
15 protect the public. In establishing the elective curriculum,  
16 the Advisory Council shall consider subjects that cover the  
17 various aspects of the practice of real estate that are covered  
18 under the scope of this Act. However, the elective curriculum  
19 shall not include any offerings referred to in Section 5-85 of  
20 this Act.

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

- 24 (1) license law and escrow;
- 25 (2) antitrust;
- 26 (3) fair housing;
- 27 (4) agency;
- 28 (5) appraisal;
- 29 (6) property management;
- 30 (7) residential brokerage;
- 31 (8) farm property management;
- 32 (9) rights and duties of sellers, buyers, and brokers;
- 33 (10) commercial brokerage and leasing; and
- 34 (11) real estate financing.

35 (f) In lieu of credit for those courses listed in  
36 subsection (e) of this Section, credit may be earned for

1 serving as a licensed instructor in an approved course of  
2 continuing education. The amount of credit earned for teaching  
3 a course shall be the amount of continuing education credit for  
4 which the course is approved for licensees taking the course.

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

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

10 (i) No more than 6 hours of continuing education credit may  
11 be earned in one calendar day.

12 (j) To promote the offering of a uniform and consistent  
13 course content, the OBRE may provide for the development of a  
14 single broker management course to be offered by all continuing  
15 education providers who choose to offer the broker management  
16 continuing education course. The OBRE may contract for the  
17 development of the 6-hour broker management continuing  
18 education course with an outside vendor and, if the course is  
19 developed in this manner, the OBRE shall license the use of  
20 that course to all approved continuing education providers who  
21 wish to provide the course.

22 (Source: P.A. 91-245, eff. 12-31-99.)

23 (225 ILCS 454/15-75 new)

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

25 Sec. 15-75. Exclusive brokerage agreements. All exclusive  
26 brokerage agreements must specify that the sponsoring broker,  
27 through one or more sponsored licensees, must provide, at a  
28 minimum, the following services:

29 (1) accept delivery of and present to the client offers  
30 and counteroffers to buy, sell, or lease the client's  
31 property or the property the client seeks to purchase or  
32 lease;

33 (2) assist the client in developing, communicating,  
34 negotiating, and presenting offers, counteroffers, and  
35 notices that relate to the offers and counteroffers until a

1       lease or purchase agreement is signed and all contingencies  
2       are satisfied or waived; and  
3       (3) answer the client's questions relating to the  
4       offers, counteroffers, notices, and contingencies.

5       (225 ILCS 454/20-20)

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

7       Sec. 20-20. Disciplinary actions; causes. OBRE may refuse  
8       to issue or renew a license, may place on probation, suspend,  
9       or revoke any license, or may censure, reprimand, or otherwise  
10      discipline or impose a civil fine not to exceed \$25,000 upon  
11      any licensee hereunder for any one or any combination of the  
12      following causes:

13      (a) When the applicant or licensee has, by false or  
14      fraudulent representation, obtained or sought to obtain a  
15      license.

16      (b) When the applicant or licensee has been convicted of  
17      any crime, an essential element of which is dishonesty or fraud  
18      or larceny, embezzlement, or obtaining money, property, or  
19      credit by false pretenses or by means of a confidence game, has  
20      been convicted in this or another state of a crime that is a  
21      felony under the laws of this State, or has been convicted of a  
22      felony in a federal court.

23      (c) When the applicant or licensee has been adjudged to be  
24      a person under legal disability or subject to involuntary  
25      admission or to meet the standard for judicial admission as  
26      provided in the Mental Health and Developmental Disabilities  
27      Code.

28      (d) When the licensee performs or attempts to perform any  
29      act as a broker or salesperson in a retail sales establishment  
30      from an office, desk, or space that is not separated from the  
31      main retail business by a separate and distinct area within the  
32      establishment.

33      (e) Discipline of a licensee by another state, the District  
34      of Columbia, a territory, a foreign nation, a governmental  
35      agency, or any other entity authorized to impose discipline if

1 at least one of the grounds for that discipline is the same as  
2 or the equivalent of one of the grounds for discipline set  
3 forth in this Act, in which case the only issue will be whether  
4 one of the grounds for that discipline is the same or  
5 equivalent to one of the grounds for discipline under this Act.

6 (f) When the applicant or licensee has engaged in real  
7 estate activity without a license or after the licensee's  
8 license was expired or while the license was inoperative.

9 (g) When the applicant or licensee attempts to subvert or  
10 cheat on the Real Estate License Exam or continuing education  
11 exam or aids and abets an applicant to subvert or cheat on the  
12 Real Estate License Exam or continuing education exam  
13 administered pursuant to this Act.

14 (h) When the licensee in performing, attempting to perform,  
15 or pretending to perform any act as a broker, salesperson, or  
16 leasing agent or when the licensee in handling his or her own  
17 property, whether held by deed, option, or otherwise, is found  
18 guilty of:

19 (1) Making any substantial misrepresentation or  
20 untruthful advertising.

21 (2) Making any false promises of a character likely to  
22 influence, persuade, or induce.

23 (3) Pursuing a continued and flagrant course of  
24 misrepresentation or the making of false promises through  
25 licensees, employees, agents, advertising, or otherwise.

26 (4) Any misleading or untruthful advertising, or using  
27 any trade name or insignia of membership in any real estate  
28 organization of which the licensee is not a member.

29 (5) Acting for more than one party in a transaction  
30 without providing written notice to all parties for whom  
31 the licensee acts.

32 (6) Representing or attempting to represent a broker  
33 other than the sponsoring broker.

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

1           (8) Failure to maintain and deposit in a special  
2 account, separate and apart from personal and other  
3 business accounts, all escrow moneys belonging to others  
4 entrusted to a licensee while acting as a real estate  
5 broker, escrow agent, or temporary custodian of the funds  
6 of others or failure to maintain all escrow moneys on  
7 deposit in the account until the transactions are  
8 consummated or terminated, except to the extent that the  
9 moneys, or any part thereof, shall be disbursed prior to  
10 the consummation or termination in accordance with (i) the  
11 written direction of the principals to the transaction or  
12 their duly authorized agents, (ii) directions providing  
13 for the release, payment, or distribution of escrow moneys  
14 contained in any written contract signed by the principals  
15 to the transaction or their duly authorized agents, or  
16 (iii) pursuant to an order of a court of competent  
17 jurisdiction. The account shall be noninterest bearing,  
18 unless the character of the deposit is such that payment of  
19 interest thereon is otherwise required by law or unless the  
20 principals to the transaction specifically require, in  
21 writing, that the deposit be placed in an interest bearing  
22 account.

23           (9) Failure to make available to the real estate  
24 enforcement personnel of OBRE during normal business hours  
25 all escrow records and related documents maintained in  
26 connection with the practice of real estate within 24 hours  
27 of a request for those documents by OBRE personnel.

28           (10) Failing to furnish copies upon request of all  
29 documents relating to a real estate transaction to all  
30 parties executing them.

31           (11) Failure of a sponsoring broker to timely provide  
32 information, sponsor cards, or termination of licenses to  
33 OBRE.

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

1           (13) Commingling the money or property of others with  
2 his or her own.

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

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

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

14           (17) Displaying a "for rent" or "for sale" sign on any  
15 property without the written consent of an owner or his or  
16 her duly authorized agent or advertising by any means that  
17 any property is for sale or for rent without the written  
18 consent of the owner or his or her authorized agent.

19           (18) Failing to provide information requested by OBRE,  
20 within 30 days of the request, either as the result of a  
21 formal or informal complaint to OBRE or as a result of a  
22 random audit conducted by OBRE, which would indicate a  
23 violation of this Act.

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

26           (20) Offering guaranteed sales plans, as defined in  
27 clause (A) of this subdivision (20), except to the extent  
28 hereinafter set forth:

29           (A) A "guaranteed sales plan" is any real estate  
30 purchase or sales plan whereby a licensee enters into a  
31 conditional or unconditional written contract with a  
32 seller by the terms of which a licensee agrees to  
33 purchase a property of the seller within a specified  
34 period of time at a specific price in the event the  
35 property is not sold in accordance with the terms of a  
36 listing contract between the sponsoring broker and the

1 seller or on other terms acceptable to the seller.

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

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

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

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

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

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

34 (23) Inducing any party to a contract of sale or lease  
35 or brokerage agreement to break the contract of sale or  
36 lease or brokerage agreement for the purpose of

1 substituting, in lieu thereof, a new contract for sale or  
2 lease or brokerage agreement with a third party.

3 (24) Negotiating a sale, exchange, or lease of real  
4 estate directly with any person if the licensee knows that  
5 the person has a written exclusive brokerage agreement with  
6 another broker, unless specifically authorized by that  
7 broker.

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

12 (26) Advertising or offering merchandise or services  
13 as free if any conditions or obligations necessary for  
14 receiving the merchandise or services are not disclosed in  
15 the same advertisement or offer. These conditions or  
16 obligations include without limitation the requirement  
17 that the recipient attend a promotional activity or visit a  
18 real estate site. As used in this subdivision (26), "free"  
19 includes terms such as "award", "prize", "no charge", "free  
20 of charge", "without charge", and similar words or phrases  
21 that reasonably lead a person to believe that he or she may  
22 receive or has been selected to receive something of value,  
23 without any conditions or obligations on the part of the  
24 recipient.

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

29 (28) Violating the terms of a disciplinary order issued  
30 by OBRE.

31 (29) Paying compensation in violation of Article 10 of  
32 this Act.

33 (30) Requiring a party to a transaction who is not a  
34 client of the licensee to allow the licensee to retain a  
35 portion of the escrow moneys for payment of the licensee's  
36 commission or expenses as a condition for release of the

1 escrow moneys to that party.

2 (31) Disregarding or violating any provision of this  
3 Act or the published rules promulgated by OBRE to enforce  
4 this Act or aiding or abetting any individual, partnership,  
5 registered limited liability partnership, limited  
6 liability company, or corporation in disregarding any  
7 provision of this Act or the published rules promulgated by  
8 OBRE to enforce this Act.

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

12 (Source: P.A. 91-245, eff. 12-31-99.)

13 Section 99. Effective date. This Act takes effect upon  
14 becoming law.