

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 Real Estate License Act of 2000 is amended
5 by changing Sections 5-70, 10-30, 20-20, 20-85, 20-90, 20-95,
6 and 20-115 and by adding Section 20-78 as follows:

7 (225 ILCS 454/5-70)

8 (Section scheduled to be repealed on January 1, 2020)

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

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

13 (b) Except as otherwise provided in this Section, each
14 person who applies for renewal of his or her license as a
15 managing broker, real estate broker, or real estate salesperson
16 must successfully complete 6 hours of real estate continuing
17 education courses approved by the Advisory Council for each
18 year of the pre-renewal period. Broker licensees must
19 successfully complete a 6-hour broker management continuing
20 education course approved by the Department for the pre-renewal
21 period ending April 30, 2010. In addition, beginning with the
22 pre-renewal period for managing broker licensees that begins
23 after the effective date of this Act, those licensees renewing

1 or obtaining a managing broker's license must successfully
2 complete a 12-hour broker management continuing education
3 course approved by the Department each pre-renewal period. The
4 broker management continuing education course must be
5 completed in the classroom or by other interactive delivery
6 method presenting instruction and real time discussion between
7 the instructor and the students. Successful completion of the
8 course shall include achieving a passing score as provided by
9 rule on a test developed and administered in accordance with
10 rules adopted by the Department. No license may be renewed
11 except upon the successful completion of the required courses
12 or their equivalent or upon a waiver of those requirements for
13 good cause shown as determined by the Secretary with the
14 recommendation of the Advisory Council. The requirements of
15 this Article are applicable to all managing brokers, brokers,
16 and salespersons except those brokers and salespersons who,
17 during the pre-renewal period:

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

22 Supreme Court rule.

23 (c) A person licensed as a salesperson as of April 30, 2011
24 shall not be required to complete the 18 hours of continuing
25 education for the pre-renewal period ending April 30, 2012 if
26 that person takes the 30-hour post-licensing course to obtain a

1 broker's license. A person licensed as a broker as of April 30,
2 2011 shall not be required to complete the 12 hours of broker
3 management continuing education for the pre-renewal period
4 ending April 30, 2012, unless that person passes the
5 proficiency exam provided for in Section 5-47 of this Act to
6 qualify for a managing broker's license.

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

11 (e) The continuing education requirement for salespersons,
12 brokers and managing brokers shall consist of a core curriculum
13 and an elective curriculum, to be established by the Advisory
14 Council. In meeting the continuing education requirements of
15 this Act, at least 3 hours per year or their equivalent, 6
16 hours for each two-year pre-renewal period, shall be required
17 to be completed in the core curriculum. In establishing the
18 core curriculum, the Advisory Council shall consider subjects
19 that will educate licensees on recent changes in applicable
20 laws and new laws and refresh the licensee on areas of the
21 license law and the Department policy that the Advisory Council
22 deems appropriate, and any other areas that the Advisory
23 Council deems timely and applicable in order to prevent
24 violations of this Act and to protect the public. In
25 establishing the elective curriculum, the Advisory Council
26 shall consider subjects that cover the various aspects of the

1 practice of real estate that are covered under the scope of
2 this Act. However, the elective curriculum shall not include
3 any offerings referred to in Section 5-85 of this Act.

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

- 7 (1) license law and escrow;
- 8 (2) antitrust;
- 9 (3) fair housing;
- 10 (4) agency;
- 11 (5) appraisal;
- 12 (6) property management;
- 13 (7) residential brokerage;
- 14 (8) farm property management;
- 15 (9) rights and duties of sellers, buyers, and brokers;
- 16 (10) commercial brokerage and leasing; and
- 17 (11) real estate financing.

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

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

26 (i) A broker or salesperson may earn credit for a specific

1 continuing education course only once during the prerenewal
2 period.

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

5 (k) To promote the offering of a uniform and consistent
6 course content, the Department may provide for the development
7 of a single broker management course to be offered by all
8 continuing education providers who choose to offer the broker
9 management continuing education course. The Department may
10 contract for the development of the 12-hour ~~6-hour~~ broker
11 management continuing education course with an outside vendor
12 or consultant and, if the course is developed in this manner,
13 the Department or the outside consultant shall license the use
14 of that course to all approved continuing education providers
15 who wish to provide the course.

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

25 (Source: P.A. 96-856, eff. 12-31-09.)

1 (225 ILCS 454/10-30)

2 (Section scheduled to be repealed on January 1, 2020)

3 Sec. 10-30. Advertising.

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

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

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

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

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

13 (A) On "By Owner" yard signs, the sponsored or
14 inoperative licensee shall indicate "broker owned" or
15 "agent owned." "By Owner" advertisements used in any
16 medium of advertising shall include the term "broker
17 owned" or "agent owned."

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

22 (C) A sponsored or inoperative licensee shall not
23 use the sponsoring broker's name or the sponsoring
24 broker's company name in connection with the sale,
25 lease, or advertisement of the property nor utilize the
26 sponsoring broker's or company's name in connection

1 with the sale, lease, or advertising of the property in
2 a manner likely to create confusion among the public as
3 to whether or not the services of a real estate company
4 are being utilized or whether or not a real estate
5 company has an ownership interest in the property.

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

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

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

23 (e) No licensee shall list his or her name under the
24 heading or title "Real Estate" in the telephone directory or
25 otherwise advertise in his or her own name to the general
26 public through any medium of advertising as being in the real

1 estate business without listing his or her sponsoring broker's
2 business name.

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

8 (g) Those individuals licensed as a managing broker and
9 designated with the Department as a managing broker by their
10 sponsoring broker shall identify themselves to the public in
11 advertising, except on "For Sale" or similar signs, as a
12 managing broker. No other individuals holding a managing
13 broker's license may hold themselves out to the public or other
14 licensees as a managing broker.

15 (Source: P.A. 96-856, eff. 12-31-09.)

16 (225 ILCS 454/20-20)

17 (Section scheduled to be repealed on January 1, 2020)

18 Sec. 20-20. Grounds for discipline.

19 (a) The Department may refuse to issue or renew a license,
20 may place on probation, suspend, or revoke any license,
21 reprimand, or take any other disciplinary or non-disciplinary
22 action as the Department may deem proper and ~~or~~ impose a fine
23 not to exceed \$25,000 upon any licensee or applicant under this
24 Act or any person who holds himself or herself out as an
25 applicant or licensee or against a licensee in handling his or

1 her own property, whether held by deed, option, or otherwise,
2 for any one or any combination of the following causes:

3 (1) Fraud or misrepresentation in applying for, or
4 procuring, a license under this Act or in connection with
5 applying for renewal of a license under this Act.

6 (2) The conviction of or plea of guilty or plea of nolo
7 contendere to conviction of, plea of guilty or plea of nolo
8 contendere to a felony or misdemeanor in this State or any
9 other jurisdiction; or the entry of an administrative
10 sanction by a government agency in this State or any other
11 jurisdiction. Action taken under this paragraph (2) for a
12 misdemeanor or an administrative sanction is limited to a
13 misdemeanor or administrative sanction that has as 7 an
14 essential element of which is dishonesty or fraud or
15 involves larceny, embezzlement, or obtaining money,
16 property, or credit by false pretenses or by means of a
17 confidence game, ~~in this State, or any other jurisdiction.~~

18 (3) Inability to practice the profession with
19 reasonable judgment, skill, or safety as a result of a
20 physical illness, including, but not limited to,
21 deterioration through the aging process or loss of motor
22 skill, or a mental illness or disability.

23 (4) Practice under this Act as a licensee in a retail
24 sales establishment from an office, desk, or space that is
25 not separated from the main retail business by a separate
26 and distinct area within the establishment.

1 (5) Having been disciplined by another state, the
2 District of Columbia, a territory, a foreign nation, or a
3 governmental agency authorized to impose discipline
4 ~~Disciplinary action of another state or jurisdiction~~
5 ~~against the license or other authorization to practice as a~~
6 ~~managing broker, broker, salesperson, or leasing agent~~ if
7 at least one of the grounds for that discipline is the same
8 as or the equivalent of one of the grounds for which a
9 licensee may be disciplined under ~~discipline set forth in~~
10 this Act. A certified copy of the record of the action by
11 the other state or jurisdiction shall be prima facie
12 evidence thereof.

13 (6) Engaging in the practice of real estate brokerage
14 without a license or after the licensee's license was
15 expired or while the license was inoperative.

16 (7) Cheating on or attempting to subvert the Real
17 Estate License Exam or continuing education exam.

18 (8) Aiding or abetting an applicant to subvert or cheat
19 on the Real Estate License Exam or continuing education
20 exam administered pursuant to this Act.

21 (9) Advertising that is inaccurate, misleading, or
22 contrary to the provisions of the Act.

23 (10) Making any substantial misrepresentation or
24 untruthful advertising.

25 (11) Making any false promises of a character likely to
26 influence, persuade, or induce.

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

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

7 (14) Acting for more than one party in a transaction
8 without providing written notice to all parties for whom
9 the licensee acts.

10 (15) Representing or attempting to represent a broker
11 other than the sponsoring broker.

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

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

24 (A) disbursed prior to the consummation or
25 termination (i) in accordance with the written
26 direction of the principals to the transaction or their

1 duly authorized agents, (ii) in accordance with
2 directions providing for the release, payment, or
3 distribution of escrow moneys contained in any written
4 contract signed by the principals to the transaction or
5 their duly authorized agents, or (iii) pursuant to an
6 order of a court of competent jurisdiction; or

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

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

25 (18) Failure to make available to the Department all
26 escrow records and related documents maintained in

1 connection with the practice of real estate within 24 hours
2 of a request for those documents by Department personnel.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (C) A licensee offering a guaranteed sales plan
26 shall provide to the party to whom the plan is offered

1 evidence of sufficient financial resources to satisfy
2 the commitment to purchase undertaken by the broker in
3 the plan.

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

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

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

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

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

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

10 (33) Negotiating a sale, exchange, or lease of real
11 estate directly with any person if the licensee knows that
12 the person has an exclusive brokerage agreement with
13 another broker, unless specifically authorized by that
14 broker.

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

19 (35) Advertising or offering merchandise or services
20 as free if any conditions or obligations necessary for
21 receiving the merchandise or services are not disclosed in
22 the same advertisement or offer. These conditions or
23 obligations include without limitation the requirement
24 that the recipient attend a promotional activity or visit a
25 real estate site. As used in this subdivision (35), "free"
26 includes terms such as "award", "prize", "no charge", "free

1 of charge", "without charge", and similar words or phrases
2 that reasonably lead a person to believe that he or she may
3 receive or has been selected to receive something of value,
4 without any conditions or obligations on the part of the
5 recipient.

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

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

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

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

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

26 (41) Failing to provide the minimum services required

1 by Section 15-75 of this Act when acting under an exclusive
2 brokerage agreement.

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

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

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

23 (d) In cases where the Department of Healthcare and Family
24 Services (formerly Department of Public Aid) has previously
25 determined that a licensee or a potential licensee is more than
26 30 days delinquent in the payment of child support and has

1 subsequently certified the delinquency to the Department may
2 refuse to issue or renew or may revoke or suspend that person's
3 license or may take other disciplinary action against that
4 person based solely upon the certification of delinquency made
5 by the Department of Healthcare and Family Services in
6 accordance with item (5) of subsection (g) of Section 2105-15
7 of the Civil Administrative Code of Illinois.

8 (e) In enforcing this Section, the Department or Board upon
9 a showing of a possible violation may compel an individual
10 licensed to practice under this Act, or who has applied for
11 licensure under this Act, to submit to a mental or physical
12 examination, or both, as required by and at the expense of the
13 Department. The Department or Board may order the examining
14 physician to present testimony concerning the mental or
15 physical examination of the licensee or applicant. No
16 information shall be excluded by reason of any common law or
17 statutory privilege relating to communications between the
18 licensee or applicant and the examining physician. The
19 examining physicians shall be specifically designated by the
20 Board or Department. The individual to be examined may have, at
21 his or her own expense, another physician of his or her choice
22 present during all aspects of this examination. Failure of an
23 individual to submit to a mental or physical examination, when
24 directed, shall be grounds for suspension of his or her license
25 until the individual submits to the examination if the
26 Department finds, after notice and hearing, that the refusal to

1 submit to the examination was without reasonable cause.

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

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

1 confidentiality of medical records.

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

7 (Source: P.A. 95-851, eff. 1-1-09; 96-856, eff. 12-31-09;
8 revised 11-18-11.)

9 (225 ILCS 454/20-78 new)

10 Sec. 20-78. Confidentiality. All information collected by
11 the Department in the course of an examination or investigation
12 of a licensee or applicant, including, but not limited to, any
13 complaint against a licensee or applicant or any person who
14 holds himself or herself out as a licensee or applicant filed
15 with the Department and information collected to investigate
16 any such complaint, shall be maintained for the confidential
17 use of the Department and shall not be disclosed. The
18 Department may not disclose the information to anyone other
19 than law enforcement officials, regulatory agencies that have
20 an appropriate regulatory interest as determined by the
21 Secretary, or a party presenting a lawful subpoena to the
22 Department. Information and documents disclosed to a federal,
23 State, county, or local law enforcement agency shall not be
24 disclosed by the agency for any purpose to any other agency or
25 person. A formal complaint filed against a licensee by the

1 Department or any order issued by the Department against a
2 licensee or applicant shall be a public record, except as
3 otherwise prohibited by law.

4 (225 ILCS 454/20-85)

5 (Section scheduled to be repealed on January 1, 2020)

6 Sec. 20-85. Recovery from Real Estate Recovery Fund. The
7 Department shall maintain a Real Estate Recovery Fund from
8 which any person aggrieved by an act, representation,
9 transaction, or conduct of a licensee or unlicensed employee of
10 a licensee that is in violation of this Act or the rules
11 promulgated pursuant thereto, constitutes embezzlement of
12 money or property, or results in money or property being
13 unlawfully obtained from any person by false pretenses,
14 artifice, trickery, or forgery or by reason of any fraud,
15 misrepresentation, discrimination, or deceit by or on the part
16 of any such licensee or the unlicensed employee of a licensee
17 and that results in a loss of actual cash money, as opposed to
18 losses in market value, may recover. The aggrieved person may
19 recover, by a post-judgment order of the circuit court of the
20 county where the violation occurred in a proceeding described
21 in Section 20-90 of this Act, an amount of not more than
22 \$25,000 from the Fund for damages sustained by the act,
23 representation, transaction, or conduct, together with costs
24 of suit and attorney's fees incurred in connection therewith of
25 not to exceed 15% of the amount of the recovery ordered paid

1 from the Fund. However, no licensee may recover from the Fund
2 unless the court finds that the person suffered a loss
3 resulting from intentional misconduct. The post-judgment ~~court~~
4 order shall not include interest on the judgment. The maximum
5 liability against the Fund arising out of any one act shall be
6 as provided in this Section, and the post-judgment ~~judgment~~
7 order shall spread the award equitably among all co-owners or
8 otherwise aggrieved persons, if any. The maximum liability
9 against the Fund arising out of the activities of any one
10 licensee or one unlicensed employee of a licensee, since
11 January 1, 1974, shall be \$100,000. Nothing in this Section
12 shall be construed to authorize recovery from the Fund unless
13 the loss of the aggrieved person results from an act or
14 omission of a licensee under this Act who was at the time of
15 the act or omission acting in such capacity or was apparently
16 acting in such capacity or their unlicensed employee and unless
17 the aggrieved person has obtained a valid judgment and
18 post-judgment order of the court as provided for in Section
19 20-90 of this Act. No person aggrieved by an act,
20 representation, or transaction that is in violation of the
21 Illinois Real Estate Time-Share Act or the Land Sales
22 Registration Act of 1989 may recover from the Fund.

23 (Source: P.A. 96-856, eff. 12-31-09.)

24 (225 ILCS 454/20-90)

25 (Section scheduled to be repealed on January 1, 2020)

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

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

10 (b) When any aggrieved person commences action for a
11 judgment that may result in collection from the Real Estate
12 Recovery Fund, the aggrieved person must name as parties
13 defendant to that action any and all ~~individual~~ licensees, ~~or~~
14 their employees, or independent contractors who allegedly
15 committed or are responsible for acts or omissions giving rise
16 to a right of recovery from the Real Estate Recovery Fund.
17 Failure to name as parties defendant such licensees, ~~or~~ their
18 employees, or independent contractors shall preclude recovery
19 from the Real Estate Recovery Fund of any portion of any
20 judgment received in such an action. ~~These~~ ~~The aggrieved party~~
21 ~~may also name as additional~~ parties defendant shall also
22 include any corporations, limited liability companies,
23 partnerships, registered limited liability partnership, or
24 other business associations licensed under this Act that may be
25 responsible for acts giving rise to a right of recovery from
26 the Real Estate Recovery Fund.

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

11 (d) When any aggrieved person commences action for a
12 judgment that may result in collection from the Real Estate
13 Recovery Fund, and the aggrieved person is unable to obtain
14 legal and proper service upon the parties defendant licensed
15 under this Act under the provisions of Illinois law concerning
16 service of process in civil actions, the aggrieved person may
17 petition the court where the action to obtain judgment was
18 begun for an order to allow service of legal process on the
19 Secretary. Service of process on the Secretary shall be taken
20 and held in that court to be as valid and binding as if due
21 service had been made upon the parties defendant licensed under
22 this Act. In case any process mentioned in this Section is
23 served upon the Secretary, the Secretary shall forward a copy
24 of the process by certified mail to the licensee's last address
25 on record with the Department. Any judgment obtained after
26 service of process on the Secretary under this Act shall apply

1 to and be enforceable against the Real Estate Recovery Fund
2 only. The Department ~~OBRE~~ may intervene in and defend any such
3 action.

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

14 (f) The aggrieved person shall give written notice to the
15 Department within 30 days of the entry of any judgment that may
16 result in collection from the Real Estate Recovery Fund. The
17 aggrieved person shall provide the Department with ~~OBRE within~~
18 20 days prior written notice of all supplementary proceedings
19 so as to allow the Department to intervene and participate in
20 all efforts to collect on the judgment in the same manner as
21 any party.

22 (g) When any aggrieved person recovers a valid judgment in
23 any court of competent jurisdiction against any licensee or an
24 unlicensed employee of any licensee ~~broker~~, upon the grounds of
25 fraud, misrepresentation, discrimination, or deceit, the
26 aggrieved person may, upon the termination of all proceedings,

1 including review and appeals in connection with the judgment,
2 file a verified claim in the court in which the judgment was
3 entered and, upon 30 days' written notice to the Department,
4 and to the person against whom the judgment was obtained, may
5 apply to the court for a post-judgment ~~an~~ order directing
6 payment out of the Real Estate Recovery Fund of the amount
7 unpaid upon the judgment, not including interest on the
8 judgment, and subject to the limitations stated in Section
9 20-85 of this Act. The aggrieved person must set out in that
10 verified claim and prove at an evidentiary hearing to be held
11 by the court upon the application that the claim meets all
12 requirements of Section 20-85 and this Section to be eligible
13 for payment from the Real Estate Recovery Fund and the
14 aggrieved party shall be required to show that the aggrieved
15 person:

16 (1) Is not a spouse of the debtor or debtors or the
17 personal representative of such spouse.

18 (2) Has complied with all the requirements of this
19 Section.

20 (3) Has obtained a judgment stating the amount thereof
21 and the amount owing thereon, not including interest
22 thereon, at the date of the application.

23 (4) Has made all reasonable searches and inquiries to
24 ascertain whether the judgment debtor or debtors is
25 possessed of real or personal property or other assets,
26 liable to be sold or applied in satisfaction of the

1 judgment.

2 (5) By such search has discovered no personal or real
3 property or other assets liable to be sold or applied, or
4 has discovered certain of them, describing them as owned by
5 the judgment debtor or debtors and liable to be so applied
6 and has taken all necessary action and proceedings for the
7 realization thereof, and the amount thereby realized was
8 insufficient to satisfy the judgment, stating the amount so
9 realized and the balance remaining due on the judgment
10 after application of the amount realized.

11 (6) Has diligently pursued all remedies against all the
12 judgment debtors and all other persons liable to the
13 aggrieved person in the transaction for which recovery is
14 sought from the Real Estate Recovery Fund, including the
15 filing of an adversary action to have the debts declared
16 non-dischargeable in any bankruptcy petition matter filed
17 by any judgment debtor or person liable to the aggrieved
18 person.

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

23 (h) After conducting the evidentiary hearing required
24 under this Section, the ~~The~~ court, in a post-judgment ~~shall~~
25 ~~make an~~ order directed to the Department, shall indicate
26 whether requiring payment from the Real Estate Recovery Fund is

1 appropriate and, if so, the amount ~~of whatever sum~~ it finds to
2 be payable upon the claim, pursuant to and in accordance with
3 the limitations contained in Section 20-85 of this Act, if the
4 court is satisfied, based upon the hearing, of the truth of all
5 matters required to be shown by the aggrieved person under
6 subsection (g) of this Section and that the aggrieved person
7 has fully pursued and exhausted all remedies available for
8 recovering the amount awarded by the judgment of the court.

9 (i) Should the Department pay from the Real Estate Recovery
10 Fund any amount in settlement of a claim or toward satisfaction
11 of a judgment against any licensee ~~a licensed broker or~~
12 ~~salesperson~~ or an unlicensed employee of a licensee broker, the
13 licensee's license shall be automatically revoked ~~terminated~~
14 upon the issuance of a post-judgment ~~court~~ order authorizing
15 payment from the Real Estate Recovery Fund. No petition for
16 restoration of a license shall be heard until repayment has
17 been made in full, plus interest at the rate prescribed in
18 Section 12-109 of the Code of Civil Procedure of the amount
19 paid from the Real Estate Recovery Fund on their account,
20 notwithstanding any provision to the contrary in Section
21 2105-15 of the Department of Professional Regulation Law of the
22 Civil Administrative Code of Illinois. A discharge in
23 bankruptcy shall not relieve a person from the penalties and
24 disabilities provided in this subsection (i).

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

1 claim or portion thereof, the Department shall, when sufficient
2 money has been deposited in the Real Estate Recovery Fund,
3 satisfy such unpaid claims or portions thereof, in the order
4 that such claims or portions thereof were originally filed,
5 plus accumulated interest at the rate prescribed in Section
6 12-109 of the Code of Civil Procedure.

7 (Source: P.A. 96-856, eff. 12-31-09.)

8 (225 ILCS 454/20-95)

9 (Section scheduled to be repealed on January 1, 2020)

10 Sec. 20-95. Power of the Department to defend. When the
11 Department receives any process, notice, order, or other
12 document provided for or required under Section 20-90 of this
13 Act, it may enter an appearance, file an answer, appear at the
14 court hearing, defend the action, or take whatever other action
15 it deems appropriate on behalf and in the name of the parties
16 defendant licensed under this Act or the Department and take
17 recourse through any appropriate method of review on behalf of
18 and in the name of the parties defendant licensed under this
19 Act or the Department.

20 (Source: P.A. 96-856, eff. 12-31-09.)

21 (225 ILCS 454/20-115)

22 (Section scheduled to be repealed on January 1, 2020)

23 Sec. 20-115. Time limit on action. No action may be taken
24 by the Department against any person for violation of the terms

1 of this Act or its rules unless the action is commenced within
2 5 years after the occurrence of the alleged violation. This
3 limitation shall not apply where it is alleged that an initial
4 application for licensure under this Act contains false or
5 misleading information.

6 (Source: P.A. 96-856, eff. 12-31-09.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.