

AN ACT concerning regulation.

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

Section 5. The Regulatory Sunset Act is amended by changing Section 4.20 and adding Section 4.30 as follows:

(5 ILCS 80/4.20)

Sec. 4.20. Acts repealed on January 1, 2010 and December 31, 2010.

(a) The following Acts are repealed on January 1, 2010:

~~The Auction License Act.~~

The Illinois Architecture Practice Act of 1989.

~~The Illinois Landscape Architecture Act of 1989.~~

The Illinois Professional Land Surveyor Act of 1989.

The Land Sales Registration Act of 1999.

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(b) The following Act is repealed on December 31, 2010:

The Medical Practice Act of 1987.

(Source: P.A. 95-1018, eff. 12-18-08.)

(5 ILCS 80/4.30 new)

Sec. 4.30. Acts repealed on January 1, 2020. The following Acts are repealed on January 1, 2020:

The Auction License Act.

The Illinois Landscape Architecture Act of 1989.

Section 10. The Illinois Landscape Architecture Act of 1989 is amended by changing Sections 1, 3, 4, 5, 6, 7, 8, 9, 11, 13, 15, 16, 17, 18, 18.1, 19, 21, 22.1, 23, 24, 25, 28, and 31 and by adding Sections 3.5, 6.5, 11.5, and 12.5 as follows:

(225 ILCS 315/1) (from Ch. 111, par. 8101)

(Section scheduled to be repealed on January 1, 2010)

Sec. 1. Purpose. It is the purpose of this Act to provide for the licensure ~~registration~~ of landscape architects.

(Source: P.A. 86-932.)

(225 ILCS 315/3) (from Ch. 111, par. 8103)

(Section scheduled to be repealed on January 1, 2010)

Sec. 3. Definitions. As used in this Act:

(a) "Board" means the Illinois Landscape Architect Registration Board.

(b) "Department" means the Illinois Department of Financial and Professional Regulation.

(c) "Secretary ~~Director~~" means the Secretary ~~Director~~ of

Financial and Professional Regulation.

(d) "Landscape Architect" or "Landscape Architect Design Professional" means a person who, based on education, experience, and examination ~~or both~~ in the field of landscape architecture, is licensed ~~eligible to register~~ under this Act.

(e) "Landscape Architecture" means the art and science of arranging land, together with the spaces and objects upon it, for the purpose of creating a safe, efficient, healthful, and aesthetically pleasing physical environment for human use and enjoyment, as performed by landscape architects.

(f) "Landscape Architectural Practice" means the offering or furnishing of professional services in connection with a landscape architecture project that do not require the seal of an architect, land surveyor, professional engineer, or structural engineer. Such services may include ~~including~~, but are not limited to, providing preliminary studies; developing design concepts; planning for the relationships of physical improvements and intended uses of the site; establishing form and aesthetic elements; analyzing and providing for life safety requirements; developing those construction details on the site which are exclusive of any building or structure ~~and do not require the seal of an engineer, architect, or structural engineer;~~ preparing and coordinating technical submissions; and conducting site observation of a landscape architecture project.

(g) "Person" means any person, sole proprietorship, or

entity such as a partnership, professional service corporation, or corporation.

(Source: P.A. 86-932.)

(225 ILCS 315/3.5 new)

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

Sec. 3.5. References.

(a) References in this Act (i) to the Department of Professional Regulation are deemed, in appropriate contexts, to be references to the Department of Financial and Professional Regulation and (ii) to the Director of Professional Regulation are deemed, in appropriate contexts, to be references to the Secretary of Financial and Professional Regulation.

(b) References to registration in the rules promulgated pursuant to this Act shall be deemed, in appropriate contexts, to be references to licensure.

(225 ILCS 315/4) (from Ch. 111, par. 8104)

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

Sec. 4. Use of title. ~~No~~ ~~After the effective date of this Act,~~ ~~no~~ person may represent himself to be a landscape architect, ~~or~~ use the title "landscape architect", "registered landscape architect", "licensed landscape architect", "landscape architect design professional", or any other title which includes the words "landscape architect" or "landscape

architecture", unless licensed ~~registered~~ under this Act.

(Source: P.A. 86-932.)

(225 ILCS 315/5) (from Ch. 111, par. 8105)

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

Sec. 5. Practice without license. Nothing in this Act prevents any person from being engaged in the practice of landscape architecture so long as he or she does not represent himself or herself as, or use the titles of, "landscape architect", ~~or~~ "registered landscape architect", "licensed landscape architect", "landscape architecture", "landscape architect design professional", or "landscape architecture design professional".

(Source: P.A. 86-932.)

(225 ILCS 315/6) (from Ch. 111, par. 8106)

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

Sec. 6. Issuance of Certificate. Whenever an applicant for licensure ~~registration~~ has complied with the provisions of Section 11 of this Act, the Department shall issue a certificate of licensure ~~registration~~ to the applicant as a licensed ~~registered~~ landscape architect subject to the provisions of this Act.

(Source: P.A. 86-932.)

(225 ILCS 315/6.5 new)

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

Sec. 6.5. Display of license; seal.

(a) Every holder of a landscape architect license shall display his or her certificate of licensure in a conspicuous place in his or her principal office. A certificate of registration issued under this Act that is in good standing on the effective date of this amendatory Act of the 96th General Assembly shall be deemed to be a certificate of licensure and the Department shall not be required to issue a new certificate of licensure to replace it.

(b) Every landscape architect shall have a seal, approved by the Department and the Board, which shall contain the name of the landscape architect, the number of his or her license, and the legend "Landscape Architect, State of Illinois" and other words or figures as the Department deems necessary. Plans, specifications, and reports related to landscape architectural practice and prepared by the landscape architect, or under his or her supervision, shall be stamped with his or her seal when filed. Notwithstanding the requirements of this Section, an architect, land surveyor, professional engineer, or structural engineer shall be permitted to affix his or her professional seal or stamp to any plans, specifications, and reports prepared by or under his or her responsible control in connection with the incidental practice of landscape architecture.

(c) A landscape architect who endorses a document with his

or her seal while his or her license is suspended, expired, or has been revoked, who has been placed on probation or inactive status, or who endorses a document that the landscape architect did not actually prepare or supervise the preparation of, is subject to the penalties prescribed in Section 18.1.

(225 ILCS 315/7) (from Ch. 111, par. 8107)

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

Sec. 7. ~~Current~~ Address of Record. Every landscape architect shall maintain a current address with the Department. It is the duty of every applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department ~~shall be the responsibility of the registrant to notify the Department in writing of any change of address.~~

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/8) (from Ch. 111, par. 8108)

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

Sec. 8. Powers and Duties of the Department.

(a) The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties vested by this Act.

(b) The Department shall promulgate rules and regulations

consistent with the provisions of this Act for the administration and enforcement thereof which shall include standards and criteria for licensure ~~registration~~ and for the payment of fees connected therewith. The Department shall prescribe forms required for the administration of this Act.

(c) The Department shall consult the Landscape Architecture Board in promulgating rules and regulations. Notice of proposed rulemaking shall be transmitted to the Board and the Department shall review the Board's response and any recommendations made therein. The Department shall notify the Board in writing of the explanation for any deviations from the Board's recommendations and response.

(d) The Department may at any time seek the advice and the expert knowledge of the Board on any matter relating to the administration of this Act.

(e) The Department shall issue a quarterly report to the Board setting forth the status of all complaints received by the Department related to ~~the~~ landscape architectural ~~architecture~~ practice.

(f) The Department shall maintain membership and representation in the national body composed of state licensing and testing boards for landscape architects.

(Source: P.A. 86-932.)

(225 ILCS 315/9) (from Ch. 111, par. 8109)

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

Sec. 9. Composition, qualification, and terms of Board.

(a) The Secretary ~~Director~~ shall appoint a Board consisting of 5 persons who are residents of the State of Illinois and who shall be appointed by and shall serve in an advisory capacity to the Secretary ~~Director~~. Four persons shall be individuals experienced in landscape architectural work who would qualify upon application to the Department under the provisions of this Act to be licensed ~~registered~~ landscape architects, one of whom shall be a tenured member of the landscape architecture faculty of a university located within this State that maintains an accredited school of landscape architecture ~~the University of Illinois~~ and 3 of whom shall have engaged in landscape architectural work for at least 5 years. The fifth person shall be a public member, not an employee of the State of Illinois, who is not licensed or registered under this Act or a similar Act of another jurisdiction. The public member may not be elected or appointed as chairman of the Board or serve in such capacity in any other manner.

(b) Members of the Board shall serve 5 year terms and until their successors are appointed and qualified. No member shall be reappointed to the Board for a term which would cause that member's cumulative service on the Board to be longer than 10 years. No member who is an initial appointment to the Board shall be reappointed to the Board for a term which would cause that member's cumulative service on the Board to be longer than 13 years. Appointments to fill vacancies shall be made in the

same manner as original appointments for the unexpired portion of the vacated term. Initial terms shall begin upon the effective date of this Act.

(c) The Secretary ~~Director~~ may remove any member of the Board for cause, which may include without limitation a member who does not attend 2 consecutive meetings.

(d) The Secretary ~~Director~~ shall consider the recommendations of the Board on questions involving standards of professional conduct, discipline, and qualifications of applicants ~~candidates~~ and licensees ~~registrants~~ under this Act.

(e) Three members ~~A quorum~~ of the Board shall constitute a quorum ~~consist of a majority of members currently appointed~~. A ~~majority vote of the~~ quorum is required for Board ~~board~~ decisions.

(f) The Board shall annually elect a chairperson and vice chairperson, both of whom shall be licensed landscape architects.

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/11) (from Ch. 111, par. 8111)

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

Sec. 11. Licensure ~~Registration~~ Qualifications.

(a) Every person applying to the Department for licensure ~~registration~~ shall do so on forms approved by the Department and shall pay the required fee. Every person applying to the

Department for licensure ~~registration~~ shall submit, with his application, satisfactory evidence that the person holds an approved professional degree in landscape architecture from an approved and accredited program, as such terms are defined by the rules and regulations of the Department, and that he has had such practical experience in landscape architectural work as shall be required by the rules and regulations of the Department. Every ~~In lieu of evidence of any approved professional degree in landscape architecture, the applicant may submit satisfactory evidence of such other education or experience as shall be required by the rules and regulations of the Department; provided, however, that after January 1, 1993 every~~ applicant for initial licensure ~~registration~~ must have an approved professional degree. If an applicant is qualified the Department shall, by means of a written examination, examine the applicant on such technical and professional subjects as shall be required by the rules and regulations of the Department.

(b) The Department may exempt from such written examination an applicant who holds a certificate of qualification issued by the National Council of Landscape Architecture Registration Boards, or who holds a registration or license in another state which has equivalent or substantially equivalent requirements as the State of Illinois.

(c) The Department shall adopt rules determining requirements for practical training and education. The

Department may also adopt the examinations and recommended grading procedures of the National Council of Landscape Architectural Registration Boards and the accreditation procedures of the Landscape Architectural Accrediting Board. The Department shall issue a certificate of licensure ~~registration~~ to each applicant who satisfies the requirements set forth in this Section. Such licensure ~~registration~~ shall be effective upon issuance.

(d) If an applicant neglects, fails without an approved excuse, or refuses to take an examination or fails to pass an examination to obtain a certificate of licensure ~~registration~~ under this Act within 3 years after filing the application, the application shall be denied. However, such applicant may thereafter submit a new application accompanied by the required fee.

(e) For a period of 2 years after the effective date of this amendatory Act of the 96th General Assembly, persons demonstrating to the Department that they have been engaged in landscape architectural practice for a period of 10 years and have an accredited degree and license in urban or regional planning, architecture, or civil engineering are eligible to achieve licensure through examination. ~~Any person who has been engaged in the practice of landscape architecture prior to the effective date of this Act, shall, upon application within 2 years from the effective date of this Act and upon payment of the required current registration fee and application fee, be~~

~~issued registration without examination upon furnishing to the Department satisfactory proof that he was so engaged prior to such date. The Director, through the Board, shall accept as satisfactory evidence of the competency and qualifications of the applicant for registration the following:~~

~~(1) A diploma of graduation or satisfactory completion certificate from a college, school, or university offering an accredited program in landscape architecture, together with evidence of at least 2 years of actual, practical experience in landscape architectural work of a grade and character acceptable to the Board; or~~

~~(2) Evidence that the applicant has a total of at least 7 years of actual, practical experience in landscape architectural work of a grade and character acceptable to the Board and has been actually engaged in the active practice of landscape architecture for not less than 4 years immediately prior to the effective date of this Act.~~

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/11.5 new)

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

Sec. 11.5. Professional liability.

(a) Any individual licensed under this Act as a landscape architect is liable for his or her negligent or willful acts, errors, and omissions and any shareholder, member, or partner of any entity that provides landscape architecture services

through an individual licensed under this Act is liable for the negligent or willful acts, errors, and omissions of the employees, members, and partners of the entity. Eligible claims of liability may be covered under a qualifying policy of professional liability insurance, as set forth in subsection (b) of this Section, maintained by an individual or entity.

(b) A qualifying policy of professional liability insurance must insure an individual or entity against liability imposed upon it by law for damages arising out of the negligent acts, errors, and omissions of the individual or of the licensed and unlicensed employees, members, and partners of the entity. The policy may exclude coverage of the following:

(1) a dishonest, fraudulent, criminal, or malicious act or omission of the insured individual or entity or any stockholder, employee, member, or partner of the insured entity;

(2) the conducting of a business enterprise that is not landscape architectural practice by the insured individual or entity;

(3) the conducting of a business enterprise in which the insured individual or entity may be a partner or that may be controlled, operated, or managed by the individual or entity in its own or in a fiduciary capacity, including without limitation the ownership, maintenance, or use of property;

(4) bodily injury, sickness, disease, or death of a

person; or

(5) damage to or destruction of tangible property owned by the insured individual or entity.

The policy may include any other reasonable provisions with respect to policy periods, territory, claims, conditions, and ministerial matters.

(225 ILCS 315/12.5 new)

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

Sec. 12.5. Continuing education. The Department may adopt rules of continuing education for persons licensed under this Act. The Department shall consider the recommendations of the Board in establishing the guidelines for the continuing education requirements. Rules adopted under this Section apply to any person seeking renewal or restoration of licensure under this Act. The continuing education shall consist of at least 6 hours per year and may include relevant courses offered in various formats or mediums.

(225 ILCS 315/13) (from Ch. 111, par. 8113)

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

Sec. 13. Inactive Status.

(a) Any landscape architect who notifies the Department in writing on forms prescribed by the Department may elect to place his or her license ~~registration~~ on an inactive status and shall be excused from payment of renewal fees until he or she

notifies the Department in writing of his or her desire to resume active status.

(b) Any person whose license has been expired for more than 3 years may have his or her license restored by making application to the Department and filing proof acceptable to the Department of his or her fitness to have his or her license restored, including evidence certifying to active practice in another jurisdiction, and by paying the required restoration fee.

(c) Any landscape architect whose license registration is in an inactive status, has been suspended or revoked, or has expired shall not represent himself or herself to be a landscape architect or use the title "landscape architect", "registered landscape architect", "licensed landscape architect", or any other title which includes the words "landscape architect" or "landscape architecture".

(Source: P.A. 86-932.)

(225 ILCS 315/15) (from Ch. 111, par. 8115)

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

Sec. 15. Disposition of funds. All of the fees collected pursuant to this Act shall be deposited in the General Professions Dedicated Fund.

On January 1, 2000 the State Comptroller shall transfer the balance of the monies in the Landscape Architects' Administration and Investigation Fund into the General

Professions Dedicated Fund. Amounts appropriated for fiscal year 2000 out of the Landscape Architects' Administration and Investigation Fund may be paid out of the General Professions Dedicated Fund.

The monies deposited in the General Professions Dedicated Fund may be used for the expenses of the Department in the administration of this Act.

Moneys from the Fund may also be used for direct and allocable indirect costs related to the public purposes of the Department of Financial and Professional Regulation. Moneys in the Fund may be transferred to the Professions Indirect Cost Fund as authorized by Section 2105-300 of the Department of Professional Regulation Law (20 ILCS 2105/2105-300).

(Source: P.A. 91-239, eff. 1-1-00; 91-255, eff. 12-30-99; 92-16, eff. 6-28-01.)

(225 ILCS 315/16) (from Ch. 111, par. 8116)

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

Sec. 16. Roster. The Department shall maintain a roster of the names and addresses of all licensed ~~registered~~ landscape architects. This roster shall be available upon written request and payment of the required fee.

(Source: P.A. 86-932.)

(225 ILCS 315/17) (from Ch. 111, par. 8117)

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

Sec. 17. Advertising. Any person licensed ~~registered~~ under this Act may advertise the availability of professional services in the public media or on the premises where such professional services are rendered provided that such advertising is truthful and not misleading.

(Source: P.A. 86-932.)

(225 ILCS 315/18) (from Ch. 111, par. 8118)

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

Sec. 18. Violation; injunction; cease and desist order.

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

(b) If any person shall hold himself or herself out as a "landscape architect", "licensed landscape architect", or

"registered landscape architect", or use any other title that includes the words "landscape architect" or "landscape architecture" without being licensed ~~registered~~ under the provisions of this Act, then any licensed ~~registered~~ landscape architect, any interested party or any person injured thereby may, in addition to the Secretary ~~Director~~, petition for relief as provided in subsection (a) of this Section.

(c) Whoever holds himself or herself out as a "landscape architect", "licensed landscape architect", or a "registered landscape architect", or uses any other title that includes the words "landscape architect" or "landscape architecture" in this State without being licensed under this Act ~~registered for that purpose~~ shall be guilty of a Class A misdemeanor, and for each subsequent conviction shall be guilty of a Class 4 felony.

(d) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow the person at least 7 days from the date of the rule to file an answer that is satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

(Source: P.A. 88-363.)

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

Sec. 18.1. Grounds for Discipline.

(a) The Department may refuse to issue or to~~renew~~, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as deemed appropriate including the impositions of fines ~~the Department considers appropriate, including the issuance of fines~~ not to exceed \$10,000 ~~\$1,000~~ for each violation, as the Department may deem proper with regard to any license for any one or combination ~~more~~ of the following:

(1) Material misstatement in furnishing information to the Department or to any other State agency.

(2) Negligent or intentional disregard of this Act, or violation of any rules under this Act.

(3) Conviction of or plea of guilty or nolo contendere to any crime under the laws of the United States or any state or territory thereof that is a felony, or that is a misdemeanor, an essential element of which is dishonesty, or of any crime that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining a license, or violating any provision of this Act or its rules.

(5) Professional incompetence or gross negligence in the rendering of landscape architectural services.

(6) Aiding or assisting another person in violating any

provision of this Act or any rules.

(7) Failing to provide information within 60 days in response to a written request made by the Department.

(8) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public and violating the rules of professional conduct adopted by the Department.

(9) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in an inability to practice with reasonable skill, judgment, or safety.

(10) Discipline by another jurisdiction, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(11) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership, or association any fee, commission, rebate, or other form of compensation for any professional service not actually rendered.

(12) A finding by the Board that the licensee, after having the license placed on probationary status, has violated the terms of probation.

(12.5) A finding by the Board that the licensee has failed to pay a fine imposed by the Department.

(13) Abandonment of a client.

(14) Willfully filing false reports relating to a

licensee's practice, including but not limited to, false records filed with federal or State agencies or departments.

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

(16) Physical or mental disability, including deterioration through the aging process or loss of abilities and skills that results in the inability to practice the profession with reasonable judgment, skill, or safety.

(17) Solicitation of professional services by using false or misleading advertising.

(18) Failure to file a return, or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue or any successor agency or the Internal Revenue Service or any successor agency.

(b) Any fines imposed under this Section shall not exceed \$10,000 ~~\$1,000~~ for each violation.

(c) The determination by a court that a licensee is subject

to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code will result in an automatic suspension of his or her license. The suspension will end upon a finding by a court that the licensee is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the Secretary ~~Director~~ that the licensee be allowed to resume professional practice.

(d) In enforcing this Section, the Board, upon a showing of a possible violation, may compel a person licensed ~~registered~~ under this Act or who has applied for licensure ~~registration~~ pursuant to this Act to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physicians shall be those specifically designated by the Board. The Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee ~~registrant~~ or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee ~~registrant~~ or applicant and the examining physician. The person to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any person to submit to a mental or physical examination when directed shall be grounds for

suspension of a license ~~registration~~ until the person submits to the examination if the Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

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

(Source: P.A. 91-255, eff. 12-30-99.)

(225 ILCS 315/19) (from Ch. 111, par. 8119)

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

Sec. 19. Investigation; notice and hearing. The Department may investigate the actions or qualifications of any applicant

or person holding or claiming to hold a license ~~certificate of registration~~. The Department shall, before suspending or revoking, placing on probation, reprimanding, or taking any other disciplinary action under Section 18.1 of this Act, at least 30 days before the date set for the hearing, notify the applicant or licensee ~~holder of a certificate of registration~~ in writing of the nature of the charges and that a hearing will be held on the date designated. The written notice may be served by personal delivery or certified or registered mail to the applicant or licensee at the address of record with his ~~last notification to~~ the Department. The Department shall direct the applicant or licensee to file a written answer with the Department, under oath, within 20 days after the service of the notice, and inform the person that if he or she fails to file an answer, his or her license may be revoked, suspended, placed on probation, reprimanded, or the Department may take any other additional disciplinary action including the issuance of fines, not to exceed \$10,000 ~~\$1,000~~ for each violation, as the Department may consider necessary, without a hearing. At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel. All parties shall be accorded an opportunity to present any statements, testimony, evidence, and arguments as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.

(Source: P.A. 87-1031; 88-363.)

(225 ILCS 315/21) (from Ch. 111, par. 8121)

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

Sec. 21. Subpoenas; depositions; oaths. The Department has power to subpoena and bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in circuit courts of this State.

The Secretary ~~Director~~, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing which the Department is authorized to conduct, and any other oaths authorized in any Act administered by the Department.

(Source: P.A. 88-363.)

(225 ILCS 315/22.1)

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

Sec. 22.1. Findings and recommendations. At the conclusion of the hearing, the Board shall present to the Secretary ~~Director~~ a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether the licensee violated this Act or failed to comply with the conditions required in this Act. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary ~~Director~~.

The report of findings of fact, conclusions of law, and

recommendation of the Board shall be the basis for the Department's order for refusal or for the granting of the license. If the Secretary ~~Director~~ disagrees with the recommendations of the Board, the Secretary ~~Director~~ may issue an order in contravention of the Board recommendations. The Secretary ~~Director~~ shall provide a written report to the Board on any disagreement and shall specify the reasons for the action in the final order. The findings are not admissible in evidence against the person in a criminal prosecution for violation of this Act, but the hearing and findings are not a bar to a criminal prosecution for violation of this Act.

(Source: P.A. 88-363.)

(225 ILCS 315/23) (from Ch. 111, par. 8123)

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

Sec. 23. Board; Rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the accused person, either personally or as provided in this Act for the service of the notice. Within 20 days after such service, the applicant or licensee may present to the Department a motion in writing for a rehearing which shall specify the particular grounds for rehearing. If no motion for a rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon the denial, the Secretary ~~Director~~ may enter any order in accordance with recommendations

of the Board, except as provided in Section 120 of this Act. If the applicant or licensee requests and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Whenever the Secretary ~~Director~~ is not satisfied that substantial justice has been done, he may order a rehearing by the same or another special board. At the expiration of the time specified for filing a motion for a rehearing the Secretary ~~Director~~ has the right to take the action recommended by the Board.

(Source: P.A. 88-363.)

(225 ILCS 315/24) (from Ch. 111, par. 8124)

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

Sec. 24. Appointment of a hearing officer. The Secretary ~~Director~~ has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or permit or to discipline a licensee. The Secretary ~~Director~~ shall notify the Board of any such appointment. The hearing officer has full authority to conduct the hearing. At least one member of the Board shall attend each hearing. The hearing officer shall report his findings of fact, conclusions of law and recommendations to the Board and the Secretary ~~Director~~.

The Board has 60 days from receipt of the report to review it and present its findings of fact, conclusions of law and recommendations to the Secretary ~~Director~~. If the Board fails to present its report within the 60 day period, the Secretary ~~Director~~ shall issue an order based on the report of the hearing officer. If the Secretary ~~Director~~ disagrees with the recommendation of the Board or hearing officer, the Secretary ~~Director~~ may issue an order in contravention of the recommendation. The Secretary ~~Director~~ shall promptly provide a written explanation to the Board on any disagreement.

(Source: P.A. 88-363.)

(225 ILCS 315/25) (from Ch. 111, par. 8125)

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

Sec. 25. Order or certified copy; prima facie proof. An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary ~~Director~~, shall be prima facie proof that:

(a) the signature is the genuine signature of the Secretary ~~Director~~;

(b) the Secretary ~~Director~~ is duly appointed and qualified; and

(c) the Board and the members thereof are qualified to act.

(Source: P.A. 91-357, eff. 7-29-99.)

(225 ILCS 315/28) (from Ch. 111, par. 8128)

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

Sec. 28. Summary suspension of a license. The Secretary ~~Director~~ may summarily suspend the license of a landscape architect without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 24 of this Act, if the Secretary ~~Director~~ finds that evidence in the possession of the Secretary ~~Director~~ indicates that the continuation in practice by the landscape architect would constitute an imminent danger to the public. In the event that the Secretary ~~Director~~ temporarily suspends the license of an individual without a hearing, a hearing must be held within 30 days after such suspension has occurred.

(Source: P.A. 88-363.)

(225 ILCS 315/31) (from Ch. 111, par. 8131)

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

Sec. 31. Administrative Procedure Act. The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein as if all of the provisions of that Act were included in this Act, except that the provision of subsection (d) of Section 10-65 of the Illinois Administrative Procedure Act that provides that at hearings the licensee has the right to show compliance with all lawful requirements for retention, continuation or renewal of the license is specifically excluded. For the purposes of this Act the notice

required under Section 10-25 of the Illinois Administrative Procedure Act is deemed sufficient when mailed to the ~~last known~~ address of record of a party.

(Source: P.A. 88-45.)

(225 ILCS 315/4.5 rep.)

Section 15. The Illinois Landscape Architecture Act of 1989 is amended by repealing Section 4.5.

Section 20. The Auction License Act is amended by changing Sections 5-10, 10-1, 10-20, 10-27, 10-30, 10-35, 10-40, 10-45, 10-50, 15-5, 15-10, 20-5, 20-15, 20-40, 20-50, 20-55, 20-80, and 30-30 and by adding Sections 10-15a, 20-43, 20-56, 30-7 and 30-13 as follows:

(225 ILCS 407/5-10)

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

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

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

"Advisory Board" or "Board" means the Auctioneer Advisory Board.

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

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

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

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

"Auction school" means any educational institution, public or private, which offers a curriculum of auctioneer education and training approved by the Department.

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

"Auctioneer" means a person or entity who, for another, for a fee, compensation, commission, or any other valuable consideration at auction or with the intention or expectation

of receiving valuable consideration by the means of or process of an auction or sale at auction or providing an auction service, offers, negotiates, or attempts to negotiate an auction contract, sale, purchase, or exchange of goods, chattels, merchandise, personal property, real property, or any commodity that may be lawfully kept or offered for sale by or at auction.

"Address of Record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by directly contacting the Department.

"Buyer premium" means any fee or compensation paid by the successful purchaser of property sold or leased at or by auction, to the auctioneer, auction firms, seller, lessor, or other party to the transaction, other than the purchase price.

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

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

"Licensee" means any person licensed under this Act.

"Managing auctioneer" means any person licensed as an auctioneer who manages and supervises licensees sponsored by an

auction firm or auctioneer.

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

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

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

"Sponsoring auctioneer" means the auctioneer or auction firm who has issued a sponsor card to a licensed ~~associate auctioneer or~~ auctioneer.

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-1)

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

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

(a) It is unlawful for any person, corporation, limited liability company, partnership, or other entity to conduct an auction, provide an auction service, hold himself or herself out as an auctioneer, or advertise his or her services as an auctioneer in the State of Illinois without a license issued by

the Department under this Act, except at:

(1) an auction conducted solely by or for a not-for-profit organization for charitable purposes in which the individual receives no compensation;

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

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

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

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

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

(b) Nothing in this Act shall be construed to apply to a new or used vehicle dealer or a vehicle auctioneer licensed by the Secretary of State of Illinois, or to any employee of the licensee, who is a resident of the State of Illinois, while the employee is acting in the regular scope of his or her employment for the licensee while conducting an auction that is

not open to the public, provided that only new or used vehicle dealers, rebuilders, automotive parts recyclers, or scrap processors licensed by the Secretary of State or licensed by another state or jurisdiction may buy property at the auction, or to sales by or through the licensee. Out-of-state salvage vehicle buyers licensed in another state or jurisdiction may also buy property at the auction.

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

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

(Source: P.A. 95-572, eff. 6-1-08; 95-783, eff. 1-1-09.)

(225 ILCS 407/10-15a new)

Sec. 10-15a. Associate auctioneer license; discontinuance.

(a) Upon the effective date of this amendatory Act of the 96th General Assembly, the Department shall no longer issue or renew any associate auctioneer license.

(b) Any person who holds a valid license as an associate auctioneer on the effective date of this amendatory Act of the 96th General Assembly shall be issued an auctioneer license without having to apply to the Department or pay any fee. Such licensee's previous record as an associate auctioneer,

including any past discipline imposed on him or her, shall become part of his or her auctioneer license record. The expiration date of such licensee's auctioneer license shall be the same as the expiration date of his or her associate auctioneer license.

(c) Upon receipt of an auctioneer license issued by the Department pursuant to this Section, a licensee's associate auctioneer license shall no longer be valid.

(225 ILCS 407/10-20)

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

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

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

(2) provide evidence to the Department that the auction firm has a properly licensed managing auctioneer; and -

(3) any requirement as defined by rule.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-27)

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

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

(a) For the purposes of this Section:

(1) "Internet Auction Listing Service" means a website on the Internet, or other interactive computer service that is designed to allow or advertised as a means of allowing users to offer personal property or services for sale or lease to a prospective buyer or lessee through an on-line bid submission process using that website or interactive computer service and that does not examine, set the price, or prepare the description of the personal property or service to be offered, or in any way utilize the services of a natural person as an auctioneer.

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

(b) It is unlawful for any person, corporation, limited liability company, partnership, or other entity to provide an Internet auction listing service in the State of Illinois for compensation without being registered with the Department when:

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

(2) the prospective seller or seller, prospective

lessor or lessor, or prospective purchaser or purchaser is located in the State of Illinois and is required to agree to terms with the person, corporation, limited liability company, partnership, or other entity providing the Internet auction listing service, no matter where that person, corporation, limited liability company, partnership, or other entity is located; or

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

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

(1) that the registrant does not act as the agent of

users who sell items on its website, and acts only as a venue for user transactions;

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

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

(4) that the registrant retains transactional information consisting of at least seller identification, high bidder identification, and item sold for at least 2 years from the close of a transaction, and has a mechanism to identify all transactions involving a particular seller or buyer;

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

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

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

(d) The Department may refuse to accept a registration

which is incomplete or not accompanied by the required fee. The Department may impose a civil penalty not to exceed \$10,000 upon any Internet auction listing service that intentionally fails to register as required by this Section, and may impose such penalty or revoke, suspend, or place on probation or administrative supervision the registration of any Internet auction listing service that:

(1) intentionally makes a false or fraudulent material representation or material misstatement or misrepresentation to the Department in connection with its registration, including in the certification required under subsection (c);

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

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

(4) has been subject to discipline by another state, the District of Columbia, a territory of the United States, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of

the grounds for that discipline is the same as or equivalent to one of the grounds for discipline set forth in this Section or for failing to report to the Department, within 30 days, any adverse final action taken against the registrant by any other licensing or registering jurisdiction, government agency, law enforcement agency, or court, or liability for conduct that would constitute grounds for action as set forth in this Section;

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

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

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

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

(e) Registrations issued pursuant to this Section shall be defined by rule ~~expire on September 30 of odd-numbered years~~. A registrant shall submit a renewal application to the Department on forms provided by the Department along with the required fee

as established by rule.

(f) Operating an Internet auction listing service under any of the circumstances listed in subsection (b) without being currently registered under this Section is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary, the Attorney General of the State of Illinois, the State's Attorney of any county in the State, or any other person may maintain an action and apply for injunctive relief in any circuit court to enjoin the person or entity from engaging in such practice.

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

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-30)

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

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

(a) License expiration dates, renewal periods, renewal

fees, and procedures for renewal of licenses issued under this Act shall be set by rule of the Department. An entity may renew its license by paying the required fee and by meeting the renewal requirements adopted by the Department under this Section.

(b) All renewal applicants must provide proof as determined by the Department of having met the continuing education requirements set forth by the Department by rule. At a minimum, the rules shall require an applicant for renewal licensure as an auctioneer ~~or associate auctioneer~~ to provide proof of the completion of at least 12 hours of continuing education during the pre-renewal period preceding the expiration date of the license from schools approved by the Department, as established by rule.

(c) The Department, in its discretion, may waive enforcement of the continuing education requirements of this Section and shall adopt rules defining the standards and criteria for such waiver.

(d) (Blank).

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-35)

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

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

(a) No auctioneer ~~or associate auctioneer~~ shall conduct an

auction or provide an auction service without being properly sponsored by a licensed auctioneer or auction firm.

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

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

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

(e) When an auctioneer ~~or associate auctioneer~~ terminates his or her employment or association with a sponsoring

auctioneer or sponsoring auction firm or the employment or association is terminated by the sponsoring auctioneer or sponsoring auction firm, the terminated licensee shall obtain from that sponsoring auctioneer or sponsoring auction firm his or her license endorsed by the sponsoring auctioneer or sponsoring auction firm indicating the termination. The terminating sponsoring auctioneer or sponsoring auction firm shall send a copy of the terminated license within 5 days after the termination to the Department or shall notify the Department in writing of the termination and explain why a copy of the terminated license was not surrendered.

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

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-40)

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

Sec. 10-40. Restoration.

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

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

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

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

(3) serving as an employee of the Department, while the employee was required to surrender his or her license due to a possible conflict of interest.

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

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

(Source: P.A. 95-331, eff. 8-21-07; 95-572, eff. 6-1-08.)

(225 ILCS 407/10-45)

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

Sec. 10-45. Nonresident auctioneer reciprocity.

(a) A person holding a license to engage in auctions issued to him or her by the proper authority of a state, territory, or

possession of the United States of America or the District of Columbia that has licensing requirements equal to or substantially equivalent to the requirements of this State and that otherwise meets the requirements of this Act may obtain a license under this Act without examination, provided:

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

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

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

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

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

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-50)

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

Sec. 10-50. Fees; disposition of funds. ~~Fees shall be determined by rule and shall be non-refundable.~~

(a) The Department shall establish by rule a schedule of fees for the administration and maintenance of this Act. Such fees shall be nonrefundable.

(b) All fees collected under this Act shall be deposited into the General Professions Dedicated Fund and appropriated to the Department for the ordinary and contingent expenses of the Department in the administration of this Act. ~~The Department shall provide by administrative rule for fees to be collected from licensees and applicants to cover the statutory requirements for funding the Auctioneer Recovery Fund. The Department may also provide by administrative rule for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.~~

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/15-5)

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

Sec. 15-5. Representations. An auctioneer,~~associate auctioneer,~~ or auction firm, or the sponsored licensees, agents, or employees of an auctioneer or auction firm, conducting an auction or providing an auction service shall not:

(1) misrepresent a fact material to a purchaser's decision to buy at or by auction;

(2) predict specific or immediate increases in the value of any item offered for sale at auction; or

(3) materially misrepresent the qualities or characteristics of any item offered for sale at auction.

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

(225 ILCS 407/15-10)

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

Sec. 15-10. Auction contract. Any auctioneer,~~associate auctioneer,~~ or auction firm shall not conduct an auction or provide an auction service, unless the auctioneer,~~associate auctioneer,~~ or auction firm enters into a written ~~or oral~~ auction contract with the seller of any property at auction prior to the date of the auction. Any agreement shall state whether the auction is with reserve or absolute. The agreement

shall be signed by the auctioneer,~~associate auctioneer,~~ or auction firm conducting an auction or providing an auction service and the seller or sellers, or the legal agent of the seller or sellers of the property to be offered at or by auction, and shall include, but not be limited to the following disclosures:

(1) Licensees shall disclose:

(A) the name, license number, business address, and phone number of the auctioneer,~~associate auctioneer,~~ or auction firm conducting an auction or providing an auction service;

(B) the fee to be paid to the auctioneer,~~associate auctioneer,~~ or auction firm for conducting an auction or providing an auction service; and

(C) an estimate of the advertising costs that shall be paid by the seller or sellers of property at auction and a disclosure that, if the actual advertising costs exceeds 120% of the estimated advertising cost, the auctioneer,~~associate auctioneer,~~ or auction firm shall pay the advertising costs that exceed 120% of the estimated advertising costs or shall have the seller or sellers agree in writing to pay for the actual advertising costs in excess of 120% of the estimated advertising costs.

(D) the buyer premium and the party to the transaction that receives it.

(2) Sellers shall disclose:

(A) the name, address, and phone number of the seller or sellers or the legal agent of the seller or sellers of property to be sold at auction; and

(B) any mortgage, lien, easement, or encumbrance of which the seller has knowledge on any property or goods to be sold or leased at or by auction.

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

(225 ILCS 407/20-5)

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

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

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

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

(c) The civil penalty shall be paid within 60 days after

the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner from any court of record.

(d) Conducting an auction or providing an auction service in Illinois without holding a valid and current license under this Act is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Secretary, the Attorney General, the State's Attorney of any county in the State, or any other person may maintain an action in the name of the People of the State of Illinois and may apply for injunctive relief in any circuit court to enjoin the person or entity from engaging in such practice.

Upon the filing of a verified petition in a circuit court, the court, if satisfied by affidavit or otherwise that the person or entity has been engaged in the practice of auctioning without a valid and current license, may enter a temporary restraining order without notice or bond enjoining the defendant from further practice. Only the showing of non-licensure, by affidavit or otherwise, is necessary in order for a temporary injunction to be issued. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases except as modified by this Section. If it is established that the defendant has been or is engaged in unlawful practice,

the court may enter an order or judgment perpetually enjoining the defendant from further practice. In all proceedings hereunder, the court, in its discretion, may apportion the costs among the parties interested in the action, including cost of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorneys' fees. In case of violation of any injunctive order entered under the provisions of this Section, the court may summarily try and punish the offender for contempt of court. These injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-15)

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

Sec. 20-15. Disciplinary actions; grounds. The Department may refuse to issue or renew a license, may place on probation or administrative supervision, suspend, or revoke any license or may reprimand or take other disciplinary or non-disciplinary action as the Department may deem proper, including the imposition of fines not to exceed \$10,000 for each violation upon anyone licensed under this Act for any of the following reasons:

- (1) False or fraudulent representation or material misstatement in furnishing information to the Department

in obtaining or seeking to obtain a license.

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

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of the profession. ~~fraud, or larceny, embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game, conviction in this or another state of a crime that is a felony under the laws of this State, or conviction of a felony in a federal court.~~

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

(5) Discipline of a licensee by another state, the District of Columbia, a territory of the United States, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent to one of the grounds for discipline set forth in this Act or for failing to report to the Department, within 30 days, any adverse final action taken against the

licensee by any other licensing jurisdiction, government agency, law enforcement agency, or court, or liability for conduct that would constitute grounds for action as set forth in this Act.

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

(7) Attempting to subvert or cheat on the auctioneer exam or any continuing education exam, or aiding or abetting another to do the same.

(8) Directly or indirectly giving to or receiving from a person, firm, corporation, partnership, or association a fee, commission, rebate, or other form of compensation for professional service not actually or personally rendered, except that an auctioneer licensed under this Act may receive a fee from another licensed auctioneer from this State or jurisdiction for the referring of a client or prospect for auction services to the licensed auctioneer.

(9) Making any substantial misrepresentation or untruthful advertising.

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

(11) Pursuing a continued and flagrant course of misrepresentation or the making of false promises through a

licensee, agent, employee, advertising, or otherwise.

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

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

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

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

(16) Failure to make available to Department personnel during normal business hours all escrow and trustee records and related documents maintained in connection with the practice of auctioneering, conducting an auction, or providing an auction service within 24 hours after a

request from Department personnel.

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

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

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

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

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

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

(23) Offering or advertising real estate for sale or lease at auction without a valid broker or salesperson's license under the Real Estate License Act of 1983, or any successor Act, unless exempt from licensure under the terms of the Real Estate License Act of 2000 ~~2001~~, or any successor Act.

(24) Inability to practice the profession with reasonable judgement, skill, or safety as a result of a physical illness, including, but not limited to,

deterioration through the aging process or loss of motor skill, or a mental illness or disability. ~~Physical illness, mental illness, or other impairment including without limitation deterioration through the aging process, mental illness, or disability that results in the inability to practice the profession with reasonable judgment, skill, and safety.~~

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

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

(27) Inability to practice with reasonable judgement, skill, or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug. ~~Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in a licensee's inability to practice with reasonable judgment, skill, or safety.~~

(28) Wilfully failing to report an instance of

suspected child abuse or neglect as required by the Abused and Neglected Child Reporting Act.

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

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

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

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

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

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-40)

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

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

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

(b) The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The

notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the Board, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115). ~~The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the discipline of any license under this Act. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board, and the order of the Department shall be the record of proceeding. At all hearings or prehearing conference, the Department and the respondent shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or prehearing conference.~~

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-43 new)

Sec. 20-43. Investigations; notice and hearing. The Department may investigate the actions of any applicant or person rendering or offering to render auction services, or holding or claiming to hold a license as a licensed auctioneer.

At least 30 days before any disciplinary hearing under this Act, the Department shall: (i) notify the accused in writing of the charges made and the time and place of the hearing; (ii) direct the accused to file with the Board a written answer under oath to the charges within 20 days of receiving service of the notice; and (iii) inform the accused that if he or she fails to file an answer to the charges within 20 days of receiving service of the notice, a default judgement may be entered against him or her, or his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license as the Department may consider proper, including, but not limited to, limiting the scope, nature, or extent of the licensee's practice, or imposing a fine.

At the time and place of the hearing fixed in the notice, the Board shall proceed to hear the charges and the accused or his or her counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments in his or her defense. The Board may continue the hearing when it deems it appropriate.

Written notice of the hearing may be served by personal delivery or by certified mail to the last known address of record, unless specified as otherwise by the accused in his or her last communication with the Department.

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

Sec. 20-50. Findings and recommendations. ~~Board's findings of fact, conclusions of law, and recommendation to the Secretary.~~ At the conclusion of the hearing, the Board shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or any rules promulgated pursuant to this Act. The Board shall specify the nature of any violations and shall make its recommendations to the Secretary. In making recommendations for any disciplinary action, the Board may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused, including, but not limited to, previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of future harm to the public, any restitution made by the accused, and whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the Board shall endeavor to ensure that the severity of the discipline recommended is reasonably proportional to the severity of the violation.

The report of the Board's findings of fact, conclusions of law, and recommendations shall be the basis for the Department's decision to refuse to issue, restore, or renew a license, or to take any other disciplinary action. If the

Secretary disagrees with the recommendations of the Board, the Secretary may issue an order in contravention of the Board recommendations. The report's findings are not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and findings are not a bar to a criminal prosecution for the violation of this Act. ~~At the conclusion of the hearing, the Advisory Board shall present to the Secretary a written report of its findings of facts, conclusions of law, and recommendations regarding discipline or a fine. The report shall contain a finding whether or not the accused person violated this Act or failed to comply with the conditions required in this Act. The Advisory Board shall specify the nature of the violation or failure to comply and shall make its recommendations to the Secretary.~~

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-55)

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

Sec. 20-55. Appointment of a hearing officer. ~~Motion for~~

~~rehearing; rehearing.~~ The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee. The hearing officer has full authority to conduct the hearing. Any Board member may attend hearings. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board. The Board shall review the report of the hearing officer and present its findings of fact, conclusions of law, and recommendations to the Secretary and to all parties to the proceedings.

If the Secretary disagrees with the recommendations of the Board or hearing officer, the Secretary may issue an order in contravention of the Board's recommendations. ~~In any hearing involving the discipline of a license, a copy of the Advisory Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after the service, the respondent may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing.~~

~~If no motion for rehearing is filed, then upon the expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with the recommendations of the Advisory Board, except as provided for in this Act. If the~~

~~respondent orders a transcript of the record from the reporting service and pays for it within the time for filing a motion for rehearing, the 20 calendar day period within which a motion for rehearing may be filed shall commence upon the delivery of the transcript to the respondent.~~

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/20-56 new)

Sec. 20-56. Board; rehearing. At the conclusion of the hearing, a copy of the Board's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the Board except as provided in Section 120 of this Act. If the applicant or licensee orders from the reporting service and pays for a

transcript of the record within the time for filing a motion for rehearing, the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

(225 ILCS 407/20-80)

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

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/30-7 new)

Sec. 30-7. Department; powers and duties. The Department shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties

as are prescribed by this Act. The Department may contract with third parties for services necessary for the proper administration of this Act.

(225 ILCS 407/30-13 new)

Sec. 30-13. The General Professions Dedicated Fund. All of the fees, fines, and penalties collected under this Act shall be deposited into the General Professions Dedicated Fund. The monies deposited into the General Professions Dedicated Fund shall be used by the Department, as appropriated, for the ordinary and contingent expenses of the Department. Monies in the General Professions Dedicated Fund may be invested and reinvested, with all earnings received from investments to be deposited into that Fund and used for the same purposes as fees deposited in that Fund.

(225 ILCS 407/30-30)

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

Sec. 30-30. Auction Advisory Board.

(a) There is hereby created the Auction Advisory Board. The Advisory Board shall consist of 7 members and shall be appointed by the Secretary. In making the appointments, the Secretary shall give due consideration to the recommendations by members and organizations of the industry, including but not limited to the Illinois State Auctioneers Association. Five members of the Advisory Board shall be licensed auctioneers,

except that for the initial appointments, these members may be persons without a license, but who have been auctioneers for at least 5 years preceding their appointment to the Advisory Board. One member shall be a public member who represents the interests of consumers and who is not licensed under this Act or the spouse of a person licensed under this Act or who has any responsibility for management or formation of policy of or any financial interest in the auctioneering profession or any other connection with the profession. One member shall be actively engaged in the real estate industry and licensed as a broker or salesperson. The Advisory Board shall annually elect one of its members to serve as Chairperson.

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

(c) Four ~~A majority of the Advisory~~ Board members ~~currently appointed~~ shall constitute a quorum. A quorum is required for all Board decisions ~~A vacancy in the membership of the Advisory~~

~~Board shall not impair the right of a quorum to exercise all of the rights and perform all the duties of the Board.~~

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

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

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

(g) The Advisory Board shall advise the Department on matters of licensing and education and make recommendations to the Department on those matters and shall hear and make recommendations to the Secretary on disciplinary matters that require a formal evidentiary hearing.

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

(Source: P.A. 95-572, eff. 6-1-08.)

(225 ILCS 407/10-15 rep.)

(225 ILCS 407/10-25 rep.)

(225 ILCS 407/15-20 rep.)

(225 ILCS 407/20-45 rep.)

(225 ILCS 407/20-90 rep.)

(225 ILCS 407/30-15 rep.)

(225 ILCS 407/30-20 rep.)

(225 ILCS 407/30-25 rep.)

(225 ILCS 407/30-35 rep.)

(225 ILCS 407/30-40 rep.)

(225 ILCS 407/30-45 rep.)

Section 25. The Auction License Act is amended by repealing Sections 10-15, 10-25, 15-20, 20-45, 20-90, 30-15, 30-20, 30-25, 30-35, 30-40 and 30-45.

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