

AN ACT concerning regulation.

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

Section 5. The Auction License Act is amended by changing Sections 5-10 and 20-15 as follows:

(225 ILCS 407/5-10)

(Section scheduled to be repealed on January 1, 2020)

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 and prospective purchasers or lessees, which consists of a series of invitations for offers made by the 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 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.

"Real estate" means real estate as defined in Section 1-10 of the Real Estate License Act of 2000 or its successor Acts.

"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 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; 96-730, eff. 8-25-09.)

(225 ILCS 407/20-15)

(Section scheduled to be repealed on January 1, 2020)

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.

(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).

(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 managing broker's ~~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, or any successor Act, except as provided for in Section 5-32 of the Real Estate License Act of 2000.

(24) Inability to practice the profession with reasonable judgment ~~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.

(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 judgment ~~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.

(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; 96-730, eff. 8-25-09.)

Section 10. The Real Estate License Act of 2000 is amended by changing Sections 5-20, 10-5, and 20-20 and by adding Sections 5-32 and 20-23 as follows:

(225 ILCS 454/5-20)

(Section scheduled to be repealed on January 1, 2020)

Sec. 5-20. Exemptions from broker, salesperson, or leasing agent license requirement. The requirement for holding a license under this Article 5 shall not apply to:

(1) Any person, partnership, or corporation that as owner or lessor performs any of the acts described in the definition of "broker" under Section 1-10 of this Act with reference to property owned or leased by it, or to the regular employees thereof with respect to the property so owned or leased, where such acts are performed in the regular course of or as an incident to the management, sale, or other disposition of such property and the investment therein, provided that such regular employees do not perform any of the acts described in the definition of "broker" under Section 1-10 of this Act in connection with a vocation of selling or leasing any real estate or the improvements thereon not so owned or leased.

(2) An attorney in fact acting under a duly executed and recorded power of attorney to convey real estate from the owner or lessor or the services rendered by an attorney at law in the performance of the attorney's duty as an attorney at law.

(3) Any person acting as receiver, trustee in bankruptcy, administrator, executor, or guardian or while

acting under a court order or under the authority of a will or testamentary trust.

(4) Any person acting as a resident manager for the owner or any employee acting as the resident manager for a broker managing an apartment building, duplex, or apartment complex, when the resident manager resides on the premises, the premises is his or her primary residence, and the resident manager is engaged in the leasing of the property of which he or she is the resident manager.

(5) Any officer or employee of a federal agency in the conduct of official duties.

(6) Any officer or employee of the State government or any political subdivision thereof performing official duties.

(7) Any multiple listing service or other similar information exchange that is engaged in the collection and dissemination of information concerning real estate available for sale, purchase, lease, or exchange for the purpose of providing licensees with a system by which licensees may cooperatively share information along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

(8) Railroads and other public utilities regulated by the State of Illinois, or the officers or full time employees thereof, unless the performance of any licensed activities is in connection with the sale, purchase, lease,

or other disposition of real estate or investment therein not needing the approval of the appropriate State regulatory authority.

(9) Any medium of advertising in the routine course of selling or publishing advertising along with which no other licensed activities, as defined in Section 1-10 of this Act, are provided.

(10) Any resident lessee of a residential dwelling unit who refers for compensation to the owner of the dwelling unit, or to the owner's agent, prospective lessees of dwelling units in the same building or complex as the resident lessee's unit, but only if the resident lessee (i) refers no more than 3 prospective lessees in any 12-month period, (ii) receives compensation of no more than \$1,500 or the equivalent of one month's rent, whichever is less, in any 12-month period, and (iii) limits his or her activities to referring prospective lessees to the owner, or the owner's agent, and does not show a residential dwelling unit to a prospective lessee, discuss terms or conditions of leasing a dwelling unit with a prospective lessee, or otherwise participate in the negotiation of the leasing of a dwelling unit.

(11) An exchange company registered under the Real Estate Timeshare Act of 1999 and the regular employees of that registered exchange company but only when conducting an exchange program as defined in that Act.

(12) An existing timeshare owner who, for compensation, refers prospective purchasers, but only if the existing timeshare owner (i) refers no more than 20 prospective purchasers in any calendar year, (ii) receives no more than \$1,000, or its equivalent, for referrals in any calendar year and (iii) limits his or her activities to referring prospective purchasers of timeshare interests to the developer or the developer's employees or agents, and does not show, discuss terms or conditions of purchase or otherwise participate in negotiations with regard to timeshare interests.

(13) Any person who is licensed without examination under Section 10-25 (now repealed) of the Auction License Act is exempt from holding a broker's or salesperson's license under this Act for the limited purpose of selling or leasing real estate at auction, so long as:

(A) that person has made application for said exemption by July 1, 2000;

(B) that person verifies to the Department that he or she has sold real estate at auction for a period of 5 years prior to licensure as an auctioneer;

(C) the person has had no lapse in his or her license as an auctioneer; and

(D) the license issued under the Auction License Act has not been disciplined for violation of those provisions of Article 20 of the Auction License Act

dealing with or related to the sale or lease of real estate at auction.

(14) A person who holds a valid license under the Auction License Act and a valid real estate auction certification and conducts auctions for the sale of real estate under Section 5-32 of this Act.

(15) ~~(14)~~ A hotel operator who is registered with the Illinois Department of Revenue and pays taxes under the Hotel Operators' Occupation Tax Act and rents a room or rooms in a hotel as defined in the Hotel Operators' Occupation Tax Act for a period of not more than 30 consecutive days and not more than 60 days in a calendar year.

(Source: P.A. 96-328, eff. 8-11-09; 96-856, eff. 12-31-09.)

(225 ILCS 454/5-32 new)

Sec. 5-32. Real estate auction certification.

(a) An auctioneer licensed under the Auction License Act who does not possess a valid and active broker's or managing broker's license under this Act, or who is not otherwise exempt from licensure, may not engage in the practice of auctioning real estate, except as provided in this Section.

(b) The Department shall issue a real estate auction certification to applicants who:

(1) possess a valid auctioneer's license under the Auction License Act;

(2) successfully complete a real estate auction course of at least 30 hours approved by the Department, which shall cover the scope of activities that may be engaged in by a person holding a real estate auction certification and the activities for which a person must hold a real estate license, as well as other material as provided by the Department;

(3) provide documentation of the completion of the real estate auction course; and

(4) successfully complete any other reasonable requirements as provided by rule.

(c) The auctioneer's role shall be limited to establishing the time, place, and method of the real estate auction, placing advertisements regarding the auction, and crying or calling the auction; any other real estate brokerage activities must be performed by a person holding a valid and active real estate broker's or managing broker's license under the provisions of this Act or by a person who is exempt from holding a license under paragraph (13) of Section 5-20 who has a certificate under this Section.

(d) An auctioneer who conducts any real estate auction activities in violation of this Section is guilty of unlicensed practice under Section 20-10 of this Act.

(e) The Department may revoke, suspend, or otherwise discipline the real estate auction certification of an auctioneer who is adjudicated to be in violation of the

provisions of this Section or Section 20-15 of the Auction License Act.

(f) Advertising for the real estate auction must contain the name and address of the licensed real estate broker, managing broker, or a licensed auctioneer under paragraph (13) of Section 5-20 of this Act who is providing brokerage services for the transaction.

(g) The requirement to hold a real estate auction certification shall not apply to a person exempt from this Act under the provisions of paragraph (13) of subsection 5-20 of this Act, unless that person is performing licensed activities in a transaction in which a licensed auctioneer with a real estate certification is providing the limited services provided for in subsection (c) of this Section.

(h) Nothing in this Section shall require a person licensed under this Act as a real estate broker or managing broker to obtain a real estate auction certification in order to auction real estate.

(i) The Department may adopt rules to implement this Section.

(225 ILCS 454/10-5)

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

Sec. 10-5. Payment of compensation.

(a) No licensee shall pay compensation directly to a licensee sponsored by another broker for the performance of

licensed activities. No licensee sponsored by a broker may pay compensation to any licensee other than his or her sponsoring broker for the performance of licensed activities unless the licensee paying the compensation is a principal to the transaction. However, a non-sponsoring broker may pay compensation directly to a licensee sponsored by another or a person who is not sponsored by a broker if the payments are made pursuant to terms of an employment agreement that was previously in place between a licensee and the non-sponsoring broker, and the payments are for licensed activity performed by that person while previously sponsored by the now non-sponsoring broker.

(b) No licensee sponsored by a broker shall accept compensation for the performance of activities under this Act except from the broker by whom the licensee is sponsored, except as provided in this Section.

(c) Any person that is a licensed personal assistant for another licensee may only be compensated in his or her capacity as a personal assistant by the sponsoring broker for that licensed personal assistant.

(d) One sponsoring broker may pay compensation directly to another sponsoring broker for the performance of licensed activities.

(e) Notwithstanding any other provision of this Act, a sponsoring broker may pay compensation to a person currently licensed under the Auction License Act who is in compliance

with and providing services under Section 5-32 of this Act.

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

(225 ILCS 454/20-20)

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

Sec. 20-20. Grounds for discipline.

(a) The Department may refuse to issue or renew a license, may place on probation, suspend, or revoke any license, reprimand, or take any other disciplinary or non-disciplinary action as the Department may deem proper and impose a fine not to exceed \$25,000 upon any licensee or applicant under this Act or any person who holds himself or herself out as an applicant or licensee or against a licensee in handling his or her own property, whether held by deed, option, or otherwise, for any one or any combination of the following causes:

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

(2) The conviction of or plea of guilty or plea of nolo contendere to a felony or misdemeanor in this State or any other jurisdiction; or the entry of an administrative sanction by a government agency in this State or any other jurisdiction. Action taken under this paragraph (2) for a misdemeanor or an administrative sanction is limited to a misdemeanor or administrative sanction that has as an essential element dishonesty or fraud or involves larceny,

embezzlement, or obtaining money, property, or credit by false pretenses or by means of a confidence game.

(3) Inability to practice the profession with reasonable judgment, 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.

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

(5) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, or a governmental agency authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under this Act. A certified copy of the record of the action by the other state or jurisdiction shall be prima facie evidence thereof.

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

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

(8) Aiding or abetting an applicant to subvert or cheat on the Real Estate License Exam or continuing education

exam administered pursuant to this Act.

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

(10) Making any substantial misrepresentation or untruthful advertising.

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

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

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

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

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

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

(17) Failure to maintain and deposit in a special account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds

of others or failure to maintain all escrow moneys on deposit in the account until the transactions are consummated or terminated, except to the extent that the moneys, or any part thereof, shall be:

(A) disbursed prior to the consummation or termination (i) in accordance with the written direction of the principals to the transaction or their duly authorized agents, (ii) in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents, or (iii) pursuant to an order of a court of competent jurisdiction; or

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

The account shall be noninterest bearing, unless the

character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

(18) Failure to make available to the Department all escrow records and related documents maintained in connection with the practice of real estate within 24 hours of a request for those documents by Department personnel.

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

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

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

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

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

(24) Permitting the use of his or her license as a broker to enable a salesperson or unlicensed person to

operate a real estate business without actual participation therein and control thereof by the broker.

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

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

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

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

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

(A) A "guaranteed sales plan" is any real estate purchase or sales plan whereby a licensee enters into a conditional or unconditional written contract with a seller, prior to entering into a brokerage agreement with the seller, by the terms of which a licensee agrees to purchase a property of the seller within a specified period of time at a specific price in the event the property is not sold in accordance with the

terms of a brokerage agreement to be entered into between the sponsoring broker and the seller.

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

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

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

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

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

(30) Influencing or attempting to influence, by any words or acts, a prospective seller, purchaser, occupant,

landlord, or tenant of real estate, in connection with viewing, buying, or leasing real estate, so as to promote or tend to promote the continuance or maintenance of racially and religiously segregated housing or so as to retard, obstruct, or discourage racially integrated housing on or in any street, block, neighborhood, or community.

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

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

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

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

(35) Advertising or offering merchandise or services

as free if any conditions or obligations necessary for receiving the merchandise or services are not disclosed in the same advertisement or offer. These conditions or obligations include without limitation the requirement that the recipient attend a promotional activity or visit a real estate site. As used in this subdivision (35), "free" includes terms such as "award", "prize", "no charge", "free of charge", "without charge", and similar words or phrases that reasonably lead a person to believe that he or she may receive or has been selected to receive something of value, without any conditions or obligations on the part of the recipient.

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

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

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

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

(40) Disregarding or violating any provision of this

Act or the published rules promulgated by the Department to enforce this Act or aiding or abetting any individual, partnership, registered limited liability partnership, limited liability company, or corporation in disregarding any provision of this Act or the published rules promulgated by the Department to enforce this Act.

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

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

(43) Enabling, aiding, or abetting an auctioneer, as defined in the Auction License Act, to conduct a real estate auction in a manner that is in violation of this Act.

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

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

(d) In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with item (5) of subsection (g) of Section 2105-15 of the Civil Administrative Code of Illinois.

(e) 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, after notice and hearing, that the refusal to submit to the examination was without reasonable cause.

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 30 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.

(Source: P.A. 96-856, eff. 12-31-09; 97-813, eff. 7-13-12; 97-1002, eff. 8-17-12.)

(225 ILCS 454/20-23 new)

Sec. 20-23. Confidentiality. All information collected by the Department in the course of an examination or investigation of a licensee or applicant, including, but not limited to, any complaint against a licensee, applicant, or any person who holds himself or herself out as a licensee or applicant that is

filed with the Department and information collected to investigate any such complaint, shall be maintained for the confidential use of the Department and shall not be disclosed. The Department may not disclose the information to anyone other than law enforcement officials, regulatory agencies that have an appropriate regulatory interest as determined by the Secretary, or a party presenting a lawful subpoena to the Department. Information and documents disclosed to a federal, State, county, or local law enforcement agency shall not be disclosed by the agency for any purpose to any other agency or person. A formal complaint filed against a licensee by the Department or any order issued by the Department against a licensee or applicant shall be a public record, except as otherwise prohibited by law.

Section 99. Effective date. This Act takes effect January 1, 2014.