

1 AN ACT in relation to home inspectors.

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

4 ARTICLE 1. GENERAL PROVISIONS

5 Section 1-1. Short title. This Act may be cited as the
6 Home Inspector License Act.

7 Section 1-5. Legislative intent. The intent of the
8 General Assembly in enacting this Act is to evaluate the
9 competency of persons, including any entity, engaged in the
10 home inspection business and to regulate and license those
11 persons engaged in this business for the protection of the
12 public.

13 Section 1-10. Definitions. As used in this Act, unless
14 the context otherwise requires:

15 "Applicant" means a person who applies to OBRE for a
16 license under this Act.

17 "Board" means the Home Inspector Advisory Board.

18 "Client" means a person who engages or seeks to engage
19 the services of a home inspector for an inspection
20 assignment.

21 "Commissioner" means the Commissioner of the Office of
22 Banks and Real Estate or his or her designee.

23 "Home inspection" means the examination and evaluation of
24 the exterior and interior components of residential real
25 property, which includes the inspection of any 2 or more of
26 the following components of residential real property in
27 connection with or to facilitate the sale, lease, or other
28 conveyance of, or the proposed sale, lease or other
29 conveyance of, residential real property:

1 Section 5-5. Necessity of license; use of title;
2 exemptions.

3 (a) Beginning January 1, 2003, it is unlawful for any
4 person, including any entity, to act or assume to act as a
5 home inspector, to engage in the business of home inspection,
6 to develop a home inspection report, to practice as a home
7 inspector, or to advertise or hold himself, herself, or
8 itself out to be a home inspector without a home inspector
9 license issued under this Act. A person who violates this
10 subsection is guilty of a Class A misdemeanor.

11 (b) Beginning January 1, 2003, it is unlawful for any
12 person, other than a person who holds a valid home inspector
13 license issued pursuant to this Act, to use the title "home
14 inspector" or any other title, designation, or abbreviation
15 likely to create the impression that the person is licensed
16 as a home inspector pursuant to this Act. A person who
17 violates this subsection is guilty of a Class A misdemeanor.

18 (c) The licensing requirements of this Article do not
19 apply to:

20 (1) any person who is employed as a code
21 enforcement official by the State of Illinois or any unit
22 of local government, while acting within the scope of
23 that government employment;

24 (2) any person licensed by the State of Illinois
25 while acting within the scope of his or her license; or

26 (3) any person engaged by the owner or lessor of
27 residential real property for the purpose of preparing a
28 bid or estimate as to the work necessary or the costs
29 associated with performing home construction, home
30 remodeling, or home repair work on the residential real
31 property, provided such person does not hold himself or
32 herself out, or advertise himself or herself, as being
33 engaged in business as a home inspector.

1 Section 5-10. Application for Home Inspector license.
2 Every natural person who desires to obtain a home inspector
3 license shall:

4 (1) apply to OBRE on forms provided by OBRE
5 accompanied by the required fee;

6 (2) be at least 21 years of age;

7 (3) provide evidence of having attained a high
8 school diploma or completed an equivalent course of study
9 as determined by an examination conducted by the Illinois
10 State Board of Education;

11 (4) personally take and pass an examination
12 authorized by OBRE; and

13 (5) prior to taking the examination, provide
14 evidence to OBRE that he or she has successfully
15 completed the prerequisite classroom hours of instruction
16 in home inspection, as established by rule.

17 Section 5-12. Application for home inspector license;
18 entity. Every entity that is not a natural person that
19 desires to obtain a home inspector license shall apply to
20 OBRE on forms provided by OBRE and accompanied by the
21 required fee.

22 Section 5-15. Practice prior to this Act. A person who
23 has actively and lawfully practiced as a home inspector in
24 the State of Illinois prior to the effective date of this Act
25 may take the examination required by subsection (4) of
26 Section 5-10 without having successfully completed the
27 classroom hours required under subsection (5) of Section
28 5-10, provided that he or she:

29 (1) is a resident of the State of Illinois;

30 (2) makes application to OBRE on forms provided by
31 OBRE within 6 months after the effective date of this
32 Act;

1 (3) verifies that he or she has practiced as a home
2 inspector for a period of at least 2 years prior to the
3 effective date of this Act; and

4 (4) verifies that he or she has conducted a minimum
5 of 200 home inspections that meet the standards
6 established by rule within the 2 years prior to the
7 effective date of this Act.

8 Section 5-16. Renewal of license.

9 (a) The expiration date and renewal period for a home
10 inspector license issued under this Act shall be set by rule.
11 Except as otherwise provided in subsections (b) and (c) of
12 this Section, the holder of a license may renew the license
13 within 90 days preceding the expiration date by:

14 (1) completing and submitting to OBRE a renewal
15 application form as provided by OBRE;

16 (2) paying the required fees; and

17 (3) providing evidence of successful completion of
18 the continuing education requirements through courses
19 approved by OBRE given by education providers licensed by
20 OBRE, as established by rule.

21 (b) A home inspector whose license under this Act has
22 expired may renew the license for a period of 2 years
23 following the expiration date by complying with the
24 requirements of subparagraphs (1), (2), and (3) of subsection
25 (a) of this Section and paying any late penalties established
26 by rule.

27 (c) Notwithstanding subsection (b), a home inspector
28 whose license under this Act has expired may renew the
29 license without paying any lapsed renewal fees or late
30 penalties if (i) the license expired while the home inspector
31 was on active duty with the United States Armed Services,
32 (ii) application for renewal is made within 2 years following
33 the termination of the military service or related education,

1 training, or employment, and (iii) the applicant furnishes to
2 OBRE an affidavit that he or she was so engaged.

3 (d) OBRE shall provide reasonable care and due diligence
4 to ensure that each licensee under this Act is provided a
5 renewal application at least 90 days prior to the expiration
6 date, but it is the responsibility of each licensee to renew
7 his or her license prior to its expiration date.

8 Section 5-17. Renewal of home inspector license; entity.

9 (a) The expiration date and renewal period for a home
10 inspector license for an entity that is not a natural person
11 shall be set by rule. The holder of a license may renew the
12 license within 90 days preceding the expiration date by
13 completing and submitting to OBRE a renewal application form
14 as provided by OBRE and paying the required fees.

15 (b) An entity that is not a natural person whose license
16 under this Act has expired may renew the license for a period
17 of 2 years following the expiration date by complying with
18 the requirements of subsection (a) of this Section and paying
19 any late penalties established by rule.

20 Section 5-20. Reciprocity; consent to jurisdiction.

21 (a) A nonresident who holds a valid home inspector
22 license issued to him or her by the proper licensing
23 authority of a state, territory, possession of the United
24 States, or the District of Columbia that has licensing
25 requirements equal to or substantially equivalent to the
26 requirements of the State of Illinois and otherwise meets the
27 requirements for licensure may obtain a license without
28 examination, provided that:

29 (1) OBRE has entered into a valid reciprocal
30 agreement with the proper licensing authority of the
31 state, territory, or possession of the United States or
32 the District of Columbia;

1 (2) the applicant provides OBRE with a certificate
2 of good standing from the applicant's licensing
3 authority;

4 (3) the applicant completes and submits an
5 application provided by OBRE; and

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

8 (b) A nonresident applicant shall file an irrevocable
9 consent form with OBRE authorizing that actions may be
10 commenced against the applicant or nonresident licensee in a
11 court of competent jurisdiction in the State of Illinois by
12 the service of summons, process, or other pleading authorized
13 by law upon the Commissioner. The consent shall stipulate
14 and agree that service of the summons, process, or pleading
15 upon the Commissioner shall be taken and held in all courts
16 to be valid and binding as if actual service had been made
17 upon the nonresident licensee in Illinois. If a summons,
18 process, or other pleading is served upon the Commissioner,
19 it shall be by duplicate copies, one of which shall be
20 retained by OBRE and the other shall be immediately forwarded
21 by certified or registered mail to the last known address of
22 the nonresident licensee against whom the summons, process,
23 or other pleading is directed.

24 Section 5-25. Pre-license education requirements. The
25 prerequisite classroom hours necessary for a person to be
26 approved to sit for the examination for a home inspector
27 shall be established by rule.

28 Section 5-30. Continuing education renewal requirements.
29 The continuing education requirements for a person to renew a
30 license as a home inspector shall be established by rule.

31 Section 5-45. Fees. OBRE shall establish rules for fees

1 to be paid by applicants and licensees to cover the
2 reasonable costs of OBRE in administering and enforcing the
3 provisions of this Act. OBRE may also establish rules for
4 general fees to cover the reasonable expenses of carrying out
5 other functions and responsibilities under this Act.

6 ARTICLE 10. BUSINESS PRACTICE PROVISIONS

7 Section 10-5. Standards of practice. All persons
8 licensed under this Act must comply with standards of
9 professional home inspection adopted by OBRE and established
10 by rule. OBRE shall consider nationally recognized standards
11 and codes prior to adopting the rules for the standards of
12 practice.

13 Section 10-10. Retention of records. A person licensed
14 under this Act shall retain the original or a true and exact
15 copy of all written contracts engaging his or her services as
16 a home inspector and all home inspection reports, including
17 any supporting data used to develop the home inspection
18 report, for a period of 5 years or 2 years after the final
19 disposition of any judicial proceeding in which testimony was
20 given, whichever is longer.

21 ARTICLE 15. DISCIPLINARY PROVISIONS

22 Section 15-5. Unlicensed practice; civil penalty;
23 injunctive relief.

24 (a) Any person who violates Section 5-5 of this Act
25 shall, in addition to any other penalty provided by law, pay
26 a civil penalty to OBRE in an amount not to exceed \$10,000
27 for each violation as determined by the Commissioner. The
28 civil penalty shall be assessed by the Commissioner after a
29 hearing in accordance with the provisions of this Act.

1 (b) OBRE has the authority to investigate any activity
2 that may violate this Act or the rules adopted under this
3 Act.

4 (c) A civil penalty shall be paid within 60 days after
5 the effective date of the order imposing the civil penalty.
6 The OBRE may petition the circuit court for a judgment to
7 enforce the collection of the penalty. Any civil penalties
8 collected under this Act shall be made payable to the Office
9 of Banks and Real Estate and deposited into the Home
10 Inspector Administration Fund. In addition to or in lieu of
11 the imposition of a civil penalty, OBRE may report a
12 violation of this Act or the failure or refusal to comply
13 with an order of OBRE to the Attorney General or the
14 appropriate State's Attorney.

15 (d) Practicing as a home inspector without holding a
16 valid license as required under this Act is declared to be
17 adverse to the public welfare, to constitute a public
18 nuisance, and to cause irreparable harm to the public
19 welfare. The Commissioner, the Attorney General, or the
20 State's Attorney of any county in the State may maintain an
21 action for injunctive relief in the name of the People of the
22 State of Illinois in any circuit court to enjoin any person
23 from engaging in such practice.

24 Upon the filing of a verified petition in a circuit
25 court, the court, if satisfied by affidavit or otherwise that
26 a person has been engaged in the practice of home inspections
27 without a valid license, may enter a temporary restraining
28 order without notice or bond enjoining the defendant from
29 further practice. The showing of non-licensure, by affidavit
30 or otherwise, is sufficient for the issuance of a temporary
31 injunction. A copy of the verified complaint shall be served
32 upon the defendant and the proceeding shall be conducted as
33 in other civil cases except as modified by this Section. If
34 it is established that the defendant has been or is engaged

1 in unlawful practice, the court may enter an order or
2 judgment perpetually enjoining the defendant from further
3 unlawful practice. In all proceedings under this Section,
4 the court, in its discretion, may apportion the costs among
5 the parties interested in the action, including the cost of
6 filing the complaint, service of process, witness fees and
7 expenses, court reporter charges, and reasonable attorneys'
8 fees. These injunction proceedings shall be in addition to,
9 and not in lieu of, all penalties and other remedies provided
10 in this Act.

11 Section 15-10. Grounds for disciplinary action.

12 (a) The Office of Banks and Real Estate may suspend,
13 revoke, or refuse to issue or renew a license, and may
14 reprimand, place on probation or administrative supervision,
15 or otherwise discipline a licensee, including imposing
16 conditions limiting the scope, nature, or extent of the home
17 inspection practice of a licensee and may impose a civil
18 penalty not to exceed \$10,000 upon a licensee, for one or any
19 combination of the following:

20 (1) Procuring or attempting to procure a license by
21 knowingly making a false statement, submitting false
22 information, making any form of fraud or
23 misrepresentation, or refusing to provide complete
24 information in response to a question in an application
25 for licensure.

26 (2) Failing to meet the minimum qualifications for
27 licensure as a home inspector established by this Act.

28 (3) Paying money, other than for the fees provided
29 for by this Act, or anything of value to a member of the
30 Board or an employee of the Office of Banks and Real
31 Estate to procure licensure under this Act.

32 (4) Being convicted of a felony in any state or
33 federal court; of any crime, an essential element of

1 which is dishonesty, fraud, theft, or embezzlement; of
2 obtaining money, property, or credit by false pretenses;
3 or of any other crime that is reasonably related to the
4 practice of home inspection.

5 (5) Committing an act or omission involving
6 dishonesty, fraud, or misrepresentation with the intent
7 to substantially benefit the licensee or another person
8 or with the intent to substantially injure another
9 person.

10 (6) Violating a provision or standard for the
11 development or communication of home inspections as
12 provided in Section 10-5 of this Act or as defined in the
13 rules.

14 (7) Failing or refusing without good cause to
15 exercise reasonable diligence in the development,
16 reporting, or communication of a home inspection report,
17 as defined by this Act or the rules.

18 (8) Violating a provision of this Act or the rules.

19 (9) Having been disciplined by another state, the
20 District of Columbia, a territory, a foreign nation, a
21 governmental agency, or any other entity authorized to
22 impose discipline if at least one of the grounds for that
23 discipline is the same as or the equivalent of one of the
24 grounds for which a licensee may be disciplined under
25 this Act.

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

29 (11) Accepting an inspection assignment when the
30 employment itself is contingent upon the home inspector
31 reporting a predetermined analysis or opinion, or when
32 the fee to be paid is contingent upon the analysis,
33 opinion, or conclusion reached or upon the consequences
34 resulting from the home inspection assignment.

1 (12) Developing home inspection opinions or
2 conclusions based on the race, color, religion, sex,
3 national origin, ancestry, age, marital status, family
4 status, physical or mental handicap, or unfavorable
5 military discharge, as defined under the Illinois Human
6 Rights Act, of the prospective or present owners or
7 occupants of the area or property under home inspection.

8 (13) Being adjudicated liable in a civil proceeding
9 on grounds of fraud, misrepresentation, or deceit. In a
10 disciplinary proceeding based upon a finding of civil
11 liability, the home inspector shall be afforded an
12 opportunity to present mitigating and extenuating
13 circumstances, but may not collaterally attack the civil
14 adjudication.

15 (14) Being adjudicated liable in a civil proceeding
16 for violation of a State or federal fair housing law.

17 (15) Engaging in misleading or untruthful
18 advertising or using a trade name or insignia of
19 membership in a home inspection organization of which the
20 licensee is not a member.

21 (16) Failing to fully cooperate with an OBRE
22 investigation by knowingly making a false statement,
23 submitting false or misleading information, or refusing
24 to provide complete information in response to written
25 interrogatories or a written request for documentation
26 within 30 days of the request.

27 (17) Failing to include within the home inspection
28 report the home inspector's license number and the date
29 of expiration of the license. All home inspectors
30 providing significant contribution to the development and
31 reporting of a home inspection must be disclosed in the
32 home inspection report. It is a violation of this Act for
33 a home inspector to sign a home inspection report knowing
34 that a person providing a significant contribution to the

1 report has not been disclosed in the home inspection
2 report.

3 (18) Advising a client as to whether the client
4 should or should not engage in a transaction regarding
5 the residential real property that is the subject of the
6 home inspection.

7 (19) Performing a home inspection in a manner that
8 damages or alters the residential real property that is
9 the subject of the home inspection without the consent of
10 the owner.

11 (20) Performing a home inspection when the home
12 inspector is providing or may also provide other services
13 in connection with the residential real property or
14 transaction, or has an interest in the residential real
15 property, without providing prior written notice of the
16 potential or actual conflict and obtaining the prior
17 consent of the client as provided by rule.

18 (b) The Office of Banks and Real Estate may suspend,
19 revoke, or refuse to issue or renew an education provider's
20 license, may reprimand, place on probation, or otherwise
21 discipline an education provider licensee, and may suspend or
22 revoke the course approval of any course offered by an
23 education provider, for any of the following:

24 (1) Procuring or attempting to procure licensure by
25 knowingly making a false statement, submitting false
26 information, making any form of fraud or
27 misrepresentation, or refusing to provide complete
28 information in response to a question in an application
29 for licensure.

30 (2) Failing to comply with the covenants certified
31 to on the application for licensure as an education
32 provider.

33 (3) Committing an act or omission involving
34 dishonesty, fraud, or misrepresentation or allowing any

1 such act or omission by any employee or contractor under
2 the control of the education provider.

3 (4) Engaging in misleading or untruthful
4 advertising.

5 (5) Failing to retain competent instructors in
6 accordance with rules adopted under this Act.

7 (6) Failing to meet the topic or time requirements
8 for course approval as the provider of a pre-license
9 curriculum course or a continuing education course.

10 (7) Failing to administer an approved course using
11 the course materials, syllabus, and examinations
12 submitted as the basis of the course approval.

13 (8) Failing to provide an appropriate classroom
14 environment for presentation of courses, with
15 consideration for student comfort, acoustics, lighting,
16 seating, workspace, and visual aid material.

17 (9) Failing to maintain student records in
18 compliance with the rules adopted under this Act.

19 (10) Failing to provide a certificate, transcript,
20 or other student record to OBRE or to a student as may be
21 required by rule.

22 (11) Failing to fully cooperate with an OBRE
23 investigation by knowingly making a false statement,
24 submitting false or misleading information, or refusing
25 to provide complete information in response to written
26 interrogatories or a written request for documentation
27 within 30 days of the request.

28 (c) In appropriate cases, OBRE may resolve a complaint
29 against a licensee through the issuance of a Consent to
30 Administrative Supervision order. A licensee subject to a
31 Consent to Administrative Supervision order shall be
32 considered by OBRE as an active licensee in good standing.
33 This order shall not be reported as or considered by OBRE to
34 be a discipline of the licensee. The records regarding an

1 investigation and a Consent to Administrative Supervision
2 order shall be considered confidential and shall not be
3 released by OBRE except as mandated by law. The complainant
4 shall be notified that his or her complaint has been resolved
5 by a Consent to Administrative Supervision order.

6 Section 15-15. Investigation; notice; hearing.

7 (a) Upon the request of the Office of Banks and Real
8 Estate or the Board, or upon a complaint in writing of a
9 person setting forth facts that, if proven, would constitute
10 grounds for suspension, revocation, or other disciplinary
11 action against a licensee or applicant for licensure, the
12 Office of Banks and Real Estate shall investigate the actions
13 of the licensee or applicant so accused.

14 (b) Formal disciplinary proceedings shall commence upon
15 the issuance of a written complaint detailing the charges
16 that are the basis of the disciplinary action and delivery of
17 the detailed complaint to the address of record of the
18 licensee or applicant. OBRE shall notify the licensee or
19 applicant to file a verified written answer within 20 days
20 after the service of the notice and complaint. The
21 notification shall inform the licensee or applicant that he
22 or she has a right to be heard in person or by legal counsel;
23 that the hearing will be afforded not sooner than 30 days
24 after receipt of the answer to the specific charges; that
25 failure to file an answer will result in a default being
26 entered against the licensee or applicant; and that the
27 license may be suspended, revoked, or placed on probationary
28 status and other disciplinary action may be taken pursuant to
29 this Act, including limiting the scope, nature, or extent of
30 the licensee's practice. If the licensee or applicant fails
31 to file an answer after receiving notice, his or her license
32 may, at the discretion of the Office of Banks and Real
33 Estate, be suspended, revoked, or placed on probationary

1 status and the Office of Banks and Real Estate may take
2 whatever disciplinary action it deems proper, including
3 limiting the scope, nature, or extent of the person's
4 practice, without a hearing.

5 (c) At the time and place fixed in the notice, the Board
6 shall conduct a hearing of the charges, providing both the
7 accused person and the complainant ample opportunity to
8 present in person or by counsel such statements, testimony,
9 evidence, and arguments as may be pertinent to the charges or
10 to any defense thereto.

11 (d) The Board shall present to the Commissioner a
12 written report of its findings and recommendations. A copy of
13 the report shall be served upon the licensee or applicant,
14 either personally or by certified mail. Within 20 days after
15 the service, the licensee or applicant may present the
16 Commissioner with a motion in writing for either a rehearing,
17 a proposed finding of fact, a conclusion of law, or an
18 alternative sanction, and shall specify the particular
19 grounds for the request. If the accused shall order and pay
20 for a transcript of the record as provided in this Act, the
21 time elapsing thereafter and before the transcript is ready
22 for delivery to the accused shall not be counted as part of
23 the 20 days. If the Commissioner is not satisfied that
24 substantial justice has been done, the Commissioner may order
25 a rehearing by the Board or other special committee appointed
26 by the Commissioner, may remand the matter to the Board for
27 their reconsideration of the matter based on the pleadings
28 and evidence presented to the Board, or may enter a final
29 order in contravention of the Board's recommendation. In all
30 instances, under this Act, in which the Board has rendered a
31 recommendation to the Commissioner with respect to a
32 particular licensee or applicant, the Commissioner, if he or
33 she disagrees with the recommendation of the Board, shall
34 file with the Board and provide to the licensee or applicant

1 the Commissioner's specific written reasons for disagreement
2 with the Board. The reasons shall be filed within 60 days of
3 the Board's recommendation to the Commissioner and prior to
4 any contrary action. At the expiration of the time specified
5 for filing a motion for a rehearing, the Commissioner shall
6 have the right to take any of the actions specified in this
7 paragraph. Upon the suspension or revocation of a license,
8 the licensee shall be required to surrender his or her
9 license to OBRE, and upon failure or refusal to do so, OBRE
10 shall have the right to seize the license.

11 (e) The Office of Banks and Real Estate has the power to
12 issue subpoenas and subpoenas duces tecum to bring before it
13 any person in this State, to take testimony, or to require
14 production of any records relevant to an inquiry or hearing
15 by the Board in the same manner as prescribed by law in
16 judicial proceedings in the courts of this State. In a case
17 of refusal of a witness to attend, testify, or to produce
18 books or papers concerning a matter upon which he or she
19 might be lawfully examined, the circuit court of the county
20 where the hearing is held, upon application of the Office of
21 Banks and Real Estate or any party to the proceeding, may
22 compel obedience by proceedings as for contempt of court.

23 (f) Any license that is suspended indefinitely or
24 revoked may not be restored for a minimum period of 2 years.
25 After the 2 year period, OBRE may restore the license without
26 examination, upon the written recommendation of the Board.

27 Section 15-20. Administrative Review Law; certification
28 fees; Administrative Procedure Act.

29 (a) All final administrative decisions of the
30 Commissioner under this Act are subject to judicial review
31 pursuant to the provisions of the Administrative Review Law
32 and the rules adopted pursuant thereto. The term
33 "administrative decision" has the meaning ascribed to it in

1 Section 3-101 of the Administrative Review Law.

2 (b) OBRE shall not be required to certify any record,
3 file any answer, or otherwise appear unless the party filing
4 the administrative review complaint pays the certification
5 fee to OBRE as provided by rule. Failure on the part of the
6 plaintiff to make such a deposit shall be grounds for
7 dismissal of the action.

8 (c) The Administrative Procedure Act is hereby expressly
9 adopted and incorporated herein. In the event of a conflict
10 between this Act and the Administrative Procedure Act, this
11 Act shall control.

12 Section 15-25. Temporary suspension. The Commissioner
13 may temporarily suspend the license of a licensee without a
14 hearing, while instituting a proceeding for a hearing as
15 provided for in Section 15-15 of this Act, if the
16 Commissioner finds that the evidence indicates that the
17 public interest, safety, or welfare imperatively requires
18 emergency action. In the event that the Commissioner
19 temporarily suspends the license without a hearing before the
20 Board, a hearing shall be held within 30 days after the
21 suspension has occurred. The suspended licensee may seek a
22 continuance of the hearing during which the suspension shall
23 remain in effect. The proceeding shall be concluded without
24 appreciable delay.

25 Section 15-30. Statute of limitations. No action may be
26 taken under this Act against a person licensed under this Act
27 unless the action is commenced within 5 years after the
28 occurrence of the alleged violation. A continuing violation
29 is deemed to have occurred on the date when the circumstances
30 last existed that gave rise to the alleged continuing
31 violation.

1 Section 15-35. Signature of the Commissioner. An order
2 of revocation or suspension or a certified copy of the order,
3 bearing the seal of OBRE and purporting to be signed by the
4 Commissioner, shall be prima facie proof that:

5 (1) the signature is the genuine signature of the
6 Commissioner;

7 (2) the Commissioner is duly appointed and
8 qualified; and

9 (3) the Board and its members are qualified.

10 This proof may be rebutted.

11 Section 15-40. Violation of tax Acts. OBRE may refuse
12 to issue or renew or may suspend the license of any person
13 who fails to file a return, pay the tax, penalty, or interest
14 shown in a filed return, or pay any final assessment of tax,
15 penalty, or interest, as required by any tax Act administered
16 by the Department of Revenue, until such time as the
17 requirements of that tax Act are satisfied.

18 Section 15-45. Disciplinary action for educational loan
19 defaults. OBRE shall deny a license or renewal authorized by
20 this Act to a person who has defaulted on an educational loan
21 or scholarship provided or guaranteed by the Illinois Student
22 Assistance Commission or any governmental agency of this
23 State. OBRE may issue a license or renewal if the person has
24 established a satisfactory repayment record as determined by
25 the Illinois Student Assistance Commission or other
26 appropriate governmental agency of this State. Additionally,
27 a license issued by OBRE may be suspended or revoked if the
28 Commissioner, after the opportunity for a hearing under this
29 Act, finds that the licensee has failed to make satisfactory
30 repayment to the Illinois Student Assistance Commission for a
31 delinquent or defaulted loan.

1 Section 15-50. Nonpayment of child support. In cases
2 where the Department of Public Aid has previously determined
3 that a licensee or a potential licensee is more than 30 days
4 delinquent in the payment of child support and has
5 subsequently certified the delinquency to OBRE, OBRE may
6 refuse to issue or renew or may revoke or suspend that
7 person's license or may take other disciplinary action
8 against that person based solely upon the certification of
9 delinquency made by the Department of Public Aid.
10 Redetermination of the delinquency by OBRE shall not be
11 required. In cases regarding the renewal of a license, OBRE
12 shall not renew any license if the Department of Public Aid
13 has certified the licensee to be more than 30 days delinquent
14 in the payment of child support unless the licensee has
15 arranged for payment of past and current child support
16 obligations in a manner satisfactory to the Department of
17 Public Aid. OBRE may impose conditions, restrictions, or
18 disciplinary action upon that renewal.

19 Section 15-55. Returned checks; penalty fee;
20 termination. A person who delivers a check or other payment
21 to OBRE that is returned to OBRE unpaid by the financial
22 institution upon which it was drawn shall pay to OBRE, in
23 addition to the amount already owed, a penalty fee of \$50.
24 OBRE shall notify the person, by certified mail return
25 receipt requested, that his or her check or payment was
26 returned and that the person shall pay to OBRE by certified
27 check or money order the amount of the returned check plus a
28 \$50 penalty fee within 30 calendar days after the date of the
29 notification. If, after the expiration of 30 calendar days
30 of the notification, the person has failed to remit the
31 necessary funds and penalty, OBRE shall automatically
32 terminate the license or deny the application without
33 hearing. If the returned check or other payment was for

1 issuance of a license under this Act and that person
2 practices as a home inspector, that person may be subject to
3 discipline for unlicensed practice as provided in this Act.
4 If, after termination or denial, the person seeks a license,
5 he or she shall petition OBRE for restoration and he or she
6 may be subject to additional discipline or fines. The
7 Commissioner may waive the penalties or fines due under this
8 Section in individual cases where the Commissioner finds that
9 the penalties or fines would be unreasonable or unnecessarily
10 burdensome.

11 Section 15-60. Cease and desist orders. OBRE may issue,
12 cease and desist orders to persons who engage in activities
13 prohibited by this Act. Any person in violation of a cease
14 and desist order issued by OBRE is subject to all of the
15 penalties provided by law.

16 ARTICLE 20. EDUCATION PROVISIONS

17 Section 20-5. Education provider.

18 (a) Beginning January 1, 2002, only education providers
19 licensed by OBRE may provide the pre-license and continuing
20 education courses required for licensure under this Act.

21 (b) A person or entity seeking to be licensed as an
22 education provider under this Act shall provide satisfactory
23 evidence of the following:

24 (1) a sound financial base for establishing,
25 promoting, and delivering the necessary courses;

26 (2) a sufficient number of qualified instructors;

27 (3) adequate support personnel to assist with
28 administrative matters and technical assistance;

29 (4) a written policy dealing with procedures for
30 management of grievances and fee refunds;

31 (5) a qualified school administrator, who is

1 responsible for the administration of the school,
2 courses, and the actions of the instructors; and

3 (6) any other requirements provided by rule.

4 (c) All applicants for an education provider's license
5 shall make initial application to OBRE on forms provided by
6 OBRE and pay the appropriate fee as provided by rule. The
7 term, expiration date, and renewal of an education provider's
8 license shall be established by rule.

9 (d) An education provider shall provide each successful
10 course participant with a certificate of completion signed by
11 the school administrator. The format and content of the
12 certificate shall be specified by rule.

13 (e) All education providers shall provide to OBRE a
14 monthly roster of all successful course participants as
15 provided by rule.

16 Section 20-10. Course approval.

17 (a) Only courses that are approved by OBRE and offered
18 by licensed education providers shall be used to meet the
19 requirements of this Act and rules.

20 (b) An education provider licensed under this Act may
21 submit courses to OBRE for approval. The criteria,
22 requirements, and fees for courses shall be established by
23 rule.

24 (c) For each course approved, OBRE shall issue a
25 certificate of course approval to the education provider.
26 The term, expiration date, and renewal of a course approval
27 shall be established by rule.

28 ARTICLE 25. ADMINISTRATIVE PROVISIONS

29 Section 25-5. Home Inspector Administration Fund;
30 surcharge.

31 (a) The Home Inspector Administration Fund is created as

1 a special fund in the State Treasury. All fees, fines, and
2 penalties received by OBRE under this Act shall be deposited
3 into the Home Inspector Administration Fund. All earnings
4 attributable to investment of funds in the Home Inspector
5 Administration Fund shall be credited to the Home Inspector
6 Administration Fund. Subject to appropriation, the moneys in
7 the Home Inspector Administration Fund shall be appropriated
8 to OBRE for the expenses incurred by OBRE and the Board in
9 the administration of this Act.

10 (b) The State Comptroller and State Treasurer shall
11 transfer \$150,000 from the Real Estate License Administration
12 Fund to the Home Inspector Administration Fund on July 1,
13 2002.

14 The State Treasurer shall transfer \$50,000 from the Home
15 Inspector Administration Fund to the Real Estate License
16 Administration Fund on July 1, 2003, July 1, 2004, and July
17 1, 2005; except that if there is a sufficient fund balance in
18 the Home Inspector Administration Fund, the Commissioner may
19 recommend the acceleration of any of these repayment
20 transfers to the State Comptroller and State Treasurer, who
21 may, in their discretion, accelerate the transfers in
22 accordance with the Commissioner's recommendation.

23 (c) Until a total of \$150,000 has been transferred to
24 the Real Estate License Administration Fund from the Home
25 Inspector Administration Fund under subsection (b), each
26 initial applicant for a license under this Act shall pay to
27 OBRE a surcharge of \$150 in addition to the license fees
28 otherwise required under this Act.

29 (d) Upon the completion of any audit of OBRE, as
30 prescribed by the Illinois State Auditing Act, that includes
31 an audit of the Home Inspector Administration Fund, OBRE
32 shall make the audit report open to inspection by any
33 interested person.

1 Section 25-10. Home Inspector Advisory Board.

2 (a) There is hereby created the Home Inspector Advisory
3 Board. The Board shall be composed of 7 voting members
4 appointed by the Commissioner, plus the liaison under Section
5 25-15, who shall serve ex officio and without vote. Members
6 shall be appointed to the Board subject to the following
7 conditions:

8 (1) All appointed members shall have been residents
9 and citizens of this State for at least 5 years prior to
10 the date of appointment.

11 (2) The appointed membership of the Board should
12 reasonably reflect the geographic distribution of the
13 population of the State.

14 (3) Five appointed members shall be actively
15 engaged and currently licensed as home inspectors, except
16 that the initial appointees may be persons without a
17 license who have been actively engaged as home inspectors
18 for a period of 5 years immediately before the effective
19 date of this Act. Failure of an initial appointee under
20 this item (3) to obtain a license by January 1, 2003
21 shall constitute resignation from the Board.

22 (4) One appointed member shall hold a valid license
23 as a real estate broker and shall have been actively
24 engaged as a real estate broker for a period of not less
25 than 5 years.

26 (5) One appointed member shall represent the
27 interests of the general public. This member and the
28 member's spouse shall not be licensed under this Act, nor
29 be employed by nor have any interest in a home inspection
30 business or a real estate brokerage business.

31 In making appointments to the Board, the Commissioner
32 shall give due consideration to recommendations by members
33 and organizations representing the home inspection and real
34 estate industries.

1 (b) The term for members of the Board shall be 4 years,
2 except for the initial appointees. Of the initial
3 appointees, 4 members shall be appointed for terms ending
4 January 1, 2007 and 3 members shall be appointed for terms
5 ending January 1, 2006. No member shall serve more than 10
6 years in a lifetime.

7 (c) The Commissioner may terminate the appointment of
8 any member for cause that, in the opinion of the
9 Commissioner, reasonably justifies the termination. Cause for
10 termination may include, without limitation, misconduct,
11 incapacity, neglect of duty, or missing 4 Board meetings
12 during any one calendar year.

13 (d) A majority of the voting members currently appointed
14 shall constitute a quorum. A vacancy in the membership of
15 the Board shall not impair the right of a quorum to exercise
16 all of the rights and perform all of the duties of the Board.

17 (e) The Board shall meet at least quarterly and may be
18 convened by the Chairperson or 3 members of the Board upon 10
19 days' written notice.

20 (g) The liaison appointed pursuant to Section 25-15 of
21 this Act shall serve, ex officio, as Chairperson of the
22 Board, without vote.

23 (h) The Board shall advise OBRE on matters of licensing
24 and education and shall make recommendations to OBRE on those
25 matters. OBRE shall give due consideration to all
26 recommendations presented by the Board.

27 (i) The Board shall hear and make recommendations to the
28 Commissioner on disciplinary matters that require a formal
29 evidentiary hearing. The Commissioner shall give due
30 consideration to the recommendations of the Board involving
31 discipline and questions about the standards of professional
32 conduct of licensees.

33 (j) The Board may make recommendations to OBRE
34 concerning the consistency of the rules with the provisions

1 of this Act and the administration and enforcement of the
2 rules. OBRE shall give due consideration to the
3 recommendations of the Board prior to promulgating rules.

4 (k) The Board shall make recommendations to OBRE on the
5 approval of courses submitted to OBRE pursuant to this Act
6 and rules. OBRE shall give due consideration to the
7 recommendations of the Board prior to approving courses.

8 (l) Each voting member of the Board shall receive a per
9 diem stipend in an amount to be determined by the
10 Commissioner. Each voting member shall be paid his or her
11 necessary expenses while engaged in the performance of his or
12 her duties.

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

16 Section 25-15. Liaison; duties. The Commissioner shall
17 appoint an employee of OBRE to:

18 (1) serve as a liaison to and as Chairperson of the
19 Home Inspector Advisory Board, without vote;

20 (2) be the direct liaison between OBRE, the
21 profession, home inspectors, and related industry
22 organizations and associations; and

23 (3) prepare and circulate to licensees such
24 educational and informational material as OBRE deems
25 necessary for providing guidance or assistance to
26 licensees.

27 Section 25-20. OBRE; powers and duties. The Office of
28 Banks and Real Estate shall exercise the powers and duties
29 prescribed by the Civil Administrative Code of Illinois for
30 the administration of licensing acts and shall exercise such
31 other powers and duties as are prescribed by this Act for the
32 administration of this Act. OBRE may contract with third

1 parties for services necessary for the proper administration
2 of this Act, including, without limitation, investigators
3 with the proper knowledge, training, and skills to properly
4 investigate complaints against home inspectors.

5 Section 25-25. Rules. OBRE, after considering any
6 recommendations of the Board, shall adopt any rules that may
7 be necessary for the administration, implementation, and
8 enforcement of this Act.

9 Section 25-30. Exclusive State powers and functions;
10 municipal powers. It is declared to be the public policy of
11 this State, pursuant to paragraph (h) of Section 6 of Article
12 VII of the Illinois Constitution of 1970, that any power or
13 function set forth in this Act to be exercised by the State
14 is an exclusive State power or function. Such power and
15 function shall not be exercised concurrently, either directly
16 or indirectly, by any unit of local government, including
17 home rule units.

18 ARTICLE 950. AMENDATORY PROVISIONS

19 Section 950-5. The Regulatory Sunset Act is amended by
20 adding Section 4.22 as follows:

21 (5 ILCS 801/4.22 new)

22 Sec. 4.22. Act repealed on January 1, 2012. The
23 following Act is repealed on January 1, 2012.

24 The Home Inspector License Act.

25 Section 950-10. The State Finance Act is amended by
26 adding Section 5.545 as follows:

27 (30 ILCS 105/5.545 new)

1 Sec. 5.545. The Home Inspector Administration Fund.

2 ARTICLE 999. EFFECTIVE DATE

3 Section 999-99. Effective date. This Act takes effect
4 upon becoming law.