

1 AN ACT concerning the regulation of professions.

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

4 Section 5. The State Finance Act is amended by adding  
5 Section 5.545 as follows:

6 (30 ILCS 105/5.545 new)

7 Sec. 5.545. The Real Estate Audit Fund.

8 Section 10. The Real Estate License Act of 2000 is  
9 amended by changing Sections 1-10, 5-20, 10-10, and 20-60 and  
10 by adding Sections 25-14 and 25-37 as follows:

11 (225 ILCS 454/1-10)

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

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

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

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

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

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

1 include the franchise affiliation as well as the name of the  
2 individual firm.

3 "Board" means the Real Estate Administration and  
4 Disciplinary Board of OBRE.

5 "Branch office" means a sponsoring broker's office other  
6 than the sponsoring broker's principal office.

7 "Broker" means an individual, partnership, limited  
8 liability company, corporation, or registered limited  
9 liability partnership other than a real estate salesperson or  
10 leasing agent who for another and for compensation, or with  
11 the intention or expectation of receiving compensation,  
12 either directly or indirectly:

13 (1) Sells, exchanges, purchases, rents, or leases  
14 real estate.

15 (2) Offers to sell, exchange, purchase, rent, or  
16 lease real estate.

17 (3) Negotiates, offers, attempts, or agrees to  
18 negotiate the sale, exchange, purchase, rental, or  
19 leasing of real estate.

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

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

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

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

30 (8) Assists or directs in procuring or referring of  
31 prospects, intended to result in the sale, exchange,  
32 lease, or rental of real estate.

33 (9) Assists or directs in the negotiation of any  
34 transaction intended to result in the sale, exchange,

1 lease, or rental of real estate.

2 (10) Opens real estate to the public for marketing  
3 purposes.

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

6 "Brokerage agreement" means a written or oral agreement  
7 between a sponsoring broker and a consumer for licensed  
8 activities to be provided to a consumer in return for  
9 compensation or the right to receive compensation from  
10 another. Brokerage agreements may constitute either a  
11 bilateral or a unilateral agreement between the broker and  
12 the broker's client depending upon the content of the  
13 brokerage agreement. All exclusive brokerage agreements  
14 shall be in writing.

15 "Client" means a person who is being represented by a  
16 licensee.

17 "Commissioner" means the Commissioner of Banks and Real  
18 Estate or a person authorized by the Commissioner, the Office  
19 of Banks and Real Estate Act, or this Act to act in the  
20 Commissioner's stead.

21 "Compensation" means the valuable consideration given by  
22 one person or entity to another person or entity in exchange  
23 for the performance of some activity or service.  
24 Compensation shall include the transfer of valuable  
25 consideration, including without limitation the following:

- 26 (1) commissions;
- 27 (2) referral fees;
- 28 (3) bonuses;
- 29 (4) prizes;
- 30 (5) merchandise;
- 31 (6) finder fees;
- 32 (7) performance of services;
- 33 (8) coupons or gift certificates;
- 34 (9) discounts;

1 (10) rebates;

2 (11) a chance to win a raffle, drawing, lottery, or  
3 similar game of chance not prohibited by any other law or  
4 statute;

5 (12) retainer fee; or

6 (13) salary.

7 "Confidential information" means information obtained by  
8 a licensee from a client during the term of a brokerage  
9 agreement that (i) was made confidential by the written  
10 request or written instruction of the client, (ii) deals with  
11 the negotiating position of the client, or (iii) is  
12 information the disclosure of which could materially harm the  
13 negotiating position of the client, unless at any time:

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

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

17 (3) the information becomes public from a source  
18 other than the licensee.

19 "Confidential information" shall not be considered to  
20 include material information about the physical condition of  
21 the property.

22 "Consumer" means a person or entity seeking or receiving  
23 licensed activities.

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

27 "Credit hour" means 50 minutes of classroom instruction  
28 in course work that meets the requirements set forth in rules  
29 adopted by OBRE.

30 "Customer" means a consumer who is not being represented  
31 by the licensee but for whom the licensee is performing  
32 ministerial acts.

33 "Designated agency" means a contractual relationship  
34 between a sponsoring broker and a client under Section 15-50

1 of this Act in which one or more licensees associated with or  
2 employed by the broker are designated as agent of the client.

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

6 "Director" means the Director of the Real Estate  
7 Division, OBRE.

8 "Dual agency" means an agency relationship in which a  
9 licensee is representing both buyer and seller or both  
10 landlord and tenant in the same transaction. When the agency  
11 relationship is a designated agency, the question of whether  
12 there is a dual agency shall be determined by the agency  
13 relationships of the designated agent of the parties and not  
14 of the sponsoring broker.

15 "Employee" or other derivative of the word "employee",  
16 when used to refer to, describe, or delineate the  
17 relationship between a real estate broker and a real estate  
18 salesperson, another real estate broker, or a leasing agent,  
19 shall be construed to include an independent contractor  
20 relationship, provided that a written agreement exists that  
21 clearly establishes and states the relationship. All  
22 responsibilities of a broker shall remain.

23 "Escrow moneys" means all moneys, promissory notes or any  
24 other type or manner of legal tender or financial  
25 consideration deposited with any person for the benefit of  
26 the parties to the transaction. A transaction exists once an  
27 agreement has been reached and an accepted real estate  
28 contract signed or lease agreed to by the parties. Escrow  
29 moneys includes without limitation earnest moneys and  
30 security deposits, except those security deposits in which  
31 the person holding the security deposit is also the sole  
32 owner of the property being leased and for which the security  
33 deposit is being held.

34 "Inoperative" means a status of licensure where the

1 licensee holds a current license under this Act, but the  
2 licensee is prohibited from engaging in licensed activities  
3 because the licensee is unsponsored or the license of the  
4 sponsoring broker with whom the licensee is associated or by  
5 whom he or she is employed is currently expired, revoked,  
6 suspended, or otherwise rendered invalid under this Act.

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

11 "License" means the document issued by OBRE certifying  
12 that the person named thereon has fulfilled all requirements  
13 prerequisite to licensure under this Act.

14 "Licensed activities" means those activities listed in  
15 the definition of "broker" under this Section.

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

19 "Listing presentation" means a communication between a  
20 real estate broker or salesperson and a consumer in which the  
21 licensee is attempting to secure a brokerage agreement with  
22 the consumer to market the consumer's real estate for sale or  
23 lease.

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

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

31 "Ministerial acts" means those acts that a licensee may  
32 perform for a consumer that are informative or clerical in  
33 nature and do not rise to the level of active representation  
34 on behalf of a consumer. Examples of these acts include

1 without limitation (i) responding to phone inquiries by  
2 consumers as to the availability and pricing of brokerage  
3 services, (ii) responding to phone inquiries from a consumer  
4 concerning the price or location of property, (iii) attending  
5 an open house and responding to questions about the property  
6 from a consumer, (iv) setting an appointment to view  
7 property, (v) responding to questions of consumers walking  
8 into a licensee's office concerning brokerage services  
9 offered or particular properties, (vi) accompanying an  
10 appraiser, inspector, contractor, or similar third party on a  
11 visit to a property, (vii) describing a property or the  
12 property's condition in response to a consumer's inquiry,  
13 (viii) completing business or factual information for a  
14 consumer on an offer or contract to purchase on behalf of a  
15 client, (ix) showing a client through a property being sold  
16 by an owner on his or her own behalf, or (x) referral to  
17 another broker or service provider.

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

19 "Office" means a real estate broker's place of business  
20 where the general public is invited to transact business and  
21 where records may be maintained and licenses displayed,  
22 whether or not it is the broker's principal place of  
23 business.

24 "Person" means and includes individuals, entities,  
25 corporations, limited liability companies, registered limited  
26 liability partnerships, and partnerships, foreign or  
27 domestic, except that when the context otherwise requires,  
28 the term may refer to a single individual or other described  
29 entity.

30 "Personal assistant" means a licensed or unlicensed  
31 person who has been hired for the purpose of aiding or  
32 assisting a sponsored licensee in the performance of the  
33 sponsored licensee's job.

34 "Pocket card" means the card issued by OBRE to signify

1 that the person named on the card is currently licensed under  
2 this Act.

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

7 "Pre-renewal period" means the period between the date of  
8 issue of a currently valid license and the license's  
9 expiration date.

10 "Real estate" means and includes leaseholds as well as  
11 any other interest or estate in land, whether corporeal,  
12 incorporeal, freehold, or non-freehold, including timeshare  
13 interests, and whether the real estate is situated in this  
14 State or elsewhere.

15 "Real Estate Administration and Disciplinary Board" or  
16 "Board" means the Real Estate Administration and Disciplinary  
17 Board created by Section 25-10 of this Act.

18 "Salesperson" means any individual, other than a real  
19 estate broker or leasing agent, who is employed by a real  
20 estate broker or is associated by written agreement with a  
21 real estate broker as an independent contractor and  
22 participates in any activity described in the definition of  
23 "broker" under this Section.

24 "Sponsoring broker" means the broker who has issued a  
25 sponsor card to a licensed salesperson, another licensed  
26 broker, or a leasing agent.

27 "Sponsor card" means the temporary permit issued by the  
28 sponsoring real estate broker certifying that the real estate  
29 broker, real estate salesperson, or leasing agent named  
30 thereon is employed by or associated by written agreement  
31 with the sponsoring real estate broker, as provided for in  
32 Section 5-40 of this Act.

33 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;  
34 91-603, eff. 1-1-00; 91-702, eff. 5-12-00.)



1 (225 ILCS 454/5-20)

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

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

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

23 (3) Any person acting as receiver, trustee in  
24 bankruptcy, administrator, executor, or guardian or while  
25 acting under a court order or under the authority of a will  
26 or testamentary trust.

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

34 (5) Any officer or employee of a federal agency in the

1 conduct of official duties.

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

4 (7) Any multiple listing service or other information  
5 exchange that is engaged in the collection and dissemination  
6 of information concerning real estate available for sale,  
7 purchase, lease, or exchange along with which no other  
8 licensed activities are provided.

9 (8) Railroads and other public utilities regulated by  
10 the State of Illinois, or the officers or full time employees  
11 thereof, unless the performance of any licensed activities is  
12 in connection with the sale, purchase, lease, or other  
13 disposition of real estate or investment therein not needing  
14 the approval of the appropriate State regulatory authority.

15 (9) Any medium of advertising in the routine course of  
16 selling or publishing advertising along with which no other  
17 licensed activities are provided.

18 (10) Any resident lessee of a residential dwelling unit  
19 who refers for compensation to the owner of the dwelling  
20 unit, or to the owner's agent, prospective lessees of  
21 dwelling units in the same building or complex as the  
22 resident lessee's unit, but only if the resident lessee (i)  
23 refers no more than 3 prospective lessees in any 12-month  
24 period, (ii) receives compensation of no more than \$1,000 or  
25 the equivalent of one month's rent, whichever is less, in any  
26 12-month period, and (iii) limits his or her activities to  
27 referring prospective lessees to the owner, or the owner's  
28 agent, and does not show a residential dwelling unit to a  
29 prospective lessee, discuss terms or conditions of leasing a  
30 dwelling unit with a prospective lessee, or otherwise  
31 participate in the negotiation of the leasing of a dwelling  
32 unit.

33 (11) An exchange company registered under the Real  
34 Estate Timeshare Act of 1999 and the regular employees of

1 that registered exchange company but only when conducting an  
2 exchange program as defined in that Act.

3 (12) An existing timeshare owner who, for compensation,  
4 refers prospective purchasers, but only if the existing  
5 timeshare owner (i) refers no more than 20 prospective  
6 purchasers in any calendar year, (ii) receives no more than  
7 \$1,000, or its equivalent, for referrals in any calendar year  
8 and (iii) limits his or her activities to referring  
9 prospective purchasers of timeshare interests to the  
10 developer or the developer's employees or agents, and does  
11 not show, discuss terms or conditions of purchase or  
12 otherwise participate in negotiations with regard to  
13 timeshare interests.

14 (13) ~~(11)~~ Any person who is licensed without examination  
15 under Section 10-25 of the Auction License Act is exempt from  
16 holding a broker's or salesperson's license under this Act  
17 for the limited purpose of selling or leasing real estate at  
18 auction, so long as:

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

21 (B) that person verifies to OBRE that he or  
22 she has sold real estate at auction for a period of  
23 5 years prior to licensure as an auctioneer;

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

26 (D) the license issued under the Auction  
27 License Act has not been disciplined for violation  
28 of those provisions of Article 20 of the Auction  
29 License Act dealing with or related to the sale or  
30 lease of real estate at auction.

31 (14) A hotel operator who is registered with the  
32 Illinois Department of Revenue and pays taxes under the Hotel  
33 Operators' Occupation Tax Act and rents a room or rooms in a  
34 hotel as defined in the Hotel Operators' Occupation Tax Act

1 for a period of not more than 30 consecutive days and not  
2 more than 60 days in a calendar year.

3 (Source: P.A. 91-245, eff. 12-31-99; 91-585, eff. 1-1-00;  
4 91-603, eff. 1-1-00; revised 10-27-99.)

5 (225 ILCS 454/10-10)

6 Sec. 10-10. Disclosure of compensation.

7 (a) A licensee must disclose to a client the sponsoring  
8 broker's compensation and policy with regard to cooperating  
9 with brokers who represent other parties in a transaction.

10 (b) A licensee must disclose to a client all sources of  
11 compensation related to the transaction received by the  
12 licensee from a third party.

13 (c) If a licensee refers a client to a third party in  
14 which the licensee has greater than a 1% ownership interest  
15 or from which the licensee receives or may receive dividends  
16 or other profit sharing distributions, other than a publicly  
17 held or traded company, for the purpose of the client  
18 obtaining services related to the transaction, then the  
19 licensee shall disclose that fact to the client at the time  
20 of making the referral.

21 (d) If in any one transaction a sponsoring broker  
22 receives compensation from both the buyer and seller or  
23 lessee and lessor of real estate, the sponsoring broker shall  
24 disclose in writing to a client the fact that the  
25 compensation is being paid by both buyer and seller or lessee  
26 and lessor.

27 (e) Nothing in the Act shall prohibit the cooperation  
28 with or a payment of compensation to a person not domiciled  
29 in this State or country who is licensed as a real estate  
30 broker in his or her state or country of domicile or to a  
31 resident of a country that does not require a person to be  
32 licensed to act as a real estate broker if the person  
33 complies with the laws of the country in which that person

1 resides and practices there as a real estate broker.

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

3 (225 ILCS 454/20-60)

4 Sec. 20-60. Hearing; investigation; notice; disciplinary  
5 consent order.

6 (a) OBRE may conduct hearings through the Board or a  
7 duly appointed hearing officer on proceedings to suspend,  
8 revoke, or to refuse to issue or renew licenses of persons  
9 applying for licensure or licensed under this Act or to  
10 censure, reprimand, or impose a civil fine not to exceed  
11 \$25,000 upon any licensee hereunder and may revoke, suspend,  
12 or refuse to issue or renew these licenses or censure,  
13 reprimand, or impose a civil fine not to exceed \$25,000 upon  
14 any licensee hereunder.

15 (b) Upon the motion of either OBRE or the Board or upon  
16 the verified complaint in writing of any persons setting  
17 forth facts that if proven would constitute grounds for  
18 suspension or revocation under this Act, OBRE, the Board, or  
19 its subcommittee shall cause to be investigated the actions  
20 of any person so accused who holds a license or is holding  
21 himself or herself out to be a licensee. This person is  
22 hereinafter called the accused.

23 (c) Prior to initiating any formal disciplinary  
24 proceedings resulting from an investigation conducted  
25 pursuant to subsection (b) of this Section, that matter shall  
26 be reviewed by a subcommittee of the Board according to  
27 procedures established by rule. The subcommittee shall make a  
28 recommendation to the full Board as to the validity of the  
29 complaint and may recommend that the Board not proceed with  
30 formal disciplinary proceedings if the complaint is  
31 determined to be frivolous or without merit.

32 (d) Except as provided for in Section 20-65 of this Act,  
33 OBRE shall, before suspending, revoking, placing on

1 probationary status, or taking any other disciplinary action  
2 as OBRE may deem proper with regard to any license:

3 (1) notify the accused in writing at least 30 days  
4 prior to the date set for the hearing of any charges made  
5 and the time and place for the hearing of the charges to  
6 be heard before the Board under oath; and

7 (2) inform the accused that upon failure to file an  
8 answer and request a hearing before the date originally  
9 set for the hearing, default will be taken against the  
10 accused and his or her license may be suspended, revoked,  
11 or placed on probationary status, or other disciplinary  
12 action, including limiting the scope, nature, or extent  
13 of the accused's practice, as OBRE may deem proper, may  
14 be taken with regard thereto.

15 In case the person fails to file an answer after  
16 receiving notice, his or her license may, in the discretion  
17 of OBRE, be suspended, revoked, or placed on probationary  
18 status, or OBRE may take whatever disciplinary action deemed  
19 proper, including limiting the scope, nature, or extent of  
20 the person's practice or the imposition of a fine, without a  
21 hearing, if the act or acts charged constitute sufficient  
22 grounds for such action under this Act.

23 (e) At the time and place fixed in the notice, the Board  
24 shall proceed to hearing of the charges and both the accused  
25 person and the complainant shall be accorded ample  
26 opportunity to present in person or by counsel such  
27 statements, testimony, evidence and argument as may be  
28 pertinent to the charges or to any defense thereto. The  
29 Board or its hearing officer may continue a hearing date upon  
30 its own motion or upon an accused's motion for one period not  
31 to exceed 30 days. The Board or its hearing officer may  
32 grant further continuances for periods not to exceed 30 days  
33 only upon good cause being shown by the moving party. The  
34 non-moving party shall have the opportunity to object to a

1 continuance on the record at a hearing upon the motion to  
2 continue. All motions for continuances and any denial or  
3 grant thereof shall be in writing. All motions shall be  
4 submitted not later than 48 hours before the scheduled  
5 hearing unless made upon an emergency basis. In determining  
6 whether good cause for a continuance is shown, the Board or  
7 its hearing officer shall consider such factors as the volume  
8 of cases pending, the nature and complexity of legal issues  
9 raised, the diligence of the party making the request, the  
10 availability of party's legal representative or witnesses,  
11 and the number of previous requests for continuance.

12 (f) Any unlawful act or violation of any of the  
13 provisions of this Act upon the part of any licensees  
14 employed by a real estate broker or associated by written  
15 agreement with the real estate broker, or unlicensed employee  
16 of a licensed broker, shall not be cause for the revocation  
17 of the license of any such broker, partial or otherwise,  
18 unless it appears to the satisfaction of OBRE that the broker  
19 had knowledge thereof.

20 (g) OBRE or the Board has power to subpoena any persons  
21 or documents for the purpose of investigation or hearing with  
22 the same fees and mileage and in the same manner as  
23 prescribed by law for judicial procedure in civil cases in  
24 courts of this State. The Commissioner, the Director, any  
25 member of the Board, a certified court reporter, or a hearing  
26 officer shall each have power to administer oaths to  
27 witnesses at any hearing which OBRE is authorized under this  
28 Act to conduct.

29 (h) Any circuit court or any judge thereof, upon the  
30 application of the accused person, complainant, OBRE, or the  
31 Board, may, by order entered, require the attendance of  
32 witnesses and the production of relevant books and papers  
33 before the Board in any hearing relative to the application  
34 for or refusal, recall, suspension, or revocation of a

1 license, and the court or judge may compel obedience to the  
2 court's or the judge's order by proceedings for contempt.

3 (i) OBRE, at its expense, shall preserve a record of all  
4 proceedings at the formal hearing of any case involving the  
5 refusal to issue or the revocation, suspension, or other  
6 discipline of a licensee. The notice of hearing, complaint  
7 and all other documents in the nature of pleadings and  
8 written motions filed in the proceedings, the transcript of  
9 testimony, the report of the Board, and the orders of OBRE  
10 shall be the record of the proceeding. At all hearings or  
11 pre-hearing conferences, OBRE and the accused shall be  
12 entitled to have a court reporter in attendance for purposes  
13 of transcribing the proceeding or pre-hearing conference at  
14 the expense of the party requesting the court reporter's  
15 attendance. A copy of the transcribed proceeding shall be  
16 available to the other party for the cost of a copy of the  
17 transcript.

18 (j) The Board shall present to the Commissioner its  
19 written report of its findings and recommendations. A copy  
20 of the report shall be served upon the accused, either  
21 personally or by certified mail as provided in this Act for  
22 the service of the citation. Within 20 days after the  
23 service, the accused may present to the Commissioner a motion  
24 in writing for a rehearing that shall specify the particular  
25 grounds therefor. If the accused shall order and pay for a  
26 transcript of the record as provided in this Act, the time  
27 elapsing thereafter and before the transcript is ready for  
28 delivery to the accused shall not be counted as part of the  
29 20 days. Whenever the Commissioner is satisfied that  
30 substantial justice has not been done, the Commissioner may  
31 order a rehearing by the Board or other special committee  
32 appointed by the Commissioner or may remand the matter to the  
33 Board for their reconsideration of the matter based on the  
34 pleadings and evidence presented to the Board. In all



1 instances, under this Act, in which the Board has rendered a  
2 recommendation to the Commissioner with respect to a  
3 particular licensee or applicant, the Commissioner shall, in  
4 the event that he or she disagrees with or takes action  
5 contrary to the recommendation of the Board, file with the  
6 Board and the Secretary of State his specific written reasons  
7 of disagreement with the Board. The reasons shall be filed  
8 within 60 days of the Board's recommendation to the  
9 Commissioner and prior to any contrary action. At the  
10 expiration of the time specified for filing a motion for a  
11 rehearing, the Commissioner shall have the right to take the  
12 action recommended by the Board. Upon the suspension or  
13 revocation of a license, the licensee shall be required to  
14 surrender his or her license to OBRE, and upon failure or  
15 refusal to do so, OBRE shall have the right to seize the  
16 license.

17 (k) At any time after the suspension, temporary  
18 suspension, or revocation of any license, OBRE may restore it  
19 to the accused without examination, upon the written  
20 recommendation of the Board.

21 (l) An order of revocation or suspension or a certified  
22 copy thereof, over the seal of OBRE and purporting to be  
23 signed by the Commissioner, shall be prima facie proof that:

24 (1) The signature is the genuine signature of the  
25 Commissioner.

26 (2) The Commissioner is duly appointed and  
27 qualified.

28 (3) The Board and the members thereof are  
29 qualified.

30 Such proof may be rebutted.

31 (m) Notwithstanding any provisions concerning the  
32 conduct of hearings and recommendations for disciplinary  
33 actions, OBRE as directed by the Commissioner has the  
34 authority to negotiate agreements with licensees and

1 applicants resulting in disciplinary consent orders. These  
2 consent orders may provide for any of the forms of discipline  
3 provided in this Act. These consent orders shall provide  
4 that they were not entered into as a result of any coercion  
5 by OBRE. Any such consent order shall be filed with the  
6 Commissioner along with the Board's recommendation and  
7 accepted or rejected by the Commissioner within 60 days of  
8 the Board's recommendation.

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

10 (225 ILCS 454/25-14 new)

11 Sec. 25-14. Reliance on advisory letters. Licensees or  
12 their representatives may seek an advisory letter from OBRE  
13 as to matters arising under this Act or the rules promulgated  
14 pursuant to this Act. OBRE shall promulgate rules as to the  
15 process of seeking and obtaining an advisory letter and  
16 topics and areas on which advisory rules will be issued by  
17 OBRE. A licensee is entitled to rely upon an advisory letter  
18 from OBRE and will not be disciplined by OBRE for actions  
19 taken in reliance on the advisory letter.

20 (225 ILCS 454/25-37 new)

21 Sec. 25-37. Real Estate Audit Fund; audit of special  
22 accounts; audit of fund.

23 (a) A special fund to be known as the Real Estate Audit  
24 Fund is created in the State Treasury. The State Treasurer  
25 shall cause a transfer of \$200,000 from the Real Estate  
26 License Administration Fund to the Real Estate Audit Fund on  
27 January 1, 2002. If, at any time, the balance in the Real  
28 Estate Audit Fund is less than \$25,000, the State Treasurer  
29 shall cause a transfer of \$200,000 from the Real Estate  
30 License Administration Fund to the Real Estate Audit Fund.  
31 The moneys held in the Real Estate Audit Fund shall be used  
32 exclusively by OBRE to conduct audits of special accounts of

1 moneys belonging to others held by a broker.

2 (b) Upon receipt of a complaint or evidence by OBRE  
3 sufficient to cause OBRE to reasonably believe that funds  
4 required to be maintained in a special account by a broker  
5 have been misappropriated, the broker shall, within 30 days  
6 of written notice, submit to an audit of all special  
7 accounts. Such audit shall be performed by a licensed  
8 certified public accountant, shall result in a written report  
9 by the accountant, and shall specifically refer to the escrow  
10 and record-keeping requirements of this Act and the rules  
11 adopted under this Act. If it is found, pursuant to an order  
12 issued by the Commissioner, that moneys required to be  
13 maintained in a special account by a broker were  
14 misappropriated, as further defined by rule, the broker shall  
15 reimburse OBRE, in addition to any other discipline or civil  
16 penalty imposed, for the cost of the audit performed pursuant  
17 to this Section. OBRE may file in circuit court for a  
18 judgment to enforce the collection of the reimbursement of  
19 the cost of such audit. Any reimbursement collected by OBRE  
20 shall be deposited into the Real Estate Audit Fund.

21 (c) Moneys in the Real Estate Audit Fund may be invested  
22 and reinvested in the same manner as funds in the Real Estate  
23 Recovery Fund. All earnings received from such investment  
24 shall be deposited in the Real Estate Audit Fund and may be  
25 used for the same purpose as other moneys deposited in the  
26 Real Estate Audit Fund. Upon completion of any audit of  
27 OBRE, prescribed by the Illinois State Auditing Act, which  
28 includes an audit of the Real Estate Audit Fund, OBRE shall  
29 make the audit open to inspection by any interested person.

30 (225 ILCS 454/20-70 rep.)

31 Section 15. The Real Estate License Act of 2000 is  
32 amended by repealing Section 20-70.

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