

AN ACT concerning government.

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

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

(5 ILCS 80/4.20)

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 Acts repealed on January 1, 2010 and December 31, 2010.

(a) The following Acts are repealed on January 1, 2010:

The Auction License Act.

The Illinois Architecture Practice Act of 1989.

The Illinois Landscape Architecture Act of 1989.

The Illinois Professional Land Surveyor Act of 1989.

~~The Land Sales Registration Act of 1999.~~

The Orthotics, Prosthetics, and Pedorthics Practice Act.

The Perfusionist Practice Act.

The Professional Engineering Practice Act of 1989.

The Real Estate License Act of 2000.

The Structural Engineering Practice Act of 1989.

(b) The following Act is repealed on December 31, 2010:

The Medical Practice Act of 1987.

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

(5 ILCS 80/4.30 new)

Sec. 4.30. Act repealed on January 1, 2020. The following Act is repealed on January 1, 2020:

The Land Sales Registration Act of 1999.

Section 10. The Land Sales Registration Act of 1999 is amended by changing Sections 1-10, 1-15, 5-5, 5-10, 5-15, 5-20, 5-25, 10-15, 10-20, 10-30, 15-5, 15-10, 15-15, 15-20, 15-25, 15-30, 15-35, 15-40, 15-45, 15-50, 15-55, 15-60, 15-65, 15-70, 15-75, 20-5, 20-10, 20-15, 20-20, and 20-25 and by adding Sections 5-23 and 15-7 as follows:

(765 ILCS 86/1-10)

(Section scheduled to be repealed on January 1, 2010)

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

"Blanket encumbrance" means a trust deed, mortgage, mechanics lien, or any other lien or financial encumbrance securing or evidencing money debt and affecting land to be subdivided or affecting more than one lot or parcel of subdivided land; or an agreement affecting more than one such lot or parcel by which the subdivider holds the subdivision under an option, contract to purchase, or trust agreement. Taxes and assessments levied by public authority are not an encumbrance under this Act.

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

"Common promotional plan" means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease. Where land is offered for sale by a developer or group of developers acting in concert and the land is contiguous or is known, designated, or advertised as a common unit or by a common name, the land is presumed, without regard to the number of lots covered by each individual offering, to be offered for sale or lease as part of a common promotional plan.

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

"Offer" includes every inducement, solicitation, or attempt to encourage a person to acquire an interest in a subdivision or subdivided land, if undertaken for gain or profit.

"Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership, unincorporated association, 2 or more of any of the foregoing having a joint or common interest, or any other legal or commercial entity.

"Sale" includes a sale, lease, assignment, or award by lottery, or any offer or solicitation of an offer to do any of

the foregoing, concerning a subdivision or any part of a subdivision, if undertaken for gain or profit.

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

"Subdivided land" and "subdivision" mean improved or unimproved lands located outside the State of Illinois, divided or proposed to be divided into 25 or more lots or parcels, and also include any land, whether contiguous or not, if 25 or more lots, parcels, units or interests are offered as a part of a common promotional plan of advertising and sale.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/1-15)

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

Sec. 1-15. Powers and duties of the Department ~~Office of Banks and Real Estate~~. The Department ~~Office of Banks and Real Estate~~ shall exercise the powers and duties established by this Act. The Secretary ~~Commissioner~~ may adopt rules consistent with the provisions of this Act for its administration and enforcement and may prescribe forms that shall be issued in connection with this Act. The Department ~~Office of Banks and Real Estate~~ shall issue a certificate of registration to any person who meets the qualifications set forth in this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-5)

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

Sec. 5-5. Registration requirement; exemptions. It is unlawful for any person to engage in the business of selling land that is located outside the State of Illinois to any individual located in Illinois without a certificate of registration issued by the Department ~~Office of Banks and Real Estate~~ pursuant to this Act. Unless the method of sale is adopted for the purpose of evasion of this Act, the provisions of this Act do not apply to an offer or disposition of an interest in land:

(1) by a purchaser of subdivided lands for the purchaser's own account in a single or isolated transaction;

(2) if fewer than 25 separate lots, parcels, units or interests in subdivided lands are offered by a person;

(3) on which there is a commercial or industrial building, shopping center, house, apartment house, condominium structure, or town house, or as to which there is a legal obligation on the part of the seller to construct such a building within 2 years from the date of disposition;

(4) that is sold for industrial, commercial, or institutional purposes;

(5) that consists of cemetery lots or interests;

(6) that consists of a subdivision as to which the plan of sale is to dispose of it to 10 or fewer persons; or

(7) in lots or parcels of 20 or more acres, unconditionally, or of 10 or more acres if there is free and ready access leading to county-maintained roads.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-10)

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

Sec. 5-10. Application for registration.

(a) Before subdivided lands are offered for sale, the subdivider or the subdivider's agent shall file with the Department ~~Office of Banks and Real Estate~~ an application on forms supplied by the Department ~~Office of Banks and Real Estate~~. A registration fee shall accompany the application. The application shall contain all of the following information:

(1) The name and address of the fee title owner of the subdivided lands.

(2) The name and address of the subdivider.

(3) The name and address of an agent of the subdivider in Illinois authorized to accept service of process on behalf of the subdivider.

(4) The legal description and acreage of the lands, together with a map showing the layout as recorded or proposed and the relation of the lands to existing streets or roads, waterways, schools, churches, shopping centers, and local bus and rail transportation, with a statement of distances to each.

(5) A true statement as to title to the subdivided land, including all financial encumbrances and unpaid taxes thereon.

(6) If subject property is in a land trust, a true statement of the names and addresses of all parties with a beneficial interest in the trust.

(7) A true statement of the terms and conditions by which it is intended the subdivided land will be sold, together with copies of any and all forms of contract or conveyance intended to be used. If a language other than English was used in advertising the property or during the sales presentation, translations, in that language, of the Illinois Public Property Report, any contract or lien, and any note shall be provided to the purchaser before the purchaser executes the contract. A receipt for these translations shall be obtained and a copy of the receipt shall be kept ~~available in this State~~ and subject to inspection by the Department ~~Office of Banks and Real Estate~~ for 3 years from the date of the receipt.

(8) A true statement of provision for sewage disposal and public utilities, if any, in the proposed or existing subdivision, including water, electricity, gas, and telephone facilities.

(9) A correct reference to applicable zoning ordinances and regulations.

(10) Certified financial statements of the subdivider.

(11) A proposed public property report, suitable for distribution to any proposed purchaser if a certificate of registration is issued, which shall contain the following information:

(A) the name and principal address of the subdivider;

(B) a general description of the subdivided lands, stating the total number of lots, parcels, units, or interests in the offering;

(C) the significant terms of any encumbrances, easements, liens, and restrictions, including zoning and other regulations affecting the subdivided lands and each lot or unit, and a statement of all existing taxes and existing or proposed special taxes or assessments that affect the subdivided lands;

(D) a statement of the use for which the property is offered;

(E) information concerning improvements, including streets, water supply, levees, drainage control systems, irrigation systems, sewage disposal facilities, and customary utilities, and the estimated costs, date of completion, and responsibility for construction and maintenance of existing and proposed improvements that are referred to in connection with the offering or disposition of any interest in subdivided lands;

(F) a statement that certified financial statements are available upon request; and

(G) such additional information consistent with this Act which may be required by the Department ~~Office of Banks and Real Estate~~ to assure full and fair disclosure to prospective purchasers.

(b) The subdivider shall report all material changes with respect to subdivided lands registered for sale under this Act, and the Department ~~Office of Banks and Real Estate~~ may require that the public property report be amended to reflect such material change. In the event the subdivider wishes to update the public property report, the subdivider may do so upon proper application to the Department ~~Office of Banks and Real Estate~~.

(c) If the subdivider registers additional subdivided lands to be offered for sale, the subdivider may consolidate the subsequent registration with any earlier registration offering subdivided lands for sale under the same promotional plan, and the public property report shall be amended to include the additional subdivided lands so registered.

(d) The Department ~~Office of Banks and Real Estate~~ shall, at the time the application is submitted or from time to time thereafter, require the subdivider to furnish financial assurances, in the form of a performance bond, a surety bond, or an irrevocable letter of credit in the amount and subject to terms and requirements approved by the Department ~~Office of~~

~~Banks and Real Estate~~, for the purpose of protecting purchasers of lots in the subdivision to ensure that the improvements will be constructed and maintained in the manner represented by the subdivider. The Department ~~Office of Banks and Real Estate~~ may accept evidence that such assurances have been furnished to a foreign state, or a county or municipality within such state, in fulfillment of this requirement.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-15)

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

Sec. 5-15. Issuance ~~Notice of filing; issuance~~ of certificate; exemption; renewal.

(a) ~~The Department~~ Upon receipt of the application for registration in proper form, the Office of Banks and Real Estate shall issue a notice of filing to the applicant. Within 60 days from the date of the notice of filing, the Office of Banks and Real Estate shall enter an order registering the subdivided lands or rejecting the registration. If no order of rejection is entered within 60 days from the date of receipt notice of filing, the land shall be deemed registered unless the applicant has consented in writing to a delay.

(b) If the Department ~~Office of Banks and Real Estate~~ affirmatively determines, upon inquiry and examination, that the requirements of this Act have been met, it shall issue a certificate of registration ~~registering the subdivided lands~~

and shall approve the form of the public property report.

(b-5) If the Department affirmatively determines, upon inquiry and examination, that the exemption requirements of this Act have been met, it shall issue a written approval.

(c) If the Department ~~Office of Banks and Real Estate~~ determines, upon inquiry and examination, that any of the requirements of this Act have not been met, it shall notify the applicant that the application for registration or exemption must be corrected in the particulars specified within 15 days. If the requirements are not met within the time allowed, the Department ~~Office of Banks and Real Estate~~ shall enter an order rejecting the registration or exemption, which shall include the findings of fact upon which the order is based. The order rejecting the registration shall not become effective for 20 days, during which time the applicant may petition for reconsideration and shall be entitled to a hearing.

(d) The Department ~~Office of Banks and Real Estate~~ may adopt rules authorizing the subdivider or the subdivider's agent to file an abbreviated application ~~, as the subdivider's application for a certificate of registration in lieu of some or all of the requirements of Section 5-10, (i) a copy of the statement of record filed with respect to the subdivision pursuant to the Federal Interstate Land Sales Full Disclosure Act if the statement complies with the requirements of that Act and the regulations pertinent to that Act or (ii) an acceptable certificate of registration from another jurisdiction in which~~

~~the requirements for registration are substantially the same or exceed those provided in this Act.~~ Notwithstanding the requirements of Section 5-10, the Department ~~Office of Banks and Real Estate~~ may suspend or revoke any registration under this Section that includes any registration, property report, or similar disclosure documents accepted under this subsection if the registration, property report, or similar disclosure is suspended or revoked by the registering state or by the federal government.

(e) A certificate of registration issued under this Section shall expire on June 30 following the date of issuance. In the absence of any reason or condition under Section 15-5 ~~10-35~~ that might warrant the suspension or revocation of a registration, a certificate shall be renewed upon payment of the required fee and submission of documentation as provided by rule. An exemption issued under this Section shall not expire or renew. The applicant must notify the Department of any change in the status of the subdivision under which the exemption was approved.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-20)

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

Sec. 5-20. Fees.

(a) The Department ~~Office of Banks and Real Estate~~ shall provide, by rule, for fees to be paid by applicants and

registrants to cover the reasonable costs of the Department ~~Office of Banks and Real Estate~~ in administering and enforcing the provisions of this Act. The Department ~~Office of Banks and Real Estate~~ may also provide, by rule, for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(b) All fees collected under this Act shall be paid into the Real Estate License Administration Fund in the State treasury and appropriated to the Department ~~Office of Banks and Real Estate~~ for administration of this Act or any other Act administered by the Department ~~Office of Banks and Real Estate~~ and providing revenue to this fund.

(c) (Blank). ~~Any person who delivers a check or other payment to the Office of Banks and Real Estate that is returned to the Office of Banks and Real Estate unpaid by the financial institution upon which it is drawn shall pay to the Office of Banks and Real Estate, in addition to the amount already owed to the Office of Banks and Real Estate, a fee of \$50.~~

(d) (Blank). ~~The fees imposed by this Section are in addition to any other disciplinary action provided under this Act for unlicensed practice or practice on a non-renewed license.~~

(e) (Blank). ~~The Office of Banks and Real Estate shall notify the person that payment of fees and fines shall be paid to the Office of Banks and Real Estate by certified check or money order within 30 calendar days of the notification. If,~~

~~after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, the Office of Banks and Real Estate shall automatically terminate the certificate of registration or deny the application, without hearing. If, after termination or denial, the person seeks a certificate of registration, he or she shall apply to the Office of Banks and Real Estate for restoration or issuance of the certificate of registration and pay all fees due the Office of Banks and Real Estate. The Commissioner may waive the fees due under this Section in individual cases where the Commissioner finds that the fees would be unreasonable or unnecessarily burdensome.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/5-23 new)

Sec. 5-23. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unregistered practice or practice on a nonrenewed registration. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days

from the date of the notification, the person has failed to submit the necessary remittance, the Department shall automatically terminate the registration or deny the application, without hearing. If, after termination or denial, the person seeks a registration, he or she shall apply to the Department for restoration or issuance of the registration and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a registration to pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

(765 ILCS 86/5-25)

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

Sec. 5-25. Public property report. When a certificate of registration is granted by the Department ~~Office of Banks and Real Estate~~, a copy of the public property report shall be given by the owner, subdivider, or agent to each prospective purchaser prior to the execution of any binding contract or agreement for the sale of any lot or parcel in a subdivision. A receipt, in duplicate, shall be taken from each purchaser to evidence compliance with this Section. Receipts taken for any published report shall be kept on file in possession of the owner, subdivider, or agent, subject to inspection by the Department ~~Office of Banks and Real Estate~~ for 3 years from the

date the receipt is taken. The report shall not be used for advertising purposes unless the report is used in its entirety. No portion of the report shall be underscored, italicized, or printed in larger or heavier type than any other portion of the report, unless required by this Act. The report shall contain the following statement:

If you received this report prior to signing a contract or agreement, you may cancel your contract or agreement by giving notice to the seller any time before midnight of the seventh day following the signing of the contract or agreement.

If you did not receive this report before you signed a contract or agreement, you may cancel the contract or agreement any time within 2 years from the date of signing.
(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-15)

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

Sec. 10-15. Copies of instruments. A copy of the instruments executed in connection with the sale of parcels within a subdivision shall be kept ~~available in this State~~ and subject to inspection by the Department ~~Office of Banks and Real Estate~~. The Department ~~Office of Banks and Real Estate~~ shall be notified of any change of address affecting the location of the owner's, subdivider's, or agent's records, or of any change in the depository for purchasers' payments under

this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-20)

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

Sec. 10-20. Sale of encumbered lots prohibited; exceptions. It is unlawful for the owner or subdivider to sell lots or parcels within a subdivision subject to a blanket encumbrance unless one of the following conditions is met:

(1) All sums paid or advanced by a purchaser are placed in an escrow or other depository account acceptable to the Department ~~Office of Banks and Real Estate~~ until (i) the fee title contracted for is delivered to the purchaser by deed together with complete release from all financial encumbrances; (ii) the owner, subdivider, or purchaser defaults and fails to perform under the contract of sale and there is final determination as to the disposition of such moneys; or (iii) the funds in the escrow or other account are voluntarily returned to the contract purchaser.

(2) The fee title to the subdivision is placed in trust under an agreement or trust acceptable to the Department ~~Office of Banks and Real Estate~~ until a proper release from each blanket encumbrance, including all taxes, is obtained and title is delivered to the purchaser.

(3) A bond to the State of Illinois is furnished to the

~~Department Office of Banks and Real Estate~~ for the benefit and protection of purchasers of such lots or parcels, in the amount and subject to terms approved by the Department Office of Banks and Real Estate. The bond shall be executed by a surety company that is authorized to do business in the State of Illinois and has given consent to be sued in this State. The bond shall provide for the return of moneys paid or advanced by a purchaser if (i) the title contracted for is not delivered and (ii) a full release from each blanket encumbrance is not obtained. If it is determined that the purchaser, by reason of default or otherwise, is not entitled to the return of those moneys, or any portion of those moneys, then the bond is released by the amount of moneys to which the purchaser of parcel is not entitled.

(4) The blanket encumbrance contains provisions evidencing the subordination of the lien of the holder of the blanket encumbrance to the rights of those persons purchasing from the subdivider, and further evidencing that the subdivider is able to secure releases from such blanket encumbrances with respect to the property.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/10-30)

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

Sec. 10-30. Failure to pay registration, ~~and~~ inspection, or renewal fees; civil penalty. Any owner, subdivider, or agent

who fails to pay the registration, inspection, or renewal fees when due shall be assessed a late fee or civil penalty ~~of \$100 per day for each day past the due date that the fee is not paid.~~ Practice by a registrant while in a non-renewed status constitutes unregistered practice. Any penalties collected under this Act shall be deposited into the Real Estate License Administration Fund.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-5)

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

Sec. 15-5. Disciplinary action; civil penalty.

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$25,000 for each violation, with regard to any registration for any one or combination of the following: ~~Office of Banks and Real Estate may refuse to issue or renew any certificate of registration, or revoke or suspend any certificate of registration, or place on probation or administrative supervision or reprimand a registrant registered under this Act, or impose a civil penalty not to exceed \$25,000, for any one or any combination of the following causes:~~

(1) Violations of this Act, or of the rules promulgated under this Act. ~~A registrant's disregard or violation of~~

~~any provision of this Act or of the rules adopted by the Office of Banks and Real Estate to enforce this Act.~~

(2) (Blank). ~~A conviction of the registrant or any principal of the registrant of (i) a felony under the laws of any U.S. jurisdiction, (ii) a misdemeanor under the laws of any U.S. jurisdiction if an essential element of the offense is dishonesty, or (iii) a crime under the laws of any U.S. jurisdiction if the crime relates directly to the practice of the profession regulated by this Act.~~

(3) A registrant's making any misrepresentation for the purpose of obtaining an exemption or certificate of registration ~~a registration or certificate.~~

(4) Disciplinary action against a registrant by another U.S. jurisdiction, state agency, or foreign nation regarding the making of land sales regulated by this Act, if at least one of the grounds for the discipline is the same as or substantially equivalent to one of those set forth in this Act.

(5) A finding by the Department ~~Office of Banks and Real Estate~~ that the registrant, after having his or her registration placed on probationary status, has violated the terms of probation.

(6) A registrant's practicing or attempting to practice under a name other than the name as shown on his or her registration or any other legally authorized name.

(7) (Blank). ~~A registrant's failure to file a return,~~

~~or to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the requirements of any such tax Act are satisfied.~~

(8) A registrant's engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(9) A registrant's aiding or abetting another person or persons in disregarding or violating any provision of this Act or of the rules adopted by the Department Office of Banks and Real Estate to enforce this Act.

(10) Any representation in any document or information filed with the Department Office of Banks and Real Estate which is false or misleading.

(11) A registrant's disseminating or causing to be disseminated any false or misleading promotional materials or advertisements in connection with a registered subdivision.

(12) A registrant's concealing, diverting, or disposing of any funds or assets of any person in a manner that impairs the rights of purchasers of lots within a registered subdivision.

(13) A registrant's failure to perform any stipulation or agreement made to induce the Department Office of Banks and Real Estate to issue an order relating to the

registered subdivision.

(14) A registrant's engaging in any act that constitutes a violation of Section 3-102, 3-103, 3-104, or 3-105 of the Illinois Human Rights Act.

(15) A registrant's failure to provide information requested in writing by the Department ~~Office of Banks and Real Estate~~, within 30 days of the request, ~~either as the result of a formal or informal complaint to the Office of Banks and Real Estate or as a result of a random audit conducted by the Office of Banks and Real Estate, which would indicate a violation of this Act.~~

(16) A registrant's failure to account for or remit any escrow funds coming into his or her possession which belonged to others.

(17) A registrant's failure to make available to Department ~~Office of Banks and Real Estate~~ personnel during normal business hours all escrow records and related documents maintained in connection therewith, within 24 hours of a request from Department ~~Office of Banks and Real Estate~~ personnel.

(18) A registrant's failure to comply with any provision of this Act or the rules implementing this Act, or any order made by the Department ~~Office of Banks and Real Estate~~.

(19) A person's offering for sale, as an agent, salesman, or broker for a subdivider, developer, or owner,

subdivided lands or a subdivision, wherever situated, without first complying with this Act.

(20) A registrant's failure to provide to the purchaser a translation of the Illinois Public Property Report or any contract, lien, or note as required by this Act.

(21) A registrant's advertising for sale in this State any parcel in a subdivision, or in any other manner assisting an owner, subdivider, or developer of a subdivision who has not complied with this Act to offer subdivided land within this State.

(22) A registrant's making any material change in the plan of disposition and development of the subdivision or subdivided lands subsequent to receiving a certificate of registration, without obtaining written approval of an amendment to the registration.

(23) A registrant's encumbering a lot or parcel, or allowing a lot or parcel to be encumbered, after a contract for its sale has been signed by the parties to the contract.

(b) (Blank). ~~A civil penalty imposed under subsection (a) shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.~~

(c) Violation of tax Acts. The Department may refuse to issue or renew or may suspend the registration 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.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-7 new)

Sec. 15-7. Civil penalties.

(a) In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$25,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act.

(b) The Department has the authority and power to investigate any and all unregistered activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) All moneys collected under this Section shall be deposited into the Real Estate License Administration Fund.

(765 ILCS 86/15-10)

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

Sec. 15-10. Investigation. The Department ~~Office of Banks and Real Estate~~ may investigate the actions or qualifications of any person or persons holding or claiming to hold a certificate of registration under this Act. Such a person is referred to as "the respondent" in this Article.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-15)

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

Sec. 15-15. Disciplinary hearings; record; appointment of administrative law judge.

(a) The Department ~~Office of Banks and Real Estate~~ has the authority to conduct hearings before an administrative law judge on proceedings to revoke, suspend, or refuse to issue or renew a certificate of registration issued under this Act, or to place on probation or administrative supervision or reprimand a registrant registered under this Act, or to impose a civil penalty not to exceed \$25,000 upon any registrant registered under this Act.

(b) The Department ~~Office of Banks and Real Estate~~, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue or the revocation or suspension of a certificate of registration

issued under this Act or involving other discipline of a registrant registered under this Act. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the administrative law judge, and the orders of the Department ~~Office of Banks and Real Estate~~ shall be the record of proceeding. At all hearings ~~or prehearing conferences,~~ the Department ~~Office of Banks and Real Estate~~ and the respondent shall be entitled to have a court reporter in attendance for purposes of transcribing the proceeding or prehearing conference.

(c) The Secretary ~~Commissioner~~ has the authority to appoint any attorney duly licensed to practice law in the State of Illinois to serve as an administrative law judge in any action for refusal to issue or renew a certificate of registration or to discipline a registrant or person holding a certificate of registration. The administrative law judge has full authority to conduct the hearing. The administrative law judge shall report his or her findings and recommendations to the Secretary ~~Commissioner~~. If the Secretary ~~Commissioner~~ disagrees with the recommendation of the administrative law judge, the Secretary ~~Commissioner~~ may issue an order in contravention of the recommendation.

(Source: P.A. 91-338, eff. 12-30-99.)

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

Sec. 15-20. Investigations; notice and hearing. ~~Notice of proposed disciplinary action; hearing.~~ The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render land sales services or any person holding or claiming to hold a certificate of registration as a registered land sales developer or subdivision. The Department shall, before revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary action under Section 80 of this Act, at least 30 days before the date set for the hearing: (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her registration may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the registration, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In

case the person, after receiving the notice, fails to file an answer, his or her registration may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

~~(a) Before taking any disciplinary action with regard to any registrant, the Office of Banks and Real Estate shall:~~

~~(1) notify the respondent in writing, at least 30 calendar days prior to the date set for the hearing, of any charges made, the time and place for the hearing of the charges, and that testimony at the hearing will be heard under oath; and~~

~~(2) inform the respondent that upon failure to file an answer and request a hearing before the date originally set for the hearing, default will be taken against the respondent and the respondent's certificate of registration may be suspended or revoked, or other disciplinary action may be taken against the respondent, as the Office of Banks and Real Estate may deem proper.~~

~~(b) If the respondent fails to file an answer after~~

~~receiving notice, the respondent's certificate of registration may, in the discretion of the Office of Banks and Real Estate, be revoked or suspended, or other disciplinary action may be taken against the respondent, as deemed proper, without a hearing, if the act or acts charged constitute sufficient grounds for that action under this Act.~~

~~(c) At the time and place fixed in the notice, the Office of Banks and Real Estate shall proceed to hearing of the charges. Both the respondent and the complainant shall be accorded ample opportunity to present in person, or by counsel, statements, testimony, evidence, and argument that may be pertinent to the charges or any defense to the charges.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-25)

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

Sec. 15-25. Subpoenas; attendance of witnesses; oaths.

(a) The Department ~~Office of Banks and Real Estate~~ has the power to issue subpoenas ad testificandum and to bring before it any persons, and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State. The Department ~~Office of Banks and Real Estate~~ has the power to issue subpoenas duces tecum and to bring before it any documents, papers, files, books, and records, with the same costs and in the same manner as prescribed in civil cases in

the courts of this State.

(b) Upon application of the Department ~~Office of Banks and Real Estate~~ or its designee or of the applicant, registrant, or person holding a certificate of registration against whom proceedings under this Act are pending, any circuit court may enter an order compelling the enforcement of any subpoena issued by the Department ~~Office of Banks and Real Estate~~ in connection with any hearing or investigation.

(c) The Secretary ~~Commissioner~~ and the designated administrative law judge have power to administer oaths to witnesses at any hearing that the Department ~~Office of Banks and Real Estate~~ is authorized to conduct under this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-30)

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

Sec. 15-30. Administrative law judge's findings of fact, conclusions of law, and recommendations. At the conclusion of the hearing, the administrative law judge shall present to the Secretary ~~Commissioner~~ a written report of the administrative law judge's findings of fact, conclusions of law, and recommendations regarding discipline or a civil penalty. The report shall contain a finding of whether or not the respondent violated this Act or failed to comply with the conditions required in this Act. The administrative law judge shall specify the nature of the violation or failure to comply. If

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

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-35)

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

Sec. 15-35. Rehearing. After any hearing involving disciplinary action against a registrant, a copy of the administrative law judge's report shall be served on the respondent by the Department ~~Office of Banks and Real Estate~~, either personally or as provided in this Act for the service of the notice of hearing. Within 20 calendar days after the service, the respondent may present to the Department ~~Office of Banks and Real Estate~~ a motion in writing for a rehearing. The motion shall specify the particular grounds for rehearing. If the respondent orders a transcript of the record from the reporting service and pays for it within the time for filing a motion for rehearing, the 20 calendar day period within which a motion for rehearing may be filed shall commence upon the delivery of the transcript to the respondent.

If no motion for rehearing is filed, then upon the

expiration of the time specified for filing a motion, or if a motion for rehearing is denied, then upon denial, the Secretary ~~Commissioner~~ may enter an order in accordance with the recommendations of the administrative law judge, except as otherwise provided in this Article. Whenever the Secretary ~~Commissioner~~ is not satisfied that substantial justice has been done in the hearing or in the administrative law judge's report, the Secretary ~~Commissioner~~ may order a rehearing by the same or some other duly qualified administrative law judge.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-40)

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

Sec. 15-40. Disciplinary consent orders. Notwithstanding any other provisions of this Act concerning the conduct of hearings and recommendations for disciplinary actions, the Department ~~Office of Banks and Real Estate~~ has the authority to negotiate agreements with registrants and applicants resulting in disciplinary or non-disciplinary consent orders. Any such consent order may provide for any form of discipline provided for in the Act. Any such consent order shall provide that it is not entered into as a result of any coercion by the Department ~~Office of Banks and Real Estate~~. The consent order shall be final upon signature of the Secretary ~~Any such consent order shall be accepted by signature or rejected by the Commissioner in a timely manner.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-45)

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

Sec. 15-45. Order or certified copy. An order or a certified copy of an order, over the seal of the Department Office of Banks and Real Estate and purporting to be signed by the Secretary Commissioner, shall be prima facie proof of the following:

(1) That the signature is the genuine signature of the Secretary Commissioner.

(2) That the Secretary Commissioner is duly appointed and qualified.

(3) That the administrative law judge is duly appointed and qualified.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-50)

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

Sec. 15-50. Restoration of certificate of registration. Upon petition, after the successful completion of the term of ~~At any time after~~ the suspension or revocation of any certificate of registration, the Department Office of Banks and Real Estate may restore the certificate of registration to the respondent upon the written recommendation of the administrative law judge, unless after an investigation and a

hearing the administrative law judge determines that restoration is not in the public interest.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-55)

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

Sec. 15-55. Surrender of certificate of registration. Upon the revocation or suspension of a certificate of registration, the registrant shall immediately surrender the certificate of registration to the Department ~~Office of Banks and Real Estate~~. If the registrant fails to do so, the Department ~~Office of Banks and Real Estate~~ has the right to seize the certificate of registration.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-60)

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

Sec. 15-60. Administrative Review Law; transcripts; certifications of record; costs. All final administrative decisions of the Department ~~Office of Banks and Real Estate~~ under this Act are subject to judicial review under the Administrative Review Law and the rules implementing that Law. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure. Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party

is not a resident of this State, the venue shall be in Cook or Sangamon County.

Pending the court's final decision on administrative review, the acts, orders, sanctions, and rulings of the Department Office of Banks and Real Estate regarding any registration shall remain in full force and effect unless modified or suspended by court order pending a final judicial decision.

The Department, at its own expense, shall preserve a record of all proceedings at the formal hearing of a case involving the refusal to issue or renew a registration. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report, and orders of the Department shall be in the record of the proceeding.

The Department shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review proceeding unless there is filed in the court a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which shall be computed at the rate of 20 cents per page of the record. Failure on the part of a plaintiff to file a receipt in court shall be grounds for dismissal of the action.

~~The Office of Banks and Real Estate shall not be required to certify any record to the court or file any answer in court or otherwise appear in any court in a judicial review~~

~~proceeding unless there is filed in the court, with the complaint, a receipt from the Office of Banks and Real Estate acknowledging payment of the costs of furnishing and certifying the record. Failure on the part of the plaintiff to file a receipt in the court is grounds for dismissal of the action.~~

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-65)

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

Sec. 15-65. Public interest, safety, or welfare; summary suspension. The Secretary ~~Commissioner~~ may temporarily suspend any registration pursuant to this Act, without hearing, simultaneously with the institution of proceedings for a hearing provided for in this Section, if the Secretary ~~Commissioner~~ finds that the evidence indicates that imminent danger exists to the public interest, safety, or welfare ~~imperatively requires emergency action~~. If the Secretary ~~Commissioner~~ temporarily suspends any registration without a hearing, a hearing must be held within 30 calendar days after the suspension. The person whose registration is suspended may seek a continuance of the hearing, during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-70)

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

Sec. 15-70. Non-registered practice; civil penalty; injunction.

(a) Any person who practices, offers to practice, attempts to practice, or holds himself or herself out to practice as a registrant under this Act without being registered under this Act shall, in addition to any other penalty provided by law, pay a civil penalty to the Department ~~Office of Banks and Real Estate~~ in an amount not to exceed \$25,000 for each offense as determined by the Department ~~Office of Banks and Real Estate~~. The civil penalty shall be assessed by the Department ~~Office of Banks and Real estate~~ after a hearing is held in accordance with the provisions set forth in this Act regarding the provision of a hearing for the discipline of a registration.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days after the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued ~~The Office of Banks and Real Estate has the authority and power to investigate any and all activity subject to registration under this Act.~~

(c) A civil penalty imposed under subsection (a) shall be

paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) Engaging in the sale of land located outside the State of Illinois but offered for sale in Illinois by any entity not holding a valid and current registration under this Act is declared to be inimical to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The ~~Secretary Commissioner~~, the Attorney General, the State's Attorney of any county in the State, or any person may maintain an action in the name of the People of the State of Illinois, and may apply for injunctive relief in any circuit court to enjoin the entity from engaging in the conduct prohibited under this subsection. Upon the filing of a verified petition in the court, the court, if satisfied by affidavit or otherwise that the entity has been engaged in that conduct without a valid and current registration, may enter a temporary restraining order without notice or bond, enjoining the defendant from such further conduct. Only the showing of nonregistration, by affidavit or otherwise, is necessary in order for a temporary injunction to issue. A copy of the verified complaint shall be served upon the defendant and the proceedings shall thereafter be conducted as in other civil cases except as modified by this Section. If it is established that the defendant has been or is engaged in such unlawful

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

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/15-75)

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

Sec. 15-75. Cease and desist orders. The Department Office ~~of Banks and Real Estate~~ may issue a cease and desist order to any person who engages in any activity prohibited by this Act. Any person in violation of a cease and desist order entered by the Department Office ~~of Banks and Real Estate~~ is subject to all of the remedies provided by law.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-5)

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

Sec. 20-5. Administration of Act. The Department ~~Office of Banks and Real Estate~~ shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois and shall exercise other powers and duties necessary for effectuating the purposes of this Act. The Department ~~Office of Banks and Real Estate~~ may contract with third parties for services necessary for the proper administration of this Act. The Department ~~Office of Banks and Real Estate~~ has the authority to establish public policies and procedures necessary for the administration of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-10)

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

Sec. 20-10. Administrative rules. The Department ~~Office of Banks and Real Estate~~ shall adopt rules for the implementation and enforcement of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-15)

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

Sec. 20-15. Investigation of subdivisions. The Department ~~may Office of Banks and Real Estate shall~~ investigate any ~~every~~ subdivision offered for sale in this State and may:

- (1) Require the applicant to submit reports prepared by competent engineers concerning any hazard to which any

subdivision offered for sale is subject in the opinion of the Department ~~Office of Banks and Real Estate~~, or any factor that affects the utility of lots or parcels within the subdivision, and require evidence of compliance.

(2) Make an on-site inspection of each subdivision. In connection with any on-site inspection, the owner, subdivider, or agent shall defray all expenses incurred by the inspector in the course of the inspection.

(3) Make additional on-site inspections of each subdivision for which the owner, subdivider, or agent shall defray all expenses incurred by the inspector in the course of the inspection.

(4) Require the owner, subdivider, or agent to deposit the expenses to be incurred in any inspection, in advance, based upon an estimate by the Department ~~Office of Banks and Real Estate~~ of the expenses likely to be incurred.

(5) In those cases where an on-site inspection of any subdivision has been made under the provisions of this Act, waive an inspection of a subsequent registration submitted as an amendment to the registration covering subdivided land to be sold under the same common promotional plan. An inspection of the subsequent registration may be made in connection with the next succeeding on-site inspection.

(Source: P.A. 91-338, eff. 12-30-99.)

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

Sec. 20-20. Forms. The Department ~~Office of Banks and Real Estate~~ may prescribe forms and procedures for submitting to the Department ~~Office of Banks and Real Estate~~.

(Source: P.A. 91-338, eff. 12-30-99.)

(765 ILCS 86/20-25)

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

Sec. 20-25. Real Estate License Administration Fund. All fees collected for registration and for civil penalties pursuant to this Act and administrative rules adopted under this Act shall be deposited into the Real Estate Administration Fund. The moneys deposited in the Real Estate Administration License Fund shall be appropriated to the Department ~~Office of Banks and Real Estate~~ for expenses for the administration and enforcement of this Act.

(Source: P.A. 91-338, eff. 12-30-99.)

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