

**Your House Real Estate Academy**  
**Illinois Supplement for Modern Real Estate Practice in Illinois 9<sup>th</sup> Edition Update**

**Unit 14**

**Illinois Real Estate License Law**

**Learning Objectives**

When you complete this Unit, you will be able to

- explain the purpose of the Real Estate License Act of 2000;
- identify the various categories of licensure;
- distinguish the processes involved in sponsoring and terminating a license;
- explain the statutory duties of the agency relationship; and
- describe the actions that result in discipline against a licensee.

**Why Learn About Illinois Real Estate License Laws?**

As a real estate licensee, you are obligated to perform within a set of standards. The laws that set these standards are in place to protect the wellbeing of the population you serve. Learning about the real estate license laws that regulate professional behavior in Illinois will help you better serve the public and keep you free from the repercussions of violating these laws.

On August 9, 2019, Governor JB Pritzker signed Public Act 101-0357 into law, updating the Illinois Real Estate License Act of 2000 and extending it to January 1, 2030.

The Rules for Administration of the Act are in the process of being developed and updating course material is a work in progress. It is important for you to be familiar with the updated law.

A copy of the updated Act may be found at

<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1364&ChapterID=24>

The Division of Real Estate created a summary of changes which may be found at

<https://idfpr.com/Forms/DRE/IDFPR%20Updated%20Real%20Estate%20License%20Act.pdf>

**Administration of the Real Estate License Act of 2000**

The Illinois Department of Financial and Professional Regulation (IDFPR) is the governmental agency that regulates the real estate industry.

The Mission of the Division of Real Estate is to serve, safeguard, and promote the public welfare by ensuring that qualifications and standards for licensed real estate related professions are properly evaluated, uniformly applied, and enforced.

The Division of Real Estate regulates the following five professions:

- Auction
- Community Association Management
- Home Inspection
- Real Estate Appraisal
- Real Estate Brokerage

The IDFPR, through the Division of Real Estate, has the primary authority to administer the Illinois Real Estate License Act and is empowered to issue Rules and Regulations that interpret the Act.

The IDFPR is responsible for administrative activities such as:

- Conducting license examinations
- Issuing and renewing licenses
- Preparing all necessary forms
- Collecting fees from applicants and licensees

### **Real Estate Administration and Disciplinary Board**

The Real Estate Administration and Disciplinary Board is composed of 15 members appointed by the Governor. The Secretary of IDFPR considers the recommendations of the Board on questions involving standards of professional conduct, discipline, and education.

- All members shall have been residents and citizens of the State for at least 6 years prior to appointment
- Twelve members shall have been actively engaged as managing brokers or brokers or both for at least the 10 years prior to the appointment, 2 of whom must possess an active pre-license instructor license.
- Three members of the Board shall be public members who represent consumer interests.
- The members' terms shall be for 4 years and expire upon completion of the term. No member shall be reappointed to the Board for a term that would cause his or her cumulative service to the Board to exceed 10 years.

### **The Real Estate Coordinator**

A licensed real estate broker is appointed to the position of Real Estate Coordinator by Secretary of IDFPR. The Coordinators license is transferred to an inactive status during the term of the appointment.

Duties and Responsibilities:

- Acts as ex-officio chairperson of the Real Estate Administration and Disciplinary Board (without a vote)

- Direct liaison among IDFPR, the real estate profession, and real estate organizations and associations
- Prepares and circulates educational material for licensees
- Appoints any committees necessary to assist IDFPR
- Subject to administrative approval of the Secretary, supervises all real estate activity

## **Obtaining and Maintaining a Real Estate License**

### **Who needs to be licensed?**

Any person (or business entity) that performs any of the following services (a) for someone else and (b) for compensation must have a license:

- Sells, exchanges, purchases, rents, or leases real estate, or offers to do so
- Negotiates, offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate
- Lists, offers, attempts or agrees to list real estate for sale, lease, or exchange
- Buys, sells, offers to buy or sell, or deals in options on real estate or improvements
- Whether for another or themselves engage in a pattern of business of buying, selling, offering to buy or sell, marketing for sale, exchanging, or otherwise dealing in contracts, including assignable contracts for the purchase or sale of, or options on real estate or improvements thereon. For purposes of this definition, an individual or entity will be found to have engaged in a pattern of business if the individual or entity by itself or with any combination of other individuals or entities, whether as partners or common owners in another entity, has engaged in one or more of these practices on 2 or more occasions in any 12-month period
- Supervises the collection of, offers, attempts or agrees to collect rent for the use of real estate
- Advertises or represents himself or herself as being engaged in the business of buying, selling, exchanging, renting, or leasing real estate
- Assists in or directs the procuring of prospects intended to result in the sale, exchange, lease, or rental of real estate
- Assists in or directs the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate
- Opens real estate to the public for marketing purposes
- Sells, leases, or offers for sale or lease, real estate at auction
- Prepares or provides a broker price opinion or comparative market analysis as those terms are defined in this Act, pursuant to the provisions of Section 10-45 of the Act.

## **Exempt Persons**

- Owners or lessors (whether individuals or business entities) or their regular employees who sell, lease, or otherwise deal with their own property in the ways described under Section 1-10 in the course of the management, the sale, or another disposition of their or their employer's property
- Attorneys-in-fact acting under duly executed and recorded powers of attorney to convey real estate from the owner or lessor or performing their duties as attorneys-in-fact
- The services rendered by an attorney at law in the performance of his or her duties as an attorney at law
- Any person acting as receiver, trustee in bankruptcy, administrator, executor or guardian or while acting under a court order or under the authority of a will or a testamentary trust
- A resident apartment manager working for an owner or working for a broker employed to lease the property, if the apartment is his or her primary residence
- Any officer or employee of a federal agency, state government or other political subdivision performing official duties
- Any multiple listing service or other information exchange of real estate information
- Railroads and other public utilities regulated by the state or their subsidiaries or affiliates and the employees of such organizations
- Any medium of advertising that routinely sells real estate advertising but provides no other related services
- Any resident lessee of a residential dwelling unit who refers no more than three prospective tenants in any 12-month period, and who receives no more than \$5,000- or 2-month's rent (whichever is less) in compensation (or finder's fees)
- The purchase, sale, or transfer of a timeshare or similar vacation item or interest, vacation club membership, or other activity formerly regulated under the Real Estate Timeshare Act of 1992.
- Any person who is licensed without examination under Section 10-25 of the Auction License Act for the limited purpose of selling or leasing real estate at auction
- A hotel operator who is registered with the Illinois Department of Revenue and pays taxes under the Hotel Operator's Occupation Tax Act and rents rooms for a period of not more than 30 consecutive days and not more than 60 days in a calendar year

## **Civil Penalty for the Unlicensed Practice of Real Estate**

Any unlicensed person who practices, offers, or attempts to practice real estate activities for which a license is required is subject to a civil penalty up to \$25,000 per occurrence (in addition to any other penalties provided by law). The penalty is assessed by and payable to IDFPR after a disciplinary hearing. IDFPR has the authority to

investigate any alleged unlicensed activity. The fine must be paid within 60 days of the order and constitute a valid judgment against property.

## **License Categories and Requirements**

General Requirements—All individual license applicants must pass a written examination authorized by IDFPR and respond to questions related to moral character.

### **Broker's License**

- At least 18 years of age
- Good moral character
- High school diploma or its equivalent
- Successful completion of 75 hours of approved real estate course work
- Pass a written exam
- 45-hour post license education is required for the first renewal period

If an applicant for a broker's license is currently a licensed attorney, he or she is exempt from the education requirements. The attorney still must take and pass the state exam.

### **Managing Broker License**

- At least 20 years of age
- Good moral character
- High school diploma or its equivalent
- 65 hours of real estate course work including the 120 hours to obtain the broker license
- Must have been licensed as a real estate broker at least two out of the preceding three years
- Pass a written examination

Two-Year Validity Rule—The real estate educational requirements for brokers are valid for a period of two years from the date of completion.

## **Corporations, Limited Liability Companies and Partnerships**

A corporation, limited liability company (LLC), or partnership may receive a broker's license if specific licensing conditions are met.

### **Residential Leasing Agent's License**

The license act provides for a limited leasing agent license for persons who wish to engage only in activities related to the leasing of residential real property for which a license is required. They must be 18 years of age, be of good moral character, have a high school diploma, take a 15-hour class, and pass the state exam.

## **The Licensing Examination**

Anyone applying for a residential leasing agent, broker, or managing broker license must receive a passing score on a written exam administered by an independent testing agency. The questions are designed to demonstrate the trustworthiness of the applicant and the applicant's competency and safeguard the interests of the public.

## **The Real Estate License**

All licenses should be readily available to the public at the licensee's place of business.

- The sponsoring broker shall notify the Department, in a manner prescribed by the Department, of each licensee employed by or associated with the sponsoring broker within 24 hours after establishing a sponsorship.
- Changing or Leaving Firms—When a licensee terminates his or her employment or association with a sponsoring broker or the employment is terminated by the sponsoring broker, the person or entity initiating the termination shall notify the Department, in a manner prescribed by the Department, of the termination within 24 hours.
- Inactive License—The license of any licensee whose association with a sponsoring broker is terminated shall automatically become inactive immediately upon the termination, and the licensee shall not be authorized to practice until a new valid sponsorship is registered with the Department.

Nonresidents and License by Reciprocity—A broker licensed in a state that has a reciprocal licensing agreement with Illinois may be issued an Illinois license without examination under certain conditions, but they must successfully take the Illinois portion of the state exam.

Illinois has reciprocity with Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Nebraska and Wisconsin.

## **Expiration and Renewal of Current Licenses**

- Broker's licenses expire on April 30 of every even-numbered year.
- Managing Broker licenses on April 30 of every odd-numbered year.
- Residential Leasing Agents' licenses expire July 31 of every even-numbered year.

Change of Address and Renewal Notification—It is the licensee's responsibility to notify IDFPR of any change in mailing address.

## **Renewal of Expired Licenses**

- Managing broker, Broker and Residential leasing agents may renew the license within 90 days preceding the expiration date by completing the continuing education required by the Act and paying renewal fee.
- Managing broker, Broker and Residential leasing agents whose license has expired shall be eligible to renew the license during the 2-year period following the renewal date by paying the fees required by the Act and completing the continuing education requirements
- Managing broker, Broker and Residential leasing agents whose license has been expired more than 2 years and less than 5 years may have the license restored by applying to the Department, paying the required fee, completing the continuing education requirements for the most current period that ended prior to the date of application for reinstatement and filing acceptable proof of fitness to have the license restored, as set by rule.

A license that has lapsed for over 5 years cannot be renewed or reinstated. The licensee must repeat the entire licensing process.

**Renewal Without Fee**—Licensees may renew without paying any lapsed renewal or reinstatement fees if the license expired while the licensee was on active military duty, engaged in training or education prior to induction into military service, serving as Director of Real Estate in Illinois, or employed by IDFPR.

## **Continuing Education**

Each broker who applies for renewal of a license must successfully complete 12 hours of real estate continuing education recommended by the Board and approved by Department. In addition, managing brokers must successfully complete a 12-hour broker management class recommended by the Board and approved by the Department.

### **Course Content**

- Core curriculum of 4 hours to include: advertising, agency, disclosure, escrow, fair housing and license law.
- 8 hours of elective courses must be taken, including courses such as appraisal; property management; residential brokerage; rights and duties of sellers, buyers, and brokers; commercial brokerage; and leasing or financing.
- Courses must be offered in 2-hour, and no more than 12 hours and can be earned in a single day.

## **Exemptions and Waivers**

- A person receiving an initial license during the 90 days before the renewal date shall not be required to complete the continuing education requirements as a condition of initial license renewal.

- Licensees who served in the armed services of the United States or as an elected state or federal official are exempt for their service period.
- Full-time employees of IDFPR and licensees who are also licensed attorneys in Illinois are exempt.

## **Your Real Estate Business and the Act**

### **Place of Business**

- Each real estate broker actively engaged in the real estate business must maintain a definite office or place of business within Illinois.
- Brokers must display a visible, conspicuous identification sign on the outside of their office.
- A broker's office or place of business may not be located in any retail or financial business establishment, unless it is set apart from the surrounding business as a separate and distinct area.
- Exceptions—A non-Illinois broker licensed by reciprocity or examination may be exempt from the definite-place-of-business requirement.

### **Branch Offices**

Only a designated managing broker may supervise or have control of a real estate office or branch office. However, a designated managing broker may manage multiple offices.

### **Employment Contracts**

Sponsoring Brokers must have written agreements with any licensed broker or licensed residential leasing agent they employ, identifying the licensee as an employee or an independent contractor.

### **Agency Relationships**

- Article 15, agency relationships, deals with the licensee's relationship with the public.
- Designated Agency allows the broker to appoint or designate one agent for the buyer and one agent for the seller, even in the same firm, without legally being construed as a dual agent.
- Agency requires a variety of disclosures including material facts related to the property, agency relationships, and compensation sources.
- Disclosure—A licensee must disclose to the client "material facts concerning the transaction of which the licensee has actual knowledge, unless that information is confidential information."



## **Escrow Account Regulations**

- Escrow accounts must be in a federally insured depository.
- Deposits of earnest money must be deposited within one business day of receipt or according to the terms of the contract.
- Escrow accounts are to be non-interest bearing unless the clients give written direction to place monies in an interest-bearing account.
- Escrow monies should not be withdrawn from the account if a dispute arises as to who should receive the monies.
- Licensees must respond within 24 hours upon receipt of a request to examine or audit an escrow account.
- Each sponsoring broker who accepts earnest money shall maintain, in the office or place of business, a bookkeeping system consisting of the following records: journal; ledger; monthly reconciliations; and master escrow account log.

## **Advertising Regulations**

- Brokers must include their business name and franchise affiliation (if any) in all advertisements. Blind ads are prohibited. Individual and Team names may not be more than 50% larger than the sponsoring brokers name.
- Advertising may not be fraudulent, deceptive, inherently misleading, or proven to be misleading in practice.
- Advertising must contain all the information necessary to communicate to the public in an accurate, direct, and readily comprehensible manner.
- All advertising must be in the name of a sponsored licensee's employing broker and prepared under the employing broker's direct supervision.
- Licensees may not advertise their services to the public through any media without listing the business name of the broker with whom he or she is affiliated.
- Team names may not contain inherently misleading terms such as "company", "realty", "real estate", "agency", "associates", "brokers", "properties", or "property". such as "company", "realty", "real estate", "agency", "associates", "brokers", "properties", or "property".
- Licensees cannot place an advertising sign on any property without the written consent of the owner or the owner's authorized agent.

## **Compensation**

- It is unlawful for a licensed broker to accept a commission or any other valuable consideration from anyone except the sponsoring broker.
- Licensees must disclose any ownership interest above one percent in any third-party provider of services related to the transaction.
- A sponsored licensee may create a non-licensed corporation or LLC whose sole purpose is to receive compensation from a sponsoring broker.

## **Disciplinary Provisions**

IDFPR may impose the following disciplinary penalties for violations of the license law:

- Refuse to issue or renew any license
- Suspend or revoke any license
- Censure or reprimand a licensee
- Place a licensee on probation
- Impose a civil penalty of not more than \$25,000

## **Causes for Discipline**

Licensees may be subject to disciplinary action if they:

- make a false or fraudulent representation in attempting to obtain a license
- have been convicted of a felony or of a crime involving dishonesty, fraud, larceny, embezzlement, obtaining money, property or credit by false pretenses or by means of a confidence game
- have been convicted of a crime that constitutes a felony under Illinois law
- have been convicted of a felony in a federal court
- have been found by a court to be a person under legal disability or subject to voluntary or judicial admission
- perform or attempt to perform any act as a broker in a retail sales establishment in a space not separated from the main retail business;
- have been subjected to disciplinary action by another state, if at least one of the grounds for that discipline is the same as or equivalent to a cause for discipline in Illinois;
- have engaged in real estate activity without a valid license (an additional civil penalty of up to \$25,000 may be imposed for this violation)
- attempt to subvert or cheat on the licensing exam or assist someone else in doing so.
- make any substantial misrepresentation or untruthful advertising
- make any false promises likely to influence, persuade, or induce
- pursue a continued and flagrant course of misrepresentation or false promises
- use any misleading or untruthful advertising
- use any trade name or insignia of membership in any real estate organization of which the licensee is not a member
- act as an undisclosed dual agent
- fail to account for or to remit any monies or documents belonging to others that come into the licensee's possession;
- fail to maintain and deposit in a special non-interest bearing account, separate and apart from a personal or other business accounts, all escrow monies belonging to others entrusted to the licensee

- fail to make all escrow records and related real estate business documents available to IDFPR's real estate enforcement personnel
- fail to furnish on request copies of all documents relating to a real estate transaction to all parties executing them
- fail by a sponsoring broker to submit termination documentation in a timely manner
- pay a commission or valuable consideration to any person for acts or services performed in violation of the license act
- demonstrate unworthiness or incompetency
- commingle the money or property of others with their own;
- employ any person on a purely temporary or single-deal basis as a means of evading the law regarding payment of commission to non-licensees
- permit the use of their license as a broker to enable or an unlicensed person to operate a real estate business
- engage in any conduct, whether or not specified in the license act, that constitutes dishonest dealing
- display a sign on any property without the written consent of an owner or advertising that a property is for sale or for rent without the owner's consent
- fail to provide information requested by IDFPR within 30 days of the request
- disregard or violating any provision of the license law, rules, or regulations
- assist any individual or business entity in disregarding the license act
- advertise any property for sale, or advertising any transaction of any kind relating to the sale of property, without clearly disclosing the name of the firm with which the licensee is associated or evidence of the broker's occupation
- influence or attempt to influence a prospective seller, purchaser, occupant, landlord, or tenant so as to promote the continuance or maintenance of racially and religiously segregated housing or to retard, obstruct, or discourage racially integrated housing
- engage in any act that constitutes a violation of the Illinois Human Rights Act's prohibitions against unlawful discrimination in housing
- induce any party to a contract of sale or listing agreement to break the contract for the purpose of substituting a new contract or listing agreement with a third party
- negotiate a sale, exchange, or a lease of real property directly with an owner or lessor without authority from the listing broker if the licensee knows that the owner or lessor has a written exclusive listing agreement with another broker
- act as both the lawyer and the broker for either the buyer or the seller in the same transaction where the licensee is an attorney
- advertise or offer free merchandise, awards, prizes, or services if any necessary conditions or obligations are not disclosed in the same advertisement or offer
- recruit at testing facilities where the licensing examination is being conducted
- fail to make timely child support payments or to repay Illinois student loans

- violate the terms of a disciplinary order issued by IDFPR
- pay fees or commissions directly to a licensee employed by another broker.
- Fail to pay debts to Illinois—IDFPR may take disciplinary action against any person who fails to pay Illinois taxes, support or Illinois guaranteed loans
- have been found guilty of discrimination—If there has been a civil or criminal trial in which a licensee has been found to engage in illegal discrimination in the course of a licensed activity, IDFPR must suspend or revoke the licensee's license, unless the adjudication is in appeal.
- offer a guaranteed sales plan without complying with the license act's strict requirements.

Sponsoring and designated managing brokers will not have their license revoked because of an unlawful act or violation of any broker or other person employed by or associated with the broker, unless the broker had knowledge of the unlawful act or violation.

### **Citations.**

The Department may issue a citation to any licensee for failure to comply with the continuing education requirements set forth in this Act or as adopted by rule. The citation shall be issued to the licensee, and a copy shall be sent to his or her designated managing broker and sponsoring broker. The citation shall contain the licensee's name and address, the licensee's license number, the number of required hours of continuing education that have not been successfully completed by the licensee within the renewal period, and the penalty imposed, which shall not exceed \$2,000. The issuance of any such citation shall not excuse the licensee from completing all continuing education required for that renewal period.

### **Procedure for Disciplinary Hearings**

The Real Estate Administration and Disciplinary Board of IDFPR will initiate an investigation of anyone regulated by the License Act of 2000 based on

- its own initiative
- the motion of IDFPR
- written, verified complaint

Disciplinary Consent Orders—IDFPR may bypass the hearing process and negotiate a disciplinary consent order directly with the accused.

Judicial Review—All final administrative decisions of IDFPR are subject to judicial review under the provisions of the Administrative Review Law.

Criminal Prosecution and Penalties—The license act permits criminal prosecution of individuals and business entities.

Injunctions—IDFPR has the authority to originate an injunction to prevent or stop a violation or to prevent an unlicensed person from acting as a broker.

Disciplinary Statute of Limitations—IDFPR may not take disciplinary action against any licensee unless the action is commenced within five years after the alleged violation occurred.

### **The Real Estate Recovery Fund**

This fund provides a means of compensation for actual monetary losses suffered by any person as a result of a violation of the license act, rules or regulations or other act by a licensee, or a licensee's unlicensed employee who was, at the time of the act or omission, apparently acting in a professional capacity.

### **Recovery Amounts**

- Up to \$10,000 in actual damages together with court costs, costs of suit and attorneys' fees, not to exceed 15 percent of the amount recovered from the fund
- Maximum total amount that will be paid for any single act: \$10,000, divided equitably among all co-owners and aggrieved persons
- Maximum liability against the fund arising from the acts of any single licensee or unlicensed employee: \$50,000

### **Collection from the Recovery Fund**

- IDFPR must be notified in writing by the aggrieved person at the time an action that may result in payment from the fund is commenced
- Failure to notify IDFPR precludes any recovery from the fund
- To recover from the fund, all proceedings, reviews, and appeals must be completed, and the claimant must show an attempt to recover the judgment amount and was either unable to do so or the amount recovered was insufficient to satisfy the judgment
- When a judgment amount is paid from the Recovery Fund, IDFPR is subrogated to all the rights of the aggrieved person
- Any amount and interest subsequently recovered by IDFPR on the judgment is deposited back in the Recovery Fund
- Disciplinary Action Against the Licensee—When payment is made from the Recovery Fund, the license of the offending broker is automatically terminated and may not be reinstated until he or she has made repayment in full plus interest at the statutory annual rate
- Statute of Limitations—A suit that may result in collection from the fund must be commenced within two years after the date the alleged violation occurred.