**Unit 14 Outline**

**Illinois Real Estate License Law**

**The Real Estate License Act of 2000**

**NOTE: Chapter 14 is the mostly heavy tested chapter on the Illinois Portion of the Illinois Broker Real Estate Examination. This outline is not intended to take the place of a thorough reading of the chapter in your Textbook, Modern Real Estate Practice in Illinois 10 Ed.**

**Lecture Outline**

I. Administration of the Real Estate License Act of 2000

A. Secretary of The Illinois Department of Financial and Professional Regulation **(IDFPR)**

1. IDFPR is a governmental agency that regulates the real estate industry through the **Division of Real Estate**.

B. **Division of Real Estate**

C. Real Estate Coordinator

1. License **is surrendered to IDFPR during director’s term**

2. Acts as **ex‑officio chairperson of the Real Estate Administration and Disciplinary Board** (without a vote)

3. Direct liaison among IDFPR, the real estate profession, and real estate organizations and associations

 4. Prepares and circulates educational material for licensees

 5. Appoints any committees necessary to assist IDFPR

 6. Supervises real estate activities

D. **Real Estate Administration and Disciplinary Board**—Acts in an advisory capacity to the Real Estate Coordinator regarding matters involving standards of professional conduct, discipline, and examination.

1. Composition of the board

a. Fifteen members appointed to four-year terms by the governor

b. All must be residents and citizens of Illinois for at least six years

c. Twelve must **have been active brokers or salespeople** for at least ten years

d. Three must be **unlicensed and unconnected with the real estate profession,** so that they may represent the public

E. **Real Estate Research and Education Fund**

 Created to advance education in the field of real estate

 F. **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

 G. **Real Estate License Administration** Fund

 License Fees go this fund to operate daily activities of the Real Estate Division

1. **Real Estate Audit Funds**

 Funds the auditing of Escrow an Special accounts of brokerage firms

II. Obtaining and Keeping a Real Estate License

A. Who **needs** to be licensed?

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

a. **Sells, exchanges, purchases, rents, or leases real estate, or offers to do so**

b. **Negotiates,** offers, attempts, or agrees to negotiate the sale, exchange, purchase, rental, or leasing of real estate

c. **Lists,** offers, attempts or agrees to list real estate for sale, lease, or exchange

d. **Buys, sells,** offers to buy or sell, or deals in options on real estate or improvements

e. **Supervises** the collection of, offers, attempts or agrees to collect rent for the use of real estate

f. **Advertises or represents himself or herself as being engaged in the business** of buying, selling, exchanging, renting, or leasing real estate

g. Assists in or directs **the procuring of prospects** intended to result in the sale, exchange, lease, or rental of real estate

h. Assists in or directs the negotiation of any transaction intended to result in the sale, exchange, lease, or rental of real estate

 i. Opens real estate to the public for marketing purposes

j. Sells, leases, or offers for sale or lease, **real estate at auction**

k. Activities include those commonly referred to as “wholesaling.” This pattern of business is defined as 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. An individual or entity will need a broker’s license if engaged in this pattern of business at least **twice in a 12-month period.**

B. License Requirement **Exemptions** (225 ILCS 454/5-20)

1. **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

2. **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

3. The services rendered by **an attorney at law** in the performance of his or her duties as an attorney at law

4. 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

5. **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**

6. Any officer or employee of a federal agency, state government or other political subdivision performing official duties

7. Any multiple listing service or other information exchange of real estate information

8. Railroads and other public utilities regulated by the state or their subsidiaries or affiliates and the employees of such organizations

9. Any medium of advertising that routinely sells real estate advertising but provides no other related services

10. **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 one** month’s rent (whichever is less) in compensation (or finder’s fees)

11. An existing time-share owner, who, for compensation, refers prospective purchasers, but only if the existing time-share owner refers no more than 20 prospective purchasers in any calendar year, and receives no more than $1,000, or its equivalent, for referrals in any calendar year and limits their activities to referring prospective purchasers of time-share interests to the developer

12. 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

13. 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

C. Civil Penalty for the Unlicensed Practice of Real Estate

1. 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 (in addition to any other penalties provided by law) of **$25,000**. 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.

III. License Categories and Requirements

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

B. **Broker’s License**

1. Broker requirements

a. At least 18 years of age

b. Good moral character

c. High school diploma or its equivalent

d. Successful completion of 120 hrs. of pre- license education (75 hours of approved Pre-License real estate courses **and**

e. 45 hour Post license course is required for the first renewal period) (total 120 hrs.)

 f. Pass a written examination

g. 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.

C. **Managing Broker License**

1. Managing broker requirements

a. At least 18 years of age

 b. Good moral character

 c. High school diploma or its equivalent

d. Successful completion of 165 hours of instruction in real estate course including 120 hours to obtain the broker license (75 hrs. Pre-+45 Hrs. Post) + 45 hr. Broker Management Pre License Course

e. **Must have been licensed as a real estate broker at least two out of the preceding three years**

f. Pass a written examination

D. **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. **The owner, officer general partners of the business must all also hold a managing broker’s license. Nonparticipating owners or officers of a corporation, partners of a partnership, limited liability partners of a limited liability partnership, or members or managers of a limited liability company must submit affidavits of nonparticipation to the Department of Real Estate.**

E. **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.

F. Engagement without a License

 A person may engage in residential leasing activities for **120 days without** being licensed if they first obtain a residential leasing agent permit.

 All education, examination, and fee requirements must be met during the 120-day period.

G. **Restrictions on Licensure**

 No person, partnership, or business entity may be granted a license if any **owner, officer, director, partner, limited liability partner, member, or manager** has been **denied** a real estate license in the previous **five years** or is currently barred from practice by the Department.

H. No corporation, partnership, or limited liability company (LLC) may be **granted a license** if any nonparticipating owner, officer, partner, member, or manager is currently barred from real estate practice by the Department

IV. The Licensing Examination

A. Anyone applying for a leasing agent, broker, or managing broker license must receive a passing score on a written exam administered by an independent testing agency.

V. **The Real Estate License** **and Pocket Card**

A. The **License** is **to be displayed conspicuously** in the licensee’s place of business.

1. After passing the state exam.IDFPR will issue instructions on how to make application and to download a license and a pocket card from the IDFPR web site, authorizing the bearer to engage in brokerage or sales activity for the current license period.

2. **. The Pocket Card must be carried when engaging in any activity for which a license is required.**

B. **Changing or Leaving Firms**—If a broker or leasing **agent terminates** employment with a sponsoring broker, the licensee must **access the IDFPR web site Online Services Portal.** The terminating Managing Broker and the terminated licensee must notify the IDFPR within **24 Hrs. and the terminated licensee.**

C. **Change of Address-** If a licensee changes their **hom**e **address, email , telephone number or office address** the must notify the department through the IDFPR web site **within 24 hrs.**

D. **Inoperative or Expired License**—A licensee **is prohibited from engaging in the real estate business because he or she is unsponsored or if the employing broker’s license expires (lapses), is revoked, suspended, or otherwise invalidated**.

E. **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.**

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

VI. License Fees—A range of license, examination, renewal, and other fees are imposed by IDFPR.

A. **Expiration and Renewal of Current Licenses**

1. **Managing** **Broker’s licenses expire on April 30 of every odd‑numbered year**. **Broker’s licenses expire on April 30 of every even‑numbered year**

2. Licenses issued to business entities or branch offices expire on October 31 of every even‑numbered year.

3. Leasing Agents’ licenses expire July 31 of every even-numbered year.

B. **Change of Address and Renewal Notification**—It is the licensee’s responsibility to notify IDFPR of any change in mailing address. **Not having received a renewal form from IDFPR is not an excuse for failing to pay the renewal fee and renew a license.**

C. **Renewal of Expired Licenses—A license that has lapsed for over two years cannot be renewed or reinstated.** The licensee must repeat the entire educational requirement.

D. **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.

VII. **Continuing Education**—Each **Broker** who applies for renewal of a license must successfully complete **six hours per year** (or its equivalent) of real estate continuing education courses (12 hours of CE in any license renewal period) approved by the Real Estate Education Advisory Council. In addition, **Managing Brokers** must complete the twelve hr. hour broker management course, for a total **of 24 hours f**or the two-year renewal period.

A. Course Content

1. Core requirements include a minimum of six hours in mandatory courses including license law, agency, escrow, and fair housing.

2. Six 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.

3. *Unacceptable courses* include exam prep courses, speed-reading, memory improvement, advertising, sales psychology, sales and marketing, and in-house company training.

4. Courses must be offered in three-hour or six-hour increments, and no more than six hours and can be earned in a single day.

B. Exemptions and Waivers

1. A licensee whose pre-renewal period is less than one year is exempt for that renewal period.

2. 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.

3. Full‑time employees of IDFPR and licensees who are also licensed attorneys in Illinois are exempt.

4. If a renewal applicant has earned CE hours in another state, the credit may be approved by the Education Advisory Council.

C. **Twelve Hr. Course per One day is currently allowed**

VIII. **Your Real Estate Business and the Act**

A. Ownership of a Real Estate Business

B. Place of Business

1. **Each sponsoring broker actively engaged in the real estate business must maintain a definite office or place of business within Illinois**
2. **Each office Must have visible a sign outside the office**

**3. Office cannot be in a located within a retail or financial establishment unless in a separate area.**

**4. Branch offices Must have Designated Managing broker and a separate branch office License**

**5. Change of physical business address or virtual office website in 24 hrs.**

**6. An entity will not get a license if any member partner or officer has a suspended or revoked license.**

7. Proof of sponsored licensees licenses **must be readily available to the public** physically or by electronic means.

8. **Virtual Offices** . A virtual office must be able to demonstrate their licensees are engaged in licensed activities and follow electronic file maintenance and record keeping requirements as well as all advertising requirements.

1. **Loss of a Branch Office Manager**

**Within 15 Days ask IDFPR for 60 day extension**

D **Employment or Independent Contractor Agreements**

1. **Written IC Contract with all sponsored licensees (must be kept for 5 years)**

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E. **Recordkeeping** ( keep for 5 years)

F. **Agency relationships**

1. Informed written consent
2. **Designated agency**

H. **Disclosure**

1. **Material facts**
2. **Agency relationship**
3. **Compensation**

F. Handling client funds

 1. Escrow Accounts 5 **years (2 years most recent held in office**

**2. The sponsoring broker must report loss or destruction of escrow records to the department within 48 hours.)**

 H. **Advertising regulations**

1. **Teams** A team is any two or more licensees who work together to provide real estate brokerage services, who represent themselves to the public as being part of a team or group, “Team” does not mean a separately organized, incorporated, or legal entity. (Team names may not include misleading terms, such as “company,” “realty,” “real estate,” “agency,” “associates,” “brokers,” “properties,” or “property. unless followed by the word “**team”.**
2. **Blind Ads.** those not indicating the brokerage firm’s name; not indicating that the advertiser is a licensee; and/or offering only a box number, street address, or telephone number for responses. Blind ads are prohibited by law and may not be used to sell or lease any real estate, in the hiring of other licensees, or in any other real estate activities.
3. **Licensees performing the duties of a designated managing** broker must advertise as a “designated managing broker.” Sponsoring brokers must include their business name and franchise affiliation in all advertisements.
4. **Online advertising includes** business websites, social media, and email. In addition to general advertising rules, online ads must adhere to the following: a. **An online ad must include proper identification—licensee name, company name, company location, and geographic location of property** b. In the case of electronic advertisements, the **ad must provide a direct link to a display with all the required disclosures.** c. **The licensee’s name, company name, and company location are required on all e-correspondence, bulletin boards, and e-commerce discussion groups**. d. **Online ads may not employ deceptive or misleading URLs or domain names,** frame the website of another sponsoring broker’s or multiple listing service without permission or with the intent or effect of deceiving the consumer, or engage in phishing or the deceptive use of meta tags, keywords or other devices and methods to direct, drive, or divert internet traffic, or otherwise mislead consumers.
5. **Links** to listing information from other websites are permitted without approval unless the website’s owner requires approval for links to be added. Any such link must not mislead or deceive the public as to the ownership of any listing information.
6. As with other advertising**, websites are** to be updated periodically and kept current. An online ad must include proper identification—licensee name, company name, company location, and geographic location of property.
7. **Selling your own property** Selling or leasing your own property or a property in which you have an interest means you, must disclose in any ad you place your licensee status before entering in a transaction. as a licensee, and must use the term “broker-owned” or “agent-owned” in all advertising and on listing sheets. If the real estate firm’s sign is used in the yard and the firm’s services are being used, then having the “agent-owned” or “broker-owned” notation on the sign itself is deemed *not* necessary.
8. **Required identification of sponsoring broker** a. licensee may not receive compensation from anyone other than the sponsoring broker.

I**. Compensation and business** A licensee may not receive compensation from anyone other than the sponsoring broker. It is legal for a sponsoring broker to pay an entity set up by the licensee, rather than the licensee directly, if desired. The entity is not b to be licensed as a real estate corporation or partnership or LLC and must either be owned solely by the licensee or by the licensee together with the licensee’s spouse, but only if the spouse and the licensee are both licensed and sponsored by the same sponsoring broker or the spouse is not also licensed.

J. **Guaranteed sales plan** Any person who offers a guaranteed sales plan in compliance with the Act must be licensed; provide the details, including the purchase price, and conditions of the plan in writing to the seller before entering the brokerage agreement; offer evidence of sufficient financial resources to satisfy the agreement’s purchase commitment; market the listing in the same manner in which the sponsoring broker would market any other property, unless the agreement with the seller provides otherwise; and not purchase the seller’s property until the brokerage agreement has ended or is otherwise terminated.

IX. **Disciplinary Provisions and Loss of License**

A. **Causes for Discipline**

**1. Licensees may be subject to disciplinary action if they**

**a.** make a false or fraudulent representation in attempting to obtain a license;

b. 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;

c. have been convicted of a crime that constitutes a felony under Illinois law;

 d. have been convicted of a felony in a federal court;

e. have been found by a court to be a person under legal disability or subject to voluntary or judicial admission;

f. 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;

g. 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;

h. 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); or

i. attempt to subvert or cheat on the licensing exam or assist someone else in doing so.

2. Licensees are also subject to disciplinary action if, in performing, attempting, or pretending to perform any act as a broker, or in handling their own property, they are found guilty of

a. making any substantial misrepresentation or untruthful advertising;

b. making any false promises likely to influence, persuade, or induce;

c. pursuing a continued and flagrant course of misrepresentation or false promises;

 d. using any misleading or untruthful advertising.

e. using any trade name or insignia of membership in any real estate organization of which the licensee is not a member;

f. acting as an undisclosed dual agent;

g. failing to account for or to remit any monies or documents belonging to others that come into the licensee’s possession;

h. failing 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;

i. failing to make all escrow records and related real estate business documents available to IDFPR’s real estate enforcement personnel;

j. failing to furnish on request copies of all documents relating to a real estate transaction to all parties executing them;

k. failing by a sponsoring broker to submit termination documentation in a timely manner;

l. paying a commission or valuable consideration to any person for acts or services performed in violation of the license act;

 m. demonstrating unworthiness or incompetency;

n. commingling the money or property of others with their own;

o. employing any person on a purely temporary or single‑deal basis as a means of evading the law regarding payment of commission to non licensees;

p. permitting the use of their license as a broker to enable or an unlicensed person to operate a real estate business;

q. engaging in any conduct, whether or not specified in the license act, that constitutes dishonest dealing;

r. displaying 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;

s. failing to provide information requested by IDFPR within 30 days of the request;

t. disregarding or violating any provision of the license law, rules, or regulations;

u. assisting any individual or business entity in disregarding the license act;

v. advertising 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.

w. influencing or attempting 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;

x. engaging in any act that constitutes a violation of the Illinois Human Rights Act’s prohibitions against unlawful discrimination in housing;

y. inducing 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;

z. negotiating 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;

aa. where the licensee is an attorney, acting as both the lawyer and the broker for either the buyer or the seller in the same transaction;

bb. advertising or offering free merchandise, awards, prizes, or services if any necessary conditions or obligations are not disclosed in the same advertisement or offer;

cc. recruiting at testing facilities where the licensing examination is being conducted;

dd. failing to make timely child support payments or to repay Illinois student loans;

ee. disregarding or violating any provision of the Illinois Real Estate Time‑Share Act;

 ff. violating the terms of a disciplinary order issued by IDFPR; or

gg. paying fees or commissions directly to a licensee employed by another broker.

3. **Failure to pay debts to Illi**nois—IDFPR may take disciplinary action against any person who fails to pay Illinois taxes:

a. **Failure to pay income tax liability**

 **b. Failure to pay child support**

 **c. Failure to pay on Illinois guaranteed loan**

4. **Licensee 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, u**nless the adjudication is in appeal.

5. **Offering guaranteed sales plans**—Licensees are subject to disciplinary action by IDFPR if they offer a guaranteed sales plan without complying with the license act’s strict requirements.

C. Not Subject to Discipline

1. Multiple client transactions within designated agency.

a. A sponsoring broker may specifically designate the brokers employed by or affiliated with the broker who will be acting as legal agents for the represented party to the exclusion of all other brokers employed by or affiliated with the sponsoring broker.

b. A broker who enters into such an agreement is not considered to be acting for more than one party in a transaction if the brokers designated as legal agents are not representing more than one party in any single transaction.

c. No licensee will be considered a dual agent, or be liable for acting as an undisclosed dual agent, merely for performing designated exclusive representations services.

2. Unlawful action by employees or associates—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.

D. 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 (1) its own initiative; (2) the motion of IDFPR; or (3) on a written, verified complaint that would constitute grounds for disciplinary action submitted by any person.

E. Administrative review

F. Good moral character

G. Violations

H. Citations

The Department may adopt rules to permit the issuance of citations (fines) to any licensee for failure to comply with the continuing education requirements and the penalty may not exceed $2,000

I. Injunctions

J. Statute of limitations

 IDFPR may only take action against persons for violation of the Act within **five years** after the alleged violation.

K. Index of decisions

X. **The Real Estate Recovery Fund**—This fund provides a means of compensation “the public” for actual monetary losses suffered by any licensee person as a result of a violation of the license act. When payment is made from the Real Estate Recovery Fund to settle a claim against a licensed broker, managing broker, or unlicensed employee, the license of the offending broker or managing broker is **automatically terminated**

A. **Recovery** Amounts

1. **No Limit**

B. Collection from the Recovery Fund

1. 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.

 2. Failure to notify IDFPR precludes any recovery from the fund.

3. 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.

4. When a judgment amount is paid from the Recovery Fund, IDFPR is subrogated to all the rights of the aggrieved person.

5. Any amount and interest subsequently recovered by IDFPR on the judgment is deposited back in the Recovery Fund.

C. Disciplinary Action Against the Licensee—**When payment is made from the Recovery** Fund, the **license** of the offending licensee is **automatically terminated** and may not be reinstated until he or she has made repayment in full plus interest at the statutory annual rate.

D. 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.

E. Financing of the Recovery Fund—Fines, penalties, and application funds are deposited in the State Treasury in a specific Real Estate Recovery Fund. If the balance goes down to $750,000, the Treasurer **will cause sufficient funds** to increase the balance to $800,000 with monies from the Real Estate License Administration Fund. All interest on monies should be deposited with License Administration.