Disclaimer: The information provided by the Illinois Office of Banks and Real Estate website is intended for the use and convenience of interested persons. The information contained herein is updated on a regular basis but should not be considered a substitute for the appropriate official documents of the advice of legal counsel. The official version of the rules is available by contacting the Administrative Code Division of the Illinois Secretary of State's office in Springfield, Illinois. Illinois statutes are available in the book "Laws of Illinois," published by the Illinois Secretary of State's office in Springfield, Illinois.

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VIII: OFFICE OF BANKS AND REAL ESTATE
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1450
REAL ESTATE LICENSE ACT OF 2000

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AUTHORITY: Implementing the Real Estate License Act of 2000 [225 ILCS 454] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (General Rules), effective December 4, 1974; Rules and Regulations for the Administration of the Real Estate Brokers and Salesmen License Act (School Rules), effective July 29, 1974; amended at 3 Ill. Reg. 885, effective February 2, 1979; amended at 4 Ill. Reg. 195, effective August 12, 1980; amended at 5 Ill. Reg. 5343, effective May 6, 1981; amended at 5 Ill. Reg. 8541, effective August 10, 1981; codified at 5 Ill. Reg. 11064; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2406, effective February 3, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8221, effective July 1, 1982; amended at 9 Ill. Reg. 341, effective January 3, 1985; transferred from Chapter I, 68 Ill. Adm. Code 450 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1450 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2977; amended at 12 Ill. Reg. 8036, effective April 26, 1988; amended at 15 Ill. Reg. 10416, effective July 1, 1991; amended at 16 Ill. Reg. 3204, effective February 14, 1992; emergency amendment at 19 Ill. Reg. 12003, effective August 8, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16623, effective December

1, 1995; amended at 20 Ill. Reg. 6492, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 3602, effective March 7, 1997; amended at 21 Ill. Reg. 8350, effective June 30, 1997; old Part repealed and new Part adopted by emergency rulemaking at 24 Ill. Reg. 704, effective January 1, 2000, for a maximum of 150 days; old Part repealed and new Part adopted at 24 Ill. Reg. 8263, effective May 30, 2000; amended at 27 Ill. Reg. 12018, effective July 9, 2003.

SUBPART A: DEFINITIONS

Section 1450.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for purposes of this Part.

"Act" means the Real Estate License Act of 2000 [225 ILCS 454].

"Affidavit of Non-participation" means a sworn statement made by an unlicensed person associated with or an owner of a licensed real estate corporation, limited liability company, partnership, or limited partnership attesting that the unlicensed person is not actively directing or engaging in real estate activities as part of that association or ownership.

"Certificate of registration" means the document issued by OBRE indicating approval of a continuing education course for which CE credit can be granted.

"Compliance agreement" means an agreement entered into between a licensee and OBRE in conjunction with an administrative warning letter.

"Credit hour" means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by OBRE.

"Good moral character" means a reliable and trustworthy character as will enable a person to discharge the duties of a real estate licensee in a manner which protects the public's interest and welfare. Evidence of inability to discharge such duties may include the commission of conduct violative of Section 20-20 of the Act.

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

"Moral turpitude" means conduct that is inherently base, depraved or vile.

"Office" means a real estate broker's place of business where the general public is invited to transact business and where records may be maintained and licenses displayed, whether or not it is the broker's principal place of business. When determining whether an office exists the following shall be considered by OBRE:

An office is any business location or structure which is owned, controlled, operated or maintained by a person who, at that location or structure, is:

engaging in licensed activities;

offering real estate services to consumers;

holding out to the public that the person is engaged in the practice of real estate brokerage;

maintaining original real estate documents and records related to active or pending transactions;

maintaining current escrow records; or

meeting consumers for the purpose of engaging in real estate licensed activities.

The following places do not constitute an office:

a motor vehicle primarily used for transportation;

a place whose purpose is solely devoted to advertising real estate matters of a general nature or to making a sponsoring broker's business name generally known;

a place which a licensee uses solely for storage or archiving of records; or

a licensee's residence unless held out to the public as a location at which real estate brokerage services are available to the public.

A licensee engaged in the practice of real estate brokerage shall maintain an office. If the licensee is sponsored by another, then the office shall be the office of the sponsoring broker.

A post office box, mail drop location, or other similar facility shall not constitute an office, so long as none of the activities described in this

definition take place at this facility.

"School branch" means a location where a pre-license school provides instruction other than the sponsoring school's principal location.

"Semester hours" shall be converted into quarter hours at a ratio of 2 semester hours to 3 quarter hours.

"Sole owner" when used to describe a licensee means a licensee who has a 100% ownership interest alone, has ownership as a joint tenant or tenant by the entirety or holds 100% beneficial interest in a land trust.

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

There shall be only one sponsoring broker for any one real estate company. According to the definition herein, the sponsoring broker is the entity holding the company real estate license, whether the entity is an individual who operates as a sole proprietorship, a partnership, limited liability company, corporation or registered limited liability partnership.

The entity that is the sponsoring broker for the real estate company may delegate its duties in accordance with company policy to appropriate company personnel, authorized to act and sign on behalf of the sponsoring broker.

Some examples include but are not limited to:

the sponsoring broker could authorize a managing broker for the company to sign sponsor cards in the name of the sponsoring broker;

the sponsoring broker could authorize a qualified company employee or independent contractor to oversee bookkeeping duties relative to the sponsoring broker's escrow account;

the sponsoring broker may delegate authorized signers for the escrow account to sign on behalf of the sponsoring broker; and

the sponsoring broker may delegate to authorized company personnel, the ability to sign contracts entered into by the sponsoring broker in accordance with the sponsoring broker's company policy.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

SUBPART B: LEASING AGENT RULES

Section 1450.15 Leasing Agent General Provisions

a) A licensed leasing agent shall not engage in any licensed activities other than those activities relating to the leasing of residential real property. A licensed leasing agent may not offer or negotiate the sale of exchange of real estate, or engage in any other activities described in Section 1-10 of the Act not relating to the leasing of residential real estate.

b) No person other than a duly authorized broker, salesperson, or leasing agent or individual working under a 120 day leasing agent permit shall engage in, for compensation, residential leasing activities for which a license is required by the Act.

c) No leasing agent licensee may accept compensation for the performance of leasing agent activities except from the sponsoring broker by whom the licensee is employed.

Section 1450.20 Leasing Agent Examination Requirement

a) OBRE or its designated testing service shall conduct the examinations at times and places as OBRE shall approve.

b) If a person who has received a passing score on the examination fails to file an application and meet all requirements for a leasing agent license within one year after receiving a passing score on the examination, credit for the examination shall terminate. The person thereafter may make a new application for examination.

c) If an individual has failed the examination three times, the individual must repeat the education requirement set forth in Section 5-10 of the Act prior to taking the examination again.

Section 1450.25 Sponsor Card for Leasing Agents

a) Except for a person working under a 120 day leasing agent permit as provided in Section 1450.40 of this Subpart, no leasing agent license applicant may engage in the activities of a licensed leasing agent until a valid sponsor card has been issued to the applicant.

b) A sponsoring broker shall prepare upon forms provided by OBRE and deliver to each leasing agent employed by the broker a sponsor card certifying that the

person whose name appears thereon is in fact employed by that broker, and that the applicant has not practiced under a 120 day leasing agent permit for more than 120 days.

c) A sponsor card properly issued pursuant to this Section shall serve as a temporary permit allowing the sponsored individual to engage in practice as a leasing agent until the applicant is issued a leasing agent license. An applicant may practice under a sponsor card temporary permit for a maximum of 45 days.

d) A licensed real estate broker may issue a sponsor card to an individual only in the following circumstances:

1) upon presentation of a leasing agent examination pass score report which states that the broker may issue a sponsor card; or

2) upon presentation of an original leasing agent license which is endorsed by the broker by whom the leasing agent was previously employed.

e) The sponsoring broker shall, within 24 hours after issuance of the sponsor card, submit the following to OBRE by certified or registered mail, return receipt requested, or other signature restricted delivery service.

1) For applicants for an initial leasing agent license:

A) a copy of the sponsor card and transcript, if applicable;

B) a leasing agent examination pass score report which states that the broker may issue a sponsor card;

C) a leasing agent license application that is signed by the applicant and on which all questions have been answered; and

D) the license application fee required by Section 1450.95 of this Part.

2) For persons already holding a leasing agent license:

A) a copy of the sponsor card; and

B) the properly endorsed leasing agent license and pocket card of the sponsored licensee.

f) A broker issuing a sponsor card shall retain a copy of the sponsor card until such time as the leasing agent license is received and properly displayed in the broker's office.

Section 1450.30 Issuance of Leasing Agent License

a) OBRE shall, within 30 days after receipt of the copy of the sponsor card and other documentation submitted by the issuing broker, issue a leasing agent license and a pocket card to the sponsored licensee or notify the applicant why the license cannot be issued.

b) A leasing agent license shall be conspicuously displayed in the sponsoring broker's office. Each licensee shall carry on the licensee's person the licensee's pocket card or, if a pocket card has not yet been issued, a properly issued sponsor card, when engaging in any licensed activity. The licensee shall display the pocket card or sponsor card upon demand.

Section 1450.35 Termination of Employment of Leasing Agent

a) Upon termination of employment of a leasing agent licensee, the sponsoring broker shall immediately:

1) endorse the leasing agent's license as provided on that document;

2) submit a photocopy of the endorsed license to OBRE within 2 days after termination by certified mail, return receipt requested, or other signature restricted delivery service;

3) retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) give the original endorsed license indicating the termination to the licensee.

b) Once a license is endorsed, the leasing agent licensee is prohibited from practicing until the licensee is again issued a properly completed sponsor card.

Section 1450.40 120 Day Leasing Agent Permit

a) Pursuant to Section 5-5(d) of the Act, a person engaging in practice under the provisions of this Section shall first obtain a 120 day leasing agent permit. A permit holder shall comply with all provisions of the Act and this Subpart as if the permit holder were a licensee, and shall be subject to standards of practice and disciplinary provisions as if the permit holder were a licensee. A broker supervising a permit holder shall be responsible for the activities and actions of a permit holder as if the permit holder were a leasing agent licensee.

b) Within 24 hours after employing a permit holder, a broker shall submit the following information to OBRE on forms provided by OBRE:

1) the name, address and other information as is requested by OBRE to identify the permit holder;

2) certification by the permit holder that the applicant has not been a leasing agent licensee within the past two years and that the applicant has not been a permit holder within the past two years;

3) certification that the permit holder is at least 18 years of age;

4) certification that the permit holder has successfully completed a four year course of study in a high school or secondary school or an equivalent course of study approved by the Illinois State Board of Education (e.g., GED); and

5) certification that the permit holder is at the time of application, or will be within a period of 90 days, enrolled in a leasing agent course of instruction approved by OBRE.

c) Upon expiration of the 120 day leasing agent permit period, the permit holder shall immediately cease engaging in leasing agent activities unless the person has been issued a leasing agent sponsor card or a leasing agent license.

d) A person shall not practice pursuant to a 120 day leasing agent permit more than once in any 24 month period. A person who has been a leasing agent licensee within the past 24 month period shall not practice as a 120 day permit holder.

Section 1450.50 Continuing Education Requirement for Leasing Agents

a) Beginning with the July 31, 2000 renewal of licenses for leasing agents, and for every renewal thereafter, each leasing agent licensee shall complete during the 24 month period prior to that renewal a minimum of six hours of continuing education (CE) that is relevant to leasing residential real property and is approved by the Advisory Council created by Section 30-10 of the Act. Approved courses shall, at a minimum, cover recent changes in the Act and other laws affecting the leasing of residential real estate and material regarding fair housing laws relating to the leasing of residential real property.

b) A renewal applicant is not required to comply with these requirements for the first renewal following the original issuance of the applicant's leasing agent license.

c) Continuing education schools, instructors, and courses must be approved by OBRE as provided in Section 1450.285 of this Part.

d) Licensee compliance with CE requirements shall be certified pursuant to the following provisions:

1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements of this Section.

2) OBRE may, in the context of compliance audits, require additional evidence demonstrating compliance with the CE requirements (e.g., a certificate of attendance). It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) In the context of a compliance audit, OBRE shall accept verification (e.g., original transcript, certificate of attendance) submitted directly from a school on behalf of a renewal applicant as proof of CE compliance.

4) When there appears to be a lack of compliance with CE requirements, a licensee shall be subject to discipline pursuant to this Part and the Act.

e) OBRE shall conduct audits pursuant to Section 1450.245 to verify compliance with this Section.

Section 1450.55 Approved Courses, Schools and Instructors for Leasing Agents

All pre-license education courses, continuing education courses, schools and instructors relating to leasing agent licensure must be approved by the Advisory Council and licensed pursuant to Sections 1450.275 and 1450.285 of this Part.

SUBPART C: LICENSING AND EDUCATION

Section 1450.60 Educational Requirements to Obtain a Broker's or Salesperson's License

a) An applicant for a salesperson's license must have successfully completed 45 credit hours of instruction in an approved Real Estate Transaction Course or have received a baccalaureate or master's degree in accounting, real estate, law, finance, business, or other degrees approved by OBRE.

b) 120 credit hours of instruction in approved courses or a baccalaureate degree including courses involving real estate or related material are required for broker applicants. Credit shall be given for class hours successfully completed in the following manner:

1) 45 credit hours for a Real Estate Transactions course;

2) 15 credit hours for a Brokerage Administration course;

3) 15 credit hours for Contracts and Conveyances;

4) 15 credit hours of mandatory course work as established by the Education Advisory Council and OBRE;

5) Credit for the remaining 30 class hours may be obtained by completing at least two of the following courses listed:

A) Appraisal

B) Property Management

C) Financing

D) Sales and Brokerage

E) Farm Property Management

F) Real Property Insurance

c) An applicant for a broker license who is licensed as an Illinois real estate salesperson is presumed to have completed a 45 credit hour Real Estate Transactions course provided that the licensee has not been nonrenewed for the preceding two years or more. Having received 45 class hours credit as a licensed real estate salesperson, an additional 45 class hours credit cannot be earned by taking a Real Estate Transactions course.

Section 1450.65 Salesperson and Broker Examinations

a) Each applicant for a salesperson's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours shall meet the minimum requirements of Section 5-25.

2) Certification of graduation from high school or its equivalent (e.g., GED).

3) The required fee as provided in Section 1450.95 of this Part.

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 45 class hours of instruction in real estate courses approved by the Advisory Council; or

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a

college or university in accounting, real estate, law, finance, business, or other degrees approved by OBRE.

b) Each applicant for a broker's license shall file an application for examination as determined by the designated testing service. The application shall include:

1) Certification that the applicant is 21 years of age or 18 having attained the education required by Section 5-25 of the Act. Forty-eight semester hours shall meet the requirements of Section 5-25;

2) Certification of graduation from high school or its equivalent (e.g., GED);

3) The required fee as provided in Section 1450.95 of this Part;

4) Proof of one of the following:

A) Currently admitted to practice law by the Supreme Court of Illinois;

B) Completion of at least 120 hours of instruction in real estate courses approved by the Advisory Council in accordance with Section 1450.275;

C) Completion of a correspondence course approved by the Advisory Council in accordance with Section 1450.295 of this Part; or

D) Evidence of receiving a baccalaureate or master's degree from a college or university in accounting, real estate, law, finance, business, or other degrees approved by OBRE.

c) Applicants who complete the instruction described in subsection (b)(4)(B) above after the final filing date for an examination will be permitted to submit proof prior to the examination, subject to the late fee and late proof procedures established by the testing service designated by OBRE.

d) If an applicant has failed an examination 3 times, the applicant must repeat the pre-license education in order to be readmitted to sit for the examination.

e) Pursuant to Section 5-35(c) of the Act, the 3 year time period does not apply to education earned as part of a baccalaureate degree program.

Section 1450.70 Applications for Salespersons and Brokers Licenses by Examination

a) Each applicant for a salesperson's license shall submit to OBRE:

1) An application which is signed by the applicant and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by OBRE;

4) A properly completed sponsor card issued in accordance with Section 1450.75 of this Part; and

5) Transcript, if applicable.

b) Each applicant for a broker's license shall submit to OBRE:

1) An application which is signed and on which all questions have been answered;

2) The fee as provided by Section 1450.95 of this Part;

3) Proof of successful completion of the examination authorized by OBRE;

4) A properly completed sponsor card form issued in accordance with Section 1450.75 of this Part;

5) Transcript, if applicable; and

6) If the applicant will be a sponsoring broker, a properly completed consent to audit and examine special accounts form.

c) An applicant shall have one year from the date of receipt of a passing score on the examination to file an application with OBRE and to meet all of the requirements for licensure.

Section 1450.75 Sponsor Cards for Brokers and Salespersons

a) A properly issued sponsor card shall serve as a temporary permit allowing the sponsored individual to engage in the practice of real estate for a maximum of 45 days only for the sponsoring broker named on the sponsor card.

b) The sponsoring broker shall issue a sponsor card to an individual only in the following instances:

1) Upon presentation of a real estate examination pass score report which states that the broker may issue a sponsor card;

2) Upon presentation of an original license endorsed by the broker by whom the licensee was previously employed or with whom the licensee was previously associated; or

3) Upon presentation of a license expired for less than 2 years.

c) Upon issuance of a sponsor card, the issuing broker shall, within 24 hours after issuance, submit the following to OBRE by certified or registered mail return receipt requested or other signature restricted delivery service:

1) For Licensees

A) a copy of the sponsor card and transcript, if applicable;

B) appropriate sponsor card fee as set forth in Section 1450.95 of this Part; and

C) one of the following:

i) the properly endorsed real estate license and pocket card of the sponsored licensee; or

ii) an expired license of the sponsored licensee along with the fee as provided by Section 1450.95 of this Part and proof of education, if applicable, as required by Section 5-50 or 5-55 of the Act; or

iii) the pocket card of the licensee and a sworn statement by the licensee explaining why the license is not submitted.

If neither the license nor pocket card is available, the status of the license shall be verified by the Director of Real Estate or his or her designee.

2) For Salesperson Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

3) For Broker Applicants

A) a copy of the sponsor card and transcript, if applicable;

B) a real estate pass score report which states that the broker may issue a sponsor card; and

C) other documentation as required by Section 1450.70 of this Part.

4) Should applicant be found not to have completed all the requirements, the

applicant's sponsor card shall be void, the applicant shall be considered to have never been authorized to practice, and the applicant shall be subject to disciplinary action in accordance with Section 20-20 of the Act and Section 1450.220 of this Part.

d) A licensed real estate broker may practice as a sole proprietor, partnership, corporation, or limited liability company provided that prior to doing business the broker complies with the licensing requirements for partnerships, corporations or limited liability companies set forth in Section 1450.85 of this Part and submits the following to OBRE by certified or registered mail return receipt requested or other signature restricted delivery service:

1) a copy of the sponsor card issued to himself;

2) the appropriate sponsor card fee as provided by Section 1450.95(h)(2); and

3) one of the following:

A) his or her properly endorsed real estate broker license and pocket card; or

B) an expired broker license along with the fee set forth in Section 1450.95 and proof of education, if applicable, as required by Section 1450.105; or

C) the pocket card and a sworn statement by the licensee explaining why the license is not submitted. If neither the license nor the pocket card is available, the status of the license shall be verified by the Director or his or her designee; or

D) a completed consent to audit and examine special accounts form if one is not already on file.

e) OBRE shall, within 30 days after receipt of the sponsor card, appropriate fees and appropriate documentation, issue a license to the sponsored licensee, or notify the applicant why the license cannot be issued.

f) Expiration of the Sponsor Card. A sponsor card shall be valid for a period of 45 days from issue date unless extended for an additional 45 days by OBRE for good cause.

1) Good cause shall be limited to those instances where OBRE has unnecessarily delayed the processing of a license.

2) The request for extension shall be considered granted only upon written

notice thereof from OBRE.

g) The sponsoring broker shall retain a copy of the sponsor card until the license is received.

h) Upon termination of a licensee, a sponsoring broker shall immediately:

1) Endorse the licensee's license as provided for on that document;

2) Submit a photocopy of the endorsed license to OBRE within 2 business days after termination by certified or registered mail return receipt requested, or other signature restricted delivery service;

3) Retain a copy of the endorsed license at least until the expiration date printed on that license; and

4) Give the original endorsed license to the licensee.

i) Once a license has been endorsed, the licensee is prohibited from practicing real estate until the licensee is issued a properly completed sponsor card.

j) Each licensee shall carry either a properly issued sponsor card or a valid pocket card at all times and shall display same upon demand.

Section 1450.80 Branch Offices

a) A sponsoring broker wanting to operate a real estate branch office shall, in accordance with Section 5-45 of the Act, file an application with OBRE, on forms provided by OBRE, together with the following:

1) A properly completed Consent to Examine and Audit Special Accounts form;

2) The name and license number of the manager of the branch office; and

3) All required fees under Section 1450.95.

b) Upon receipt of the above documents and review of the application, OBRE shall issue a license authorizing the sponsoring broker to engage in real estate activities at that branch office or shall notify the applicant of the reason for the denial of the license.

c) The name of the branch office shall be the same as that of the main office, or shall clearly delineate the branch office's relationship with the main office (e.g., affiliated with, associated with, subsidiary of).

d) The sponsoring broker shall not open a branch office or have licensees working from a branch office until after receipt of the branch office license.

Section 1450.85 Corporations, Limited Liability Companies, Partnerships, and Limited Partnerships

a) Persons who desire to practice real estate in this State in the form of a corporation, limited liability company, or partnership shall, in accordance with Section 5-15 of the Act, file an application with OBRE, on forms provided by OBRE, together with the following:

1) If an assumed name is to be used, a copy of the assumed name certificate;

2) A Federal Employer Identification Number (FEIN). If a FEIN has not been issued, a photocopy of the FEIN application;

3) A properly completed Consent to Examine and Audit Special Accounts form;

4) A properly completed real estate corporation/limited liability company/partnership information form;

5) The fee as provided by Section 1450.95 of this Subpart.

b) All requirements for a license to practice as a corporation, limited liability company or partnership shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be considered for licensure, the applicant shall file a new application and fee.

c) Corporations, in addition to the items listed in subsection (a) of this Section, shall submit the following:

1) The name of the corporation and its registered address, a list of all officers, and the license number for each officer who is licensed as a real estate broker;

2) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State is also required;

3) All unlicensed officers shall submit affidavits of non-participation with the corporation application. Licensed salespersons shall not be officers of the corporation even if they submit an affidavit of non-participation; and

4) A list of all shareholders, the number of shares of the corporation owned and the license number for each shareholder who is a licensee.

d) Limited liability companies, in addition to the items listed in subsection (a), shall submit the following:

1) The name of the limited liability company and its registered address, a list of all members, and the license number for each member who has an Illinois real estate license. If a member of the limited liability company is a business entity, the applicant shall identify any licensees who are owners, officers, managers, or partners of the business entity;

2) A list of all managers and their broker license numbers;

3) A copy of the Articles of Organization filed with the Secretary of State or, if it is a foreign limited liability company, a copy of the application for admission endorsed by the Secretary of State. All unlicensed members shall submit with the limited liability company application affidavits of non-participation. Licensed salespersons shall not be managers of the limited liability company even if they submit an affidavit of non-participation.

e) Partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) An application containing the name of the partnership and its business address and the names of all general partners, and the broker license number of each general partner. Licensed salespersons shall not be general partners.

2) An affidavit stating that the partnership has been legally formed.

f) Limited partnerships, in addition to the items listed in subsection (a), shall submit the following:

1) A letter of authority from the Secretary of State's Limited Partnership Department or, if it is a foreign limited partnership, a copy of the application for admission endorsed by the Secretary of State;

2) A listing of all general partners and, if any general partner is a real estate licensee, the broker license number for each licensed general partner;

3) All unlicensed general partners must submit with the partnership application affidavits of non-participation; and

4) If the general partner is an entity, the identity and license number of any

brokerage licenses who are owners, managers, members or partners of the entity.

g) In assessing the restrictions against a salesperson or leasing agent, or group of salespersons or leasing agents, owning, or directly or indirectly controlling, more than 49% of a corporation, limited liability company, or partnership, pursuant to Section 5-15(e) of the Act the following may be considered:

1) For corporations: OBRE may consider the role of any salespersons or leasing agents in any limited liability company or partnership that may have an interest in the corporation.

2) Limited liability companies: OBRE may consider the role of any salespersons or leasing agents in any corporation or partnership that may serve as a member or manager of the limited liability company.

3) Partnerships: OBRE may consider the role of any salespersons or leasing agents in any corporation or limited liability company that may serve as a limited partner. Additional information may be requested by OBRE as necessary to determine compliance with this restriction.

h) Upon receipt of the above documents and review of the application, OBRE shall issue a license authorizing the corporation, limited liability company, or partnership to engage in the practice of real estate or shall notify the applicant of the reason for the denial of the license.

Section 1450.90 Assumed Name

a) If a sponsoring broker acting as a sole proprietor operates under any name other than that appearing on his or her license, the sponsoring broker shall submit to OBRE a certified copy of the broker's registration under the Assumed Business Name Act [805 ILCS 405]. The assumed business name registration shall be obtained in each county in which the assumed business name is used. Any corporation, limited partnership, general partnership or limited liability company operating under any name other than that appearing on its application for a license shall provide to OBRE a copy of the filing or certificate authorizing it to do business under an assumed name. Sponsored licensees may not operate under an assumed business name other than that of their sponsoring broker.

b) The licensee shall submit the information to OBRE within 30 days after use of the assumed name.

Section 1450.95 Fees

a) License of a Leasing Agent.

1) The application fee for an initial leasing agent license shall be $50.

2) The application fee to renew a leasing agent license shall be $25 per year.

3) The late renewal fee for leasing agent licenses renewed after the expiration date of the license shall be $50.

4) The fee for issuing a 120 day leasing agent permit shall be $25.

b) License of Real Estate Salesperson.

1) The fee for an initial license as a salesperson is $100. The fee must accompany the application to determine the applicant's fitness to receive a license.

2) The fee for renewal of a salesperson's license which has not expired shall be calculated at the rate of $25 per year.

3) The fee for the renewal of a salesperson's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

c) License of Broker.

1) The fee for an initial license as a broker is $100. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a broker's license which has not expired shall be calculated at the rate of $50 per year.

3) The fee for the renewal of a broker's license which has been expired for not more than 2 years, as provided for in Section 5-55 of the Act, is the sum of all lapsed renewal fees plus $50.

d) License of Partnership, Limited Liability Company, or Corporation.

1) The fee for an initial license for a partnership, limited liability company, or corporation is $100. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a license for a partnership, limited liability company, or corporation shall be calculated at the rate of $50 per year.

3) The fee for the renewal of a license for a partnership, limited liability company or corporation which has been expired is the sum of all lapsed renewal fees plus $50.

e) License for Branch Office.

1) The fee for an initial license for a branch office is $100. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for the renewal of a branch office license shall be calculated at the rate of $50 per year.

3) The fee for the renewal of a branch office license which has been expired is the sum of all lapsed renewal fees plus $50.

f) Pre-License School, Instructor, and Course Fees.

1) The fee for an application for initial approval of a pre-license school is $1,000. The fee must accompany the application to determine an applicant's fitness to receive a license.

2) The fee for renewal of approval of a pre-license school shall be calculated at the rate of $500 per year.

3) The fee for the renewal of approval of a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

4) The fee for an application for initial approval of a branch for a pre-license school is $150 per branch. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval of a branch for a pre-license school shall be calculated at the rate of $100 per branch per year.

6) The fee for the renewal of approval of a branch for a pre-license school which has been expired is the sum of all lapsed renewal fees plus $50.

7) The fee for transferring a branch location shall be $25 per transfer.

8) The fee for application for initial approval of a pre-license instructor is $100. The fee must accompany the application to determine the applicant's fitness for approval.

9) The fee for renewal of approval of a pre-license instructor shall be calculated at the rate of $100 per year.

10) The fee for the renewal of approval of a pre-license instructor which has been expired is the sum of all lapsed renewal fees plus $50.

11) The fee for application for initial approval of a pre-license course is $100. The fee must accompany the application for approval.

12) The fee for renewal of approval of a pre-license course shall be calculated at the rate of $25 per year.

13) The fee for the renewal of approval of a pre-license course which has been expired is the sum of all lapsed renewal fees plus $50.

g) Continuing Education School, Instructor, and Course Fees.

1) The fee for an application for initial approval as a continuing education (CE) school shall be $2,000. The fee must accompany the application to determine an applicant's fitness for approval.

2) The fee for renewal of approval as a CE school shall be $2,000 per year.

3) The fee for renewal of approval as a CE school which has expired shall be all lapsed renewal fees plus $50.

4) The fee for an application for initial approval as a CE instructor shall be $50. The fee must accompany the application to determine an applicant's fitness to receive approval.

5) The fee for renewal of approval as a CE instructor shall be $50 per year.

6) The fee for the renewal of approval as a CE instructor which has been expired shall be all lapsed renewal fees plus $50.

7) The fee for an application for initial approval of a CE course shall be $100. The fee must accompany the application for approval.

8) The fee for renewal of approval of a CE course shall be $25 per year.

9) The fee for renewal of approval of a CE course which has expired shall be all lapsed renewal fees plus $50.

h) General.

1) All fees paid pursuant to the Act and this Section are non-refundable.

2) The fee for the issuance of a duplicate license or pocket card, for the issuance of a replacement license or pocket card for a license or pocket card which has been lost or destroyed, for the issuance of a license with a change of name or address other than during the renewal period, or for the issuance of a license with a change of location of business, is $25.

3) The fee for a certification of a licensee's record for any purpose is $25.

4) The fee for a wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act or for a list of licensees sponsored by the sponsoring broker shall be the cost of producing the roster.

6) Applicants for an examination as a leasing agent, broker, salesperson, or instructor shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of continuing education requirements pursuant to Section 5-70 of the Act shall be $25.

8) The fee for processing a sponsor card other than at the time of original licensure is $25.

9) The fee for a copy of a transcript of the proceedings under Section 20-60(h) of the Act shall be the cost of a copy of the transcript. A copy of the balance of the record will be provided at OBRE's cost for producing the record.

10) The fee for certifying the record referred to in Section 20-75 of the Act is $1 per page of the record.

11) OBRE may charge an administrative fee not to exceed $500, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1450.250(d)(2).

12) Each university, college, community college or school supported by public funds shall be exempt from the school licensure fees provided each university, college, community college or school meets the following criteria:

    A) the facility is supported by public funds;

    B) the instructors are considered full-time faculty and are supported by public funds or if the administrator of the real estate

school/program/curricula is considered full-time with exclusive responsibility for the administration of the real estate school/program/curricula and is supported by public funds;

C) the program, pre-license and/or continuing education, revenues are deposited into the general fund of the university, college, community college or school as are other appropriated public funds; and

D) the program, pre-license and/or continuing education, is not a for-profit division of the university, college, community college or school.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.100 Nonresident Licensure by Reciprocity

a) A nonresident broker's license shall be issued to a real estate broker licensed under the laws of his or her state of domicile under the following conditions:

1) That the broker is the holder of an active broker's license in his or her state of domicile;

2) OBRE has a reciprocal agreement with the broker's state of domicile that includes the provisions of this Section;

3) That the standards of that state for licensing as a real estate broker are substantially equivalent to or greater than the minimum standards in Illinois;

4) That the broker maintains a definite place of business in his or her state of domicile and has been actively engaged in the real estate business as a broker during the immediately preceding 2 years; and

5) The broker shall file an application, on forms furnished by OBRE, along with the required fee and:

A) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a broker in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the broker;

B) proof of passing an approved test on Illinois specific real estate brokerage laws;

C) if the broker does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Commissioner to act as the broker's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the broker's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of OBRE;

D) properly completed 45 day sponsor card form.

b) A nonresident salesperson's license may be issued to a real estate salesperson who is employed by or associated with a nonresident broker holding a broker license in this State under the following conditions:

1) That the salesperson is the holder of an active license in his or her state of domicile;

2) That the salesperson is domiciled in the same state as the broker with whom he or she is associated;

3) OBRE has a reciprocal agreement with the salesperson's state of domicile that includes the provisions of this Section;

4) That the standards of that state for licensing as a salesperson are substantially equivalent to or greater than the minimum standards in Illinois; and

5) The salesperson shall file an application on forms furnished by OBRE, along with the required fee and:

A) a properly completed 45 day sponsor card form;

B) a statement bearing the seal of the licensing authority from each state in which he or she is licensed, showing:

i) that he or she has an active license as a salesperson in that state;

ii) that the license is in good standing; and

iii) that no complaints are pending against the salesperson;

C) proof of passing an approved test on Illinois specific real estate brokerage laws; and

D) if the salesperson does not maintain a definite office or place of business within the State of Illinois, a written statement which:

i) appoints the Commissioner to act as the salesperson's agent upon whom all judicial and other process may be served;

ii) acknowledges and agrees to abide by all of the provisions of the Act with respect to all of the salesperson's activities within and relating to the State of Illinois; and

iii) assents to jurisdiction of OBRE.

c) Licenses previously granted under reciprocal agreements with other states shall remain in force so long as OBRE has a reciprocal agreement with the state that includes the requirements of this Section, unless that license is suspended, revoked, or terminated by OBRE for any reason provided for suspension, revocation, or termination of a resident licensee's license. Licenses granted under reciprocal agreements may be renewed in the same manner as a resident's license. Any licensee who renews a license which was granted under a reciprocal agreements thereby assents to jurisdiction without regard to the location of the licensee's domicile or principal business location or office locations.

d) Any person holding a valid nonresident license under this Section shall be eligible to obtain a broker's or salesperson's license of the type granted to residents without examination should that person change his/her state of domicile to Illinois and that person otherwise meets the qualifications for licensure under this Act.

e) All requirements for nonresident licensure shall be met within 1 year after the date of original application or the application shall be denied and the fee forfeited. Thereafter, to be reconsidered for licensure, the applicant shall file a new application and fee.

Section 1450.105 Renewals

a) Every leasing agent license issued under the Act shall expire on July 31 of each even numbered year.

b) Every salesperson's license issued under the Act shall expire on April 30 of each odd numbered year. All salespersons licenses which expire on March 31, 2001, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2001.

c) Every broker's license issued under the Act shall expire on April 30 of each even numbered year. All broker's licenses which expire on January 31, 2000, pursuant to the Real Estate License Act of 1983 shall be extended to April 30, 2000. Sponsoring brokers shall also submit a properly completed consent to audit and examine special accounts form.

d) Every license issued to a corporation, limited liability company, partnership, limited partnership, or branch office under the Act shall expire on October 31 of each even numbered year. The holder of the license shall submit the following:

1) A properly completed consent to audit and examine special accounts form; and

2) A properly completed change of business information form as provided for in Section 1450.110 of this Part.

e) Renewal applications shall be submitted on forms provided by OBRE. All renewals shall include the name and license number of the sponsoring broker. Failure to receive a renewal form from OBRE shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

f) Practicing or offering to practice on an expired or inoperative license shall constitute unlicensed or unauthorized practice and shall be grounds for discipline pursuant to Section 20-20 of the Act.

g) Any leasing agent, salesperson, or broker whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fee provided that the license expired while the licensee was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of the United States, or

2) engaged in training or education under the supervision of the United States prior to induction into military service, or

3) serving as the Director or Deputy Director of Real Estate in the State of Illinois, or as an employee of OBRE. A licensee renewing his or her license in accordance with this subsection may renew the license within a period of two years following the termination of service and are not required to take a refresher course or a retest.

h) In accordance with Section 5-55 of the Act, any licensee whose license under this Act has expired for more than 2 years shall not be eligible for renewal of that license. Any licensee whose license has been expired for less than 2 years may renew the license at any time by complying with the requirements of this Part, by

paying the fees required by Section 1450.95 of this Part and by providing OBRE with evidence that the licensee has satisfactorily completed the required continuing education courses, including six hours per year while the license was expired.

i) In accordance with Section 5-50 of the Act, upon request, OBRE shall prepare and mail to the sponsoring real estate broker a listing of licensees who, according to the records of OBRE, are sponsored by that broker. The sponsoring broker shall notify OBRE concerning any inaccuracies in the listing within 30 days after its receipt.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.110 Change of Information

a) It is the responsibility of each licensee to immediately notify OBRE of any change of name, address, or office location. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify OBRE of the name change together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall issue. If the licensee regularly practices under a diminutive of their first name (e.g., Meg for Margaret or Mark for Mariusz or Sam for Shamim), last name or a middle name instead of the licensee's full legal name, the licensee shall notify OBRE of the alternate name. To help ensure proper credit, the licensee shall ensure that all continuing education certificates are issued under the name of licensure.

b) It is the responsibility of each sponsoring broker to immediately notify OBRE of any change of business information.

1) When a licensee acquires or transfers any interest in a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to OBRE a properly completed change of business information form.

2) When a licensee becomes an officer or manager of a corporation, limited liability company, partnership, or limited partnership licensed under the Act, the sponsoring broker shall submit to OBRE a properly completed change of business information form. Any changes in managing brokers, branch or principal offices shall be reported in writing to OBRE within 15 days after the change.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.115 Continuing Education

a) Continuing Education Hour Requirements

1) Pursuant to Article 5 of the Act, each licensee who is required to take continuing education (CE) shall complete 6 hours of CE for each year of the prerenewal period in courses approved by the Advisory Council. Licensees who complete CE after the expiration of a license are eligible for approval of CE only upon payment of all fees required by this Part and completion of the necessary forms.

2) Pursuant to Section 5-70 of the Act, CE requirements apply to those licensees who obtained initial licensure in Illinois on or after January 1, 1977 and those licensees who did not have a license for 15 years as of January 1, 1992. Continuous licensure is not required to be eligible for this exemption. However, if a license has been expired for a period of 2 years or more, the date of initial licensure, for purposes of this Section, shall be the date of licensure after that nonrenewed period.

3) A renewal applicant is not required to complete CE requirements for the first renewal following original licensure if:

A) the initial salesperson's license was issued less than one year prior to the expiration date; or

B) the initial broker's license was issued less than one year prior to the expiration date.

4) A renewal applicant is required to complete 6 hours of continuing education if:

A) the licensee's initial salesperson license was issued more than one year prior to that licensee's first expiration date and less than two years prior to that licensee's first expiration date.

B) a broker's license was issued to a person, not already licensed as a salesperson, more than one year prior to that licensee's first broker expiration date and less than two years prior to that licensee's first broker expiration date.

5) Salespersons and brokers licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section, unless they are exempt pursuant to Section 5-70(a) of the Act or subsection (a)(2) or (a)(3).

6) OBRE shall conduct random audits to verify compliance with this Section.

b) Approved Continuing Education

1) CE credit may be earned for verified attendance at or participation in a course which is offered by an approved CE school that meets the requirements set forth in Section 1450.285 of this Part.

2) CE credit may also be earned for completion of a self-study course that is offered by an approved CE school that meets the requirements set forth in Section 1450.295 of this Part.

3) Pursuant to Section 5-70 of the Act, the CE in a curriculum approved by the Education Advisory Council requirement shall be satisfied by successful completion of the following:

A) Core category. A minimum of 6 hours of CE in a curriculum approved by the Education Advisory Council.

B) Elective category. A maximum of 6 hours of CE in the following elective courses:

i) Appraisal;

ii) Property management;

iii) Residential brokerage;

iv) Farm property management;

v) Rights and duties of sellers, buyers and brokers;

vi) Commercial brokerage and leasing;

vii) Real estate financing; and

viii) Other CE courses approved by the Advisory Council (e.g., real estate tax laws).

4) One hour of approved CE shall include at least 50 minutes of classroom instruction and shall be exclusive of any time devoted to taking the examination as set forth in subsection (b)(6) below.

5) Each CE course shall include one or more subjects from either the core category or elective category set forth in subsection (b)(3)(A) or (b)(3)(B), where the individual is in actual attendance, or participates in, or completes self-study. All CE courses shall be a minimum of three hours and shall be offered in three-hour increments. Each three-hour increment

shall be from topics in the core or elective category. In no case shall topics from the core and elective category be combined within the same three-hour period. The CE school shall clearly indicate on the certificate of completion the number of hours earned from each CE course and identify whether the completed course was from the core or elective category.

6) Each CE course shall include the successful completion of an examination which measures the attendee's understanding of the course material. A score of at least 70% is required on the examination for successful completion of any CE course.

A) The examination shall be given on-site immediately following any CE course. When a sequence of courses is offered, the examination may be given either at the end of each individual course or it may be given at the end of the sequence of courses so long as the examination covers all aspects of the course material.

B) All examinations, including self-study examinations and retake examinations, shall be proctored by a representative of the approved CE school and shall include at least 25 questions for each three-hour increment of CE earned.

C) No credit for CE shall be given to any licensee unless the examination is successfully completed. The CE school shall allow the attendee one retake within 30 days after a failed examination in order to receive credit for CE. No more than one retake shall be allowed. A licensee failing a retake shall not receive credit for that CE course unless the entire course is retaken and the examination is successfully completed.

7) Self-study CE shall comply with all of the requirements of this Section, except that:

A) Verified attendance is only required for taking the examination.

B) Classroom instruction is not required for self-study CE, as the intent is for the licensees to review and learn the material on their own.

C) Acceptable self-study materials include, but are not limited to, reading material and audio/video cassettes.

D) The examination site for self-study CE shall be determined by the CE school, and it shall be proctored by a representative of the approved sponsor. An approved instructor is not required to proctor the examination.

8) All CE courses shall:

A) Contribute to the advancement, integrity, extension and enhancement of professional skills and knowledge in the practice of real estate;

B) Provide experiences (e.g., role playing, lectures, films) which contain subject matter and course materials relevant to that set forth in Section 5-70 of the Act; and

C) Be developed and presented by persons with education and/or experience in the subject matter of the CE course.

9) Nothing shall prohibit an approved CE school and its instructors from utilizing audio-visual aides or satellite communications with two-way voice interaction in assisting in the presentation of CE courses.

10) Pursuant to Section 5-70(f) of the Act, CE credit may be earned by an approved instructor for teaching an approved CE course or pre-license course also approved for CE. Credit for teaching an approved CE course may only be earned one time per course during a prerenewal period. One hour of teaching is equal to one hour of CE.

11) As provided for in Section 5-75 of the Act, if licensees have earned CE hours offered in another state or territory for which they will be claiming credit toward full compliance in Illinois, each applicant shall submit an application along with a $25 processing fee within 90 days after completion of the CE course and prior to expiration of the license. The Advisory Council shall review and recommend approval or disapproval of the CE course provided the CE school and CE course are substantially equivalent to those approved in Illinois and provided that the course included the successful completion of a proctored examination. In determining whether the CE school and CE course are substantially equivalent the Advisory Council shall use the criteria in Sections 5-70 through 5-85 of the Act and this Section.

12) CE credit shall not be given for CE courses taken in Illinois from schools not pre-approved by OBRE.

13) Except for self-study CE courses, no more than 6 hours of CE may be taken in any calendar day.

c) Certification of Compliance with CE Requirements

1) Each licensee shall certify on the renewal application full compliance with the CE requirements set forth in subsections (a) and (b) of this Section.

2) OBRE may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of completion, transcript, etc.). It is the responsibility of each renewal applicant as proof of CE completed.

3) When during an audit or compliance review, OBRE determines that a licensee may be deficient in complying with CE requirements, OBRE will notify the licensee, and the sponsoring broker of the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery service, of the possible deficiency. The licensee shall have 60 days from the date the deficiency notification is mailed to submit to OBRE evidence of compliance with CE requirements.

A) If satisfactory evidence of compliance with CE requirement (as set forth in subsection (c)(2) of this Section) is submitted, OBRE shall notify the licensee by first class mail, that the licensee is in compliance.

B) If the licensee has certified compliance with CE requirements on the licensee's most recent renewal application pursuant to subsection (c)(1) of this Section but cannot submit evidence of having been in compliance on the date the licensee made the certification, the licensee may during the 60 days notice period submit evidence of having attained compliance with CE requirements after the date the certification was made. The submission of evidence of post-certification completion must be accompanied by a non-refundable administrative fee of $25 per course credit hour completed after the date the licensee originally certified compliance. The submission of evidence will not be reviewed or considered if the proper fee does not accompany the submission. Upon submission of the evidence and appropriate fee, the evidence will be reviewed. If the evidence is found to be satisfactory, OBRE shall notify the licensee and the sponsoring broker of the licensee that the licensee is in compliance. Any credit hours submitted for post-certification course completion and found satisfactory may not be used as credit for the next renewal requirements.

C) If the licensee fails to submit within the 60 day notice period satisfactory evidence of compliance with CE requirements, the failure shall be evidence of a violation of Section 20-20(a) of the Act regarding false or fraudulent representation to obtain a license and the continuing education requirements of Article 5 of the Act. OBRE shall send notice pursuant to Section 20-60 of the Act indicating the commencement of disciplinary proceedings. A copy of this notice shall be sent to the sponsoring broker of the licensee.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.120 Rental Finding Services

a) Definition -- Application.

1) A rental finding service is any business which finds, attempts to find, or offers to find, for any person who pays or is obligated to pay a fee or other valuable consideration, a unit of rental real estate or a lessee to occupy a unit of rental real estate, not owned or leased by the business.

2) Any person, corporation, limited liability company, partnership, or limited partnership which operates a rental finding service shall be considered a broker or salesperson as defined in the Act, shall obtain a license pursuant to the Act, and shall comply with the provisions of this Section.

3) The provisions of this Section shall not apply to those exempted under Section 5-20 of the Act.

b) Contract. A rental finding service shall, prior to accepting a fee or other valuable consideration for the services, enter into a written contract with the person for whom such services are to be performed and deliver to the individual a copy of the contract. The contract shall include in the case of a rental finding service which finds, offers, or attempts to find a unit of rental real estate for an individual, at a minimum, the following provisions:

1) The term of the contract;

2) The total amount to be paid for the services to be performed and a clear designation of the amount paid in advance of the performance of the services;

3) A statement regarding the refund or nonrefund of the fee paid in advance, which shall include:

A) the precise conditions, if any, upon which a refund is based;

B) the fact that the conditions shall occur within 90 days from the date of the contract;

C) the fact that the refund shall be paid no later than 10 days after demand, provided the check has been honored;

4) The statements required by subsection (b)(3) above shall be uniform in type of a size larger than that used for the balance of the contract;

5) The type of rental unit desired, the geographical area requested, and the rent the prospective tenant is willing to pay;

6) A detailed statement of rental finding services to be performed by the licensee, which services shall include, at a minimum, the delivery to the prospective tenant of all rental information as listed in subsection (c) below;

7) A statement that the contract shall be null and void if information concerning possible rental units or locations furnished by the licensee is not current or accurate with respect to the type of rental unit desired and described in subsection (b)(5) above. A listing for a rental unit which has not been available for rent for over two days shall be prima facie proof of not being current;

8) A statement that information furnished by the licensee concerning possible rental units may be up to 2 days old;

9) A statement requiring the licensee to refund all fees paid in connection with the contract if the contract is null and void for any reason. The licensee shall not impose any condition for the refund and the contract shall state when the refund will be paid.

c) Disclosure. Pursuant to subsection (b)(6) above, the following written information for each rental unit shall be provided to the person with whom the contract is entered into:

1) The name, address, and the telephone number of the owner of each rental unit, or his authorized agent;

2) A description of the rental unit;

3) The amount of rent requested;

4) The amount of security deposit required;

5) A statement describing utilities which are located in the rental unit and included in the rent;

6) The occupancy date and the term of lease;

7) A statement setting forth the source of the rental information (i.e., owner, agent);

8) All other information which may reasonably be expected to be of concern

to the prospective tenant.

d) Permission of Owner. A rental finding service shall not list or advertise any rental unit without the express written authority of the owner or agent of each unit.

SUBPART D: COMPENSATION AND BUSINESS PRACTICES

Section 1450.125 Managing Broker Responsibilities

a) The sponsoring broker shall inform OBRE in writing of the name and certificate number of all managing brokers employed by the sponsoring broker and the office or branch offices each managing broker is responsible for managing. Each managing broker shall have an active license as a broker.

b) The sponsoring broker shall be responsible for issuing sponsor cards. However, the sponsoring broker may delegate that responsibility to one or more managing brokers.

c) Upon written request within 15 days after the loss of a managing broker, OBRE shall issue a written authorization to allow the continuing operation of a licensed office or branch office, provided that the sponsoring broker or representative under a duly executed power of attorney assumes responsibility, in writing, for the operation of the office and agrees to personally supervise the operations. No authorization shall be valid for more than 60 days unless extended by OBRE for good cause and upon written request by the sponsoring broker. Good cause includes circumstances as sales under contract pending closing, loss of livelihood for sales associates, and undue hardship caused to sellers.

d) When a managing broker receives a renewal application from OBRE for a licensee supervised by the managing broker or employed by the sponsoring broker of the manager, he shall notify the licensee of the receipt, personally within 7 days or by certified or registered mail or other signature restricted delivery service within 10 days. The notice shall also inform the licensee that any unprocessed renewal form will be returned to OBRE by the managing broker. When a managing broker receives a renewal application from OBRE for a licensee not supervised by the managing broker or employed by the sponsoring broker of the managing broker, the renewal form shall immediately be returned to OBRE.

e) All managing brokers shall notify OBRE on business letterhead of any change of business address of the offices they manage within 24 hours of any change. Change of address is required for all offices and branch offices. A license returned

to OBRE for the reason described in this subsection shall remain in good standing until the new licenses are issued and in the possession of the licensee.

f) OBRE will honor the Order of a court of competent jurisdiction appointing a legal representative for the sole purpose of closing out the affairs of a deceased broker or a broker who has been adjudicated disabled, who was a sole proprietor, until the real estate brokerage is closed but not to actively engage in the brokerage business as defined in Section 1-10 of the Act.

Section 1450.130 Supervision

a) A managing broker shall exercise reasonable supervision over the activities of licensees and unlicensed assistants working in those offices managed by the managing broker. This would include:

1) the implementation of office policies and procedures established by the sponsoring broker;

2) training of licensees or unlicensed assistants;

3) assisting licensees as necessary in real estate transactions;

4) supervising those special (escrow) accounts over which the sponsoring broker has delegated responsibility to the managing broker in order to ensure compliance with the special (escrow) account provisions of the Act and this Part;

5) supervising all advertising of any service for which a license is required;

6) familiarizing sponsored licensees with the requirements of federal and state laws relating to the practice of real estate; and

7) compliance with this Part for licensees and offices under his/her supervision.

b) The sponsoring broker shall remain ultimately responsible for compliance with this Part. The sponsoring broker shall name a managing broker for every office.

Section 1450.135 Discrimination

a) No licensee shall enter into a listing agreement which prohibits the sale or rental of real estate to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act [775 ILCS 5].

b) No licensee shall act or undertake to act as a real estate broker or real estate

salesperson with respect to any property the disposition of which is prohibited to any person because of race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any other class protected by Article 3 of the Illinois Human Rights Act.

Section 1450.140 Advertising

a) Deceptive and misleading advertising includes, but is not limited to, the following:

1) advertising a property that is subject to an exclusive listing agreement with a sponsoring broker other than the licensee's own without the permission of and identifying that listing broker;

2) failing to remove advertising of a listed property within a reasonable time, given the nature of the advertising, after the earlier of the closing of a sale on the listed property or the expiration or termination of the listing agreement; and

3) advertising a property at auction as an absolute auction or auction without reserve, when there is a minimum bid or opening bid required.

b) For the purposes of this Section and Section 1450.145 on Internet Advertising, listing information available on a sponsoring broker's or licensee's website, extranet or similar site but behind a firewall or similar device requiring a password, registration or other type of security clearance to access that information shall not be considered advertising.

c) For the purposes of this Section and Section 1450.145 on Internet Advertising, unsolicited marketing of a licensee's real estate brokerage services and farming (prospecting) shall be considered advertising.

d) Nothing in Section 10-30 of the Act shall require a sponsoring broker to include the name of one of its sponsored licensees on signs or other general advertising of the sponsoring broker.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.145 Internet Advertising

a) Definitions. For the purposes of this Section, these terms shall be defined as follows:

1) Advertising or marketing real property: An Internet site which consists of information regarding properties which have been listed with a real estate

brokerage company, the identity of that real estate brokerage company or licensee for each property and information related to those properties.

2) Advertising or marketing of real estate brokerage services: An Internet site which includes an offer or solicitation to provide services related to marketing or identifying real property for sale or lease.

3) Page: Each html document. This can include several screens of information that are viewed by scrolling down to the end of the document.

4) Frame: This refers to that portion of the Web page that does not change when the user links to a different site or moves to different pages.

5) Scraping: This term refers to using or altering existing listing information or keywords that are copied from one Internet site and posted or displayed for the benefit of the general public in front of a firewall at another site without written or electronic authorization and disclosure of ownership.

b) A sponsoring broker which has authorized advertising or marketing real property must include on the page on which the company or firm's advertisement or marketing appears the following data:

1) the city or geographic area in which the property being advertised or marketed is located;

2) the company's name as registered with OBRE or the assumed name it has registered with OBRE (commonly recognized abbreviations are permitted);

3) if the sponsoring broker does not hold a real estate brokerage license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the sponsoring broker does hold a real estate brokerage license; and

4) if this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

c) A sponsoring broker advertising or marketing real estate brokerage services must include on the company's home page or on a clearly identified link appearing on that page the following data:

1) the company or firm's name as registered with OBRE or the assumed name as it has registered with OBRE (commonly recognized abbreviations are permitted); and

2) the city and state in which the company's principal office is located.

If this information is contained on the frame on the sponsoring broker's site, it does not have to be included on every page of the site.

d) Any licensee who has authorized advertising or marketing real property must include on the page of the site on which the licensee's advertisement or information appears the following data:

1) the licensee's name;

2) the city or geographic area in which the property being advertised or marketed is located;

3) the name of the company with which the licensee is affiliated as that company name is registered with OBRE or the assumed name it has registered with OBRE (commonly recognized abbreviations are permitted);

4) if the licensee does not hold a real estate broker or salesperson license for the jurisdiction in which the property is located, the regulatory jurisdictions in which the licensee does hold a real estate broker or salesperson license; and

5) if this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

e) A licensee advertising or marketing real estate brokerage services must include on his or her home page the following data:

1) the licensee's name;

2) the name of the company with which the licensee is affiliated as that company name is registered with OBRE or the assumed name it has registered with OBRE (commonly recognized abbreviations are permitted); and

3) the city and state in which the licensee's office is located.

If this information is contained on the frame on the licensee's site, it does not have to be included on every page of the site.

f) A sponsoring broker using e-commerce or electronic communications, such as e-mail, e-mail discussion groups and bulletin boards for marketing or transactional purposes, must include on the first or last page of all communications the following data:

1) the company or firm's name as registered with OBRE or the assumed

name it has registered with OBRE (commonly recognized abbreviations are permitted); and

2) the city and state in which the sponsoring broker's main office or the office from which the communication originated is located.

This subsection shall not apply to communications between a sponsoring broker and a member of the public provided that the member of the public has sent a communication to the licensed company and that the sponsoring broker's initial communication contained the information required in this subsection (f).

g) Any licensee using e-commerce or electronic communications, such as e-mail, e-mail discussion groups, and bulletin boards, for marketing or transactional purposes, must include on the first or last page of all communications the following data:

1) the licensee's name;

2) the name of the company with which the licensee is affiliated as that company name is registered with OBRE (commonly recognized abbreviations are permitted); and

3) the city and state in which the licensee's office is located.

This subsection shall not apply to communications between a licensee and a member of the public provided that the member of the public has sent a communication to the licensee and that the licensee's initial communication contained the information required above in this subsection (g).

h) It will be considered to be a violation of the Act and this Part if a licensee or sponsoring broker scrapes, as defined in this Section, listing information from another site. Listing information obtained from another Internet site and placed behind a firewall or other device which is password protected or requires registration by the consumer in order to access that information need not identify the original listing broker.

i) A sponsoring broker or licensee may link to listing information from another Internet site without approval unless the owner of the site linked to specifically requires consent. Any link must be done in a way that does not mislead or deceive the public as to the ownership of any listing information.

j) All licensees, including sponsoring brokers, shall periodically review the advertising and marketing information on their site and update as necessary to assure that the information is current and not misleading.

Section 1450.150 Office Identification Signs

a) An identification sign on the outside of an office shall be of a size and nature that they will be reasonably readable by the public. Listings within building directories fulfill the requirements of this Section.

b) Office identification signs must be professional in appearance and meet all applicable zoning restrictions and applicable restrictive covenants.

c) The identification sign must be plainly visible from an area accessible to the public.

Section 1450.155 Display of Licenses

The original licenses of all licensees must be displayed in the office in which they primarily work and in a manner that they will be visible and physically accessible to the public. "Accessible" areas may include, but are not limited to:

a) the wall of a public waiting or reception area; or

b) the wall of a main hallway the public can frequently walk through.

Managing brokers assigned to manage more than one office shall display copies of their license in those offices they manage but which are not the primary office out of which the manager works.

Section 1450.160 Employment Agreements

Every sponsoring broker shall have a written employment agreement with every sponsored licensee. This agreement shall be dated and signed by the parties. The agreement shall include, at a minimum, the employment or independent contractor relationship terms, including but not limited to, supervision, duties, compensation, duration, and termination. The term "duration", as used in this Section, is not intended to require a specific termination date, but rather to allow the parties to negotiate the term of the agreement, such as "at will", or a specific length of time, and how the agreement is renewed or terminated, and that these provisions be included in the agreement. The employing broker shall give to every employee and independent contractor a copy of the employment agreement and any modifications.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.165 Unlicensed Assistants

a) Licensees under the Act may employ, or otherwise utilize the services of, unlicensed assistants to assist them with administrative, clerical, or personal activities for which a license under the Act is not required.

b) An unlicensed assistant, on behalf of and under the direction of a licensee, may engage in the following administrative, clerical, or personal activities without being in violation of the licensing requirements of the Act. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may:

1) answer the telephone, take messages, and forward calls to a licensee;

2) submit listings and changes to a multiple listing service;

3) follow up on a transaction after a contract has been signed;

4) assemble documents for a closing;

5) secure public information from a courthouse, sewer district, water district, or other repository of public information;

6) have keys made for a company listing;

7) draft advertising copy and promotional materials for approval by a licensee;

8) place advertising;

9) record and deposit earnest money, security deposits, and rents;

10) complete contract forms with business and factual information at the direction of and with approval by a licensee;

11) monitor licenses and personnel files;

12) compute commission checks and perform bookkeeping activities;

13) place signs on property;

14) order items of routine repair as directed by a licensee;

15) prepare and distribute flyers and promotional information under the direction of and with approval by a licensee;

16) act as a courier to deliver documents, pick up keys, etc.;

17) place routine telephone calls on late rent payments;

18) schedule appointments for the licensee (this does not include making phone calls, telemarketing, or performing other activities to solicit business on behalf of the licensee);

19) respond to questions by quoting directly from published information;

20) sit at a property for a broker tour which is not open to the public;

21) gather feedback on showings;

22) perform maintenance, engineering, operations or other building trades work and answer questions about such work;

23) provide security;

24) provide concierge services and other similar amenities to existing tenants;

25) manage or supervise maintenance, engineering, operations, building trades and security; and

26) perform other administrative, clerical, and personal activities for which a license under the Act is not required.

c) An unlicensed assistant of a licensee may not perform the following activities for which a license under the Act is required. The following list is intended to be illustrative and declarative of the Act and is not intended to increase or decrease the scope of activities for which a license is required under the Act. An unlicensed assistant of a licensee may not:

1) host open houses, kiosks, or home show booths or fairs;

2) show property;

3) interpret information on listings, titles, financing, contracts, closings, or other information relating to a transaction;

4) explain or interpret a contract, listing, lease agreement, or other real estate document with anyone outside the licensee's company;

5) negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee; or

6) perform any other activity for which a license under the Act is required.

d) Any licensee who employs an unlicensed assistant shall be responsible for the

actions of the unlicensed assistant taken while under the supervision of or at the direction of the licensee.

e) Any licensee who is responsible for the actions of an unlicensed assistant by statute, regulation, contract, or office policy and who permits, aids, assists, or allows an unlicensed assistant to perform any activity for which a license under the Act is required shall be in violation of the Act.

f) Stenographic, clerical, maintenance, engineering, building trades, security, or office personnel not directly engaged in the practice of real estate brokerage as defined in Section 1-10 of the Act are not required to be licensed.

g) A licensee is prohibited from acting as an unlicensed assistant for any licensee other than his or her sponsoring broker or a licensee sponsored by the sponsoring broker.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.170 Corporation for Indirect Payment

a) Every sponsored licensee who forms a corporation pursuant to Section 10-20(e) of the Act, for the purpose of receiving the sponsored licensee's compensation, shall file with the Licensing Section of OBRE a copy of the certificate of incorporation issued by the Secretary of State.

b) A corporation formed pursuant to Section 10-20(e) of the Act may only receive compensation earned by the licensee. The corporation may not be licensed under the Act and shall not be used by the licensee to perform real estate activities, sponsor, employ or associate itself with other licensees, hold itself out to the public, or advertise to the public under the corporation's name.

c) A corporation formed pursuant to Section 10-20(e) of the Act may receive compensation earned by the licensee arising out of activities unrelated to the practice of real estate.

Section 1450.175 Special Accounts

a) Escrow Moneys Defined.

1) "Escrow moneys" means all moneys, promissory notes or any other type or manner of legal tender or financial consideration deposited with any person for the benefit of the parties to the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. Escrow moneys include without limitation earnest moneys and security deposits, except those security deposits in which the person holding the security deposit is also the sole owner of the property being leased or sold and for which the security deposit is being held.

2) Pursuant to the terms of a written agreement between a licensee and a client, such as a property management agreement, rent moneys paid to a licensee for transmittal to the licensee's client (e.g., the owner) shall not be considered to be "escrow moneys". In addition, other moneys held in a custodial account by a licensee for transmittal to licensee's client, pursuant to the terms of a written agreement, such as a contract for deed, shall not be subject to these escrow rules.

3) Earnest money constitutes escrow moneys whether in the form of personal checks, cashier's checks, money orders, cash, or any other forms of legal tender.

b) Escrow Accounts. Pursuant to Section 20-20(h)(8) of the Act, sponsoring brokers who accept escrow moneys shall maintain and deposit in a special account (hereinafter referred to as an escrow account), separate and apart from personal or other business accounts, all escrow moneys entrusted to them while acting as the real estate brokers, escrow agents, or as the temporary custodians of the funds of others.

1) Such escrow account shall be non-interest bearing, unless the character of the deposit is such that payment of interest thereon is otherwise required by law or unless the principals to the transaction specifically require, in writing, that the deposit be placed in an interest bearing account.

2) If an interest bearing account is required, the recipient of the interest shall be specifically indicated, in writing, by the principals of the transaction.

3) A sponsoring broker may maintain more than one escrow account.

4) An escrow account need not be maintained by a sponsoring broker who does not receive escrow moneys entrusted to him or her while acting as a real estate broker, or as escrow agent, or as temporary custodian of the funds of others.

5) Every escrow account, whether interest bearing or non-interest bearing, shall be maintained at a federally insured depository.

6) Commingling Prohibited. Each sponsoring broker shall deposit only escrow moneys received in connection with any real estate transaction in an escrow account. The sponsoring broker shall not deposit personal funds in an escrow account, except he or she may deposit from his or her own personal funds, and keep in any escrow account, an amount sufficient to avoid incurring service charges relating to the escrow account. The sum shall be specifically documented as being for service charges and the sponsoring broker shall have proof available that the amount of his or her

own funds in the escrow account does not exceed the minimum amount required by the depository to maintain the account without incurring service charges. Transfer of funds as provided for in subsection (i)(4) of this Section shall not constitute commingling.

c) The sponsoring broker shall provide a receipt to the payor of any cash constituting escrow funds and shall retain a copy of the receipt.

d) Time of Deposit of Escrow Moneys. All escrow moneys accepted by a sponsoring broker shall be placed in the sponsoring broker's escrow account not later than the next business day following the transaction. A transaction exists once an accepted real estate contract is signed or lease agreed to by the parties. If such funds are received on a day prior to a bank holiday or any other day on which the bank or savings and loan association is closed, such funds shall then be deposited on the next business day upon which the depository is open.

e) A sponsoring broker serving as escrow agent shall notify all principals in writing if a principal fails to tender escrow moneys, when a principal's payment as escrow moneys is dishonored by the financial institution on which it was drawn, or when there appears on the face of the governing contract to be a deficiency in the amount on deposit.

f) Maintenance of Escrow Moneys on Deposit in Escrow Account. The sponsoring broker shall keep all escrow moneys on deposit in an escrow account until a transaction is consummated or terminated, except to the extent that such escrow moneys, or any part thereof, shall be disbursed according to the provisions set forth in subsection (g).

g) Disbursement of Escrow Moneys. Pursuant to Section 20-20(h)(8) of the Act, the sponsoring broker shall disburse escrow moneys according to the following requirements, however, a sponsoring broker may not disburse funds until they have been honored by the payor's depository.

1) The sponsoring broker must disburse escrow moneys upon consummation or termination of the transaction. Such disbursement must be according to the terms of the contract and must be made not earlier than the day the transaction is consummated or terminated and not later than the next business day following the sponsoring broker's receipt of notice of the consummation or termination, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

A) Commissions and/or fees earned by a sponsoring broker in any transaction shall be disbursed by that broker from the funds deposited in an escrow account no earlier than the day the transaction is consummated or terminated and not later than the next business day after the transaction is consummated or

terminated, or otherwise in accordance with the written direction of all principals to the transaction or their duly authorized agents.

B) Authorized disbursements are those which are made on behalf of, and at the written direction of, all principals to the transaction or their duly authorized agents.

C) A sponsoring broker shall not withhold, for any period of time, an authorized disbursement of escrow moneys due to any claim for a commission or compensation to any licensee.

2) Pursuant to Section 20-20(h)(8)(i) of the Act, if prior to the consummation or termination of the transaction, the sponsoring broker receives written direction from all of the principals to the transaction or their duly authorized agents agreeing to a disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the written directions. Such disbursement must be made not later than the next business day following the sponsoring broker's receipt of the last required written direction.

3) The sponsoring broker may release escrow moneys pursuant to Section 20-20(h)(8)(ii) of the Act which allows a sponsoring broker to disburse escrow moneys prior to the consummation or termination of the transaction in accordance with directions providing for the release, payment, or distribution of escrow moneys contained in any written contract signed by the principals to the transaction or their duly authorized agents. In any such case the terms of the contract concerning the release of the escrow moneys shall be adhered to by the sponsoring broker.

4) Pursuant to Section 20-20(h)(8)(iii) of the Act and notwithstanding any other requirements or responsibilities in this Part, if the sponsoring broker receives an order from a court of competent jurisdiction providing for the disbursement of the escrow moneys, that broker must disburse the escrow moneys according to the terms of the order.

5) For the purposes of this Section, "duly authorized agent" shall mean an attorney-in-fact, an attorney-at-law who represents that he or she is acting on behalf of one of the principals to the transaction, or any other person the licensee can prove was authorized to act on behalf of a principal to the transaction.

h) Disputes Regarding Escrow Moneys. In the event of a dispute over the return or forfeiture of any escrow moneys held by the sponsoring broker or if a sponsoring broker has knowledge that any party to a transaction contests or disagrees with an anticipated disbursement of escrow moneys held by that broker, he or she shall continue to hold the deposit in his or her escrow account:

1) until he or she has a written release from all parties or their duly authorized agents consenting to the disposition, in which case the escrow moneys must be disbursed according to the terms of the written direction no later than the next business day after the sponsoring broker's receipt of the last required written release;

2) until a civil action is filed, by either the sponsoring broker or one of the parties, to determine its disposition, at which time payment may be made into court;

3) until the funds are turned over to the State Treasurer or such other appropriate State agency or officer designated pursuant to the Act or the Uniform Disposition of Unclaimed Property Act [765 ILCS 1025], because of inactivity of the account or inability to locate the parties, or inability of the parties to reach a resolution.

If an interpleader action is filed by the sponsoring broker, and the broker is authorized by real estate contract to withdraw from the escrow account those amounts as may be necessary to reimburse the sponsoring broker for costs and reasonable attorney's fees associated with that action, excluding costs and attorney's fees associated with that broker's attempt to collect a commission or fee.

i) Escrow Records. Each sponsoring broker who accepts earnest money shall maintain, in his or her office or place of business, a bookkeeping system in accordance with sound accounting principles, and without limiting the foregoing, such system shall consist of at least the following escrow records as further described below:

1) Journal. A journal shall be maintained for each escrow account. Such journal shall show the chronological sequence in which funds are received and disbursed by the sponsoring broker.

A) For funds received, such journal shall include the date the funds were received, the name of the person on whose behalf the funds are delivered to that broker and the amount of the funds so delivered.

B) For fund disbursement, the journal shall include the date, the payee, the check number and the amount disbursed.

C) A running balance shall be shown after each entry (receipt or disbursement).

2) Ledger. A ledger shall be maintained for each transaction. The ledger shall show the receipt and the disbursement of funds affecting a single

particular transaction such as between buyer and seller, or landlord and tenant, or the respective parties to any other relationship. The ledger shall include the names of all parties to a transaction, the amount of such funds received by the sponsoring broker and the date of such receipt. The ledger shall show, in connection with the disbursements of such funds, the date thereof, the payee, the check number and the amount disbursed. The ledger shall segregate one transaction from another transaction. There shall be a separate ledger or separate section of each ledger, as the broker shall elect, for each of the various kinds of real estate transactions (e.g., lease). If the ledger is computer generated from the same data entry from which the journal is generated, the sponsoring broker must maintain copies of the bank deposit slips, bank disbursement slips, or other bank receipts, to account for the data on the ledger.

3) Monthly Reconciliation Statement. Each sponsoring broker shall reconcile, within ten days after receipt of the monthly bank statement, each escrow account maintained by such broker except where there has been no transactional activity during the previous month. Such reconciliation shall include a written work sheet comparing the balances as shown on the bank or savings and loan association statement, the journal and the ledger, respectively, in order to insure agreement between the escrow account and the journal and the ledger entries with respect to such escrow account. Each such reconciliation shall be kept for at least 5 years from the last day of the month covered by such reconciliation.

4) If escrow moneys are transferred from an escrow account to another account for disbursement, the sponsoring broker must maintain a copy of all records reflecting a disbursement from the other account.

5) Master Escrow Account Log. Each sponsoring broker shall maintain a Master Escrow Account Log identifying all escrow bank account numbers, and the name and address of the bank where the escrow accounts are located. The Master Escrow Account Log must specifically include all bank account numbers opened for individual transactions, even if such account numbers fall under another umbrella account number.

6) A sponsoring broker may employ a more sophisticated bookkeeping system based on sound accounting principles, including a system of electronic data processing equipment. However, any such system must contain or produce printed records containing the information required by this Section, although it need not be in the same format as provided for in this Section.

7) OBRE shall have available for distribution, on request, samples of an approved journal, ledger, monthly reconciliation statement, and Master

Escrow Account Log.

8) Pursuant to Section 20-20(h)(9) of the Act, the sponsoring broker shall make available to the real estate enforcement personnel of the OBRE during normal business hours all escrow records and related documents maintained in connection with the practice of real estate within 24 hours after a request.

9) Copies of all Escrow Money Instruments. Except as otherwise provided by law, the broker shall retain copies of all escrow money instruments received from a principal as part of a transaction, including copies of all personal checks, cashier's checks, certified checks, money orders, promissory notes, or other financial instruments. The broker shall also retain copies and/or documentation of all disbursements or transfers into or out of an escrow account.

10) Escrow records shall be retained for 5 years. The escrow records for the immediate prior 2 years shall be maintained in the office location and the balance of the records can be maintained at another location.

11) If escrow records are lost, stolen, or destroyed due to fire, flood or any other circumstances, the broker must report such loss to the OBRE enforcement division within 30 days by signature restricted delivery. The broker must also immediately obtain copies of monthly bank statements, deposit and disbursement receipts, and any other available records, to reconstruct such loss of escrow records.

12) A sponsoring broker may delegate the bookkeeping duties under this Part to another person, including a managing broker, a bookkeeper, certified public accountant, unlicensed assistant, licensed assistant, or sponsored licensee. However, compliance with the bookkeeping duties remain the responsibility of the sponsoring broker. The sponsoring broker is ultimately responsible for the proper administration of the escrow account pursuant to this Part.

j) Sponsored Licensees. Sponsoring brokers shall institute office policies to ensure that the sponsored licensees tender escrow moneys received in compliance with this Part. Sponsored licensees, whether salespersons, brokers, or leasing agents, may not maintain their own escrow accounts.

k) Branch Offices. Branch offices may maintain escrow accounts in compliance with this Part or may transmit all escrow moneys received to the main office, but not to another branch office, for compliance with this Part.

1) If the branch office does maintain escrow accounts, all of the requirements of this Part apply, including maintaining all required escrow records, and

submitting to OBRE all required escrow forms.

2) If the branch office does not maintain escrow accounts but instead transmits all escrow moneys received to the main office, all escrow moneys must be transmitted by the branch office to the main office not later than the next business day following the transaction. A transaction exists once an agreement has been reached and an accepted real estate contract signed or lease agreed to by the parties. Even if the branch office transmits all escrow moneys received to the main office, the branch office must maintain records showing the date the escrow moneys were transferred to the main office. The funds received at the main office from a branch office shall be placed in the sponsoring broker's escrow account not later than the next business day following receipt of such funds from the branch office.

l) Escrow Requirements for Property Management Activities. Security deposits shall be maintained in an escrow account for the duration of the lease, unless the tenant waives this requirement in writing. Such waiver, if included in the lease, shall appear in bold print.

m) Notification to OBRE of Identity of Escrow Accounts. Consent to Audit All Accounts.

1) Each sponsoring broker shall, at the time of the original application for licensure and at the time of renewal of licensure, on forms provided by OBRE, file with OBRE the name of the banks, savings and loan associations, or other recognized depositories in which each escrow account is maintained, and the name of each account, and the names of the persons authorized to withdraw funds from such accounts, and shall, as a condition of licensure, consent on such form to the examination and audit of all escrow accounts, notwithstanding whether the account is identified on the form, by OBRE.

2) A new form shall be executed by the sponsoring broker and filed with OBRE within 10 days after the time of a change of depository, method of doing business, or persons authorized to make withdrawal. A new form shall also be executed each time a new escrow account is opened. However, a new form shall not be required each time a new escrow account is opened for an individual transaction and where such account falls under an umbrella account which has already been identified in a prior form. The identity of each of these individual escrow accounts, however, must be included in the Master Escrow Account Log pursuant to subsection (i)(5) of this Section.

n) Violations. Any licensee who violates any of the provisions of this Part may be deemed to have endangered the public interest pursuant to Section 20(h)(12) of

the Act and may be subject to a temporary suspension pursuant to Section 20-65 of the Act.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.180 Record Keeping

a) A sponsoring broker shall keep or cause to be kept, escrow records, transaction records, employment agreements, and records reflecting the payment of compensation, as further described in this Section.

1) Escrow records for each interest bearing and non-interest bearing escrow account or account into which escrow funds have been deposited. These records shall include:

A) Journals as defined in Section 1450.175(i)(1).

B) Monthly bank statements.

C) Ledgers as defined in Section 1450.175(i)(2).

D) Monthly reconciliations as defined in Section 1450.175(i)(3).

E) Master Log of (Escrow) Accounts as defined in Section 1450.175(i)(5).

These escrow records shall be maintained for 5 years. The broker shall ensure that the escrow records for the immediate prior 2 year period are maintained in the office location. All in office escrow records shall be made available for inspection and audit during normal business hours by OBRE staff no later than 24 hours after a request for escrow records and related documents. Any escrow records more than two years old and stored at a location other than the office shall be made available for inspection during normal business hours within 30 days after the request.

2) Records relating to transactions shall be kept in the office involved in the transaction. These records might include copies of the following:

A) Residential Property Transactions: Signed contracts, including offers and counteroffers, written release of escrow funds, Dual Agency Authorization, written direction for deposit into interest bearing special account, power of attorney, disclosures (e.g., lead paint, seller disclosure) and closing statements.

B) Property Management/Leasing: Any rental finding agreement, leases, periodic accounting or statement to the owner regarding the

receipts and disbursements.

C) Commercial Representation: Tenant or owner representation agreement, letters of intent, leases, and any written modifications to an executed lease.

These lists are not intended to be all inclusive rather they are intended to be examples of pertinent documents to be retained. Any similar documents pertinent to a particular transaction shall also be retained. Any information contained on the outside of a transaction file shall be considered part of that file.

Transaction records shall be maintained for 5 years. The sponsoring broker shall ensure that any transaction records involving any active or pending transaction or representation, or any transaction in which escrow funds or monies belonging to others were received and have not yet been disbursed shall be maintained in the office location. All transaction records maintained at the office location shall be made available for inspection and audit during normal business hours by OBRE staff no later than 24 hours after a request for escrow records and related documents. Any transaction records stored at a location other then the office shall be made available for inspection during normal business hours within 30 days after the request.

Sponsoring brokers may allow their sponsored licensees to maintain a duplicate of the transaction records.

3) Employment agreements, as required by Section 10-20 of the Act, shall be maintained for 5 years after the sponsored licensee is no longer affiliated with the sponsoring broker. The broker shall maintain the written employment agreement for every licensee who is employed by or affiliated with the sponsoring broker. A copy of the employment agreement for each sponsored licensee at a branch office shall be maintained at the respective branch office.

4) Records reflecting the payment of compensation for the performance of licensed activities shall be maintained for 5 years.

b) If the records are kept electronically, the sponsoring broker shall ensure that a back up is made. In the case of escrow records, the back up shall be made at least monthly. The monthly reconciliation, including its worksheet, shall be printed out and maintained by hard copy. The journal shall be reduced to hard copy at least monthly.

Section 1450.185 Disclosure of Compensation

Pursuant to Section 10-10(b) of the Act, a licensee shall disclose, in writing, any compensation the licensee expects to receive or that he knows the licensee's sponsoring broker will receive, arising out of a referral to any person or entity whose services are related to the transaction, including any financial institution, insurance broker, mortgage broker, home inspector, or any other third party. The disclosure shall indicate the relationship between the licensee or the licensee's sponsoring broker and the referred person, or entity and any interest the licensee or the licensee's sponsoring broker may have in the referred person or entity.

Section 1450.190 Disclosure of Licensee Status

A licensee is "selling, leasing or purchasing any interest," directly or indirectly, for purposes of Section 10-27 of the Act, when the licensee:

a) is selling, leasing or seeking to purchase property as sole owner;

b) is selling or seeking to purchase property as a joint tenant or tenant by the entirety;

c) holds a beneficial interest in a land trust selling, leasing or seeking to purchase an interest in the subject property;

d) is a general partner in a partnership selling, leasing or seeking to purchase an interest in the subject property;

e) is an officer, director, majority or controlling shareholder of a corporation selling, leasing or seeking to purchase an interest in the subject property; or

f) is a manager or majority or controlling member of a limited liability company selling, leasing or seeking to purchase an interest in the subject property.

Section 1450.195 Brokerage Agreements and Listing Agreements

a) All exclusive brokerage agreements, including all exclusive listing agreements and exclusive buyer brokerage agreements, shall be in writing.

b) All written buyer brokerage agreements, whether exclusive or non-exclusive, shall contain the following:

1) the agreed basis or amount of compensation, and time of payment;

2) the duration of the buyer brokerage agreement, clearly set forth;

3) the name of the broker and the buyer;

4) the signatures of the parties; and

5) the duties of the buyer's broker.

c) All written listing agreements, whether exclusive or non-exclusive, shall contain the following:

1) the list price;

2) the agreed basis or amount of commission and the time of payment of the commission;

3) the duration of the listing agreement with a definite termination date, clearly set forth;

4) the name of broker and seller;

5) the identification of property involved (address or legal description);

6) the signatures of the parties; and

7) the duties of the listing broker.

d) Pursuant to Section 10-25 of the Act, no licensee shall obtain any written brokerage agreement containing a clause automatically extending the period of the contract. Any written brokerage agreement not containing such a provision for automatic expiration shall be void.

e) Every written brokerage agreement shall expressly provide that no amendment or alteration to the terms, with respect to the amount of commission or with respect to the time of payment of commission, shall be valid or binding unless made in writing and signed by the parties.

f) No licensee shall use real estate contract forms to change previously agreed commission payment terms.

g) If a listing agreement provides that, in the event of a default by a buyer, the broker's full commission or fees will be paid out of an earnest money deposit, with the remainder of the earnest money to be paid to the seller, the provision shall appear in the listing agreement in letters larger than those generally used in the listing agreement.

h) Each brokerage agreement shall clearly state that it is illegal for either the owner or the broker to refuse to display or sell to any person because of one's membership in a protected class, e.g.: race, color, religion, national origin, sex, ancestry, age, marital status, physical or mental handicap, familial status, or any

other class protected by Article 3 of the Illinois Human Rights Act.

i) Each brokerage agreement for a residential property of four units or less, which provides for a protection period subsequent to its termination date, shall also provide that no commission or fee will be due and owing pursuant to the terms of the brokerage agreement if, during the protection period, a valid, written brokerage agreement is entered into with another licensed real estate broker.

j) A broker may discuss a possible future brokerage agreement with a consumer whose property is exclusively listed with another broker or who is subject to a written exclusive buyer brokerage agreement only under the following conditions:

1) when the consumer initiates the contact; or

2) when the current broker upon request fails to provide within 10 calendar days the type and expiration date of the brokerage agreement between the consumer and the current broker. The request and response shall be in writing and mailed return receipt requested. If the above information is not received within 14 calendar days, the broker may then contact the consumer only if this information cannot be obtained from another source of shared broker information.

Section 1450.200 Written Agreements

a) No licensee shall solicit, accept or execute any contract or other document relating to a real estate transaction which shall contain any blanks with the intention of filling them in after signing or initialing the contract or other document.

b) No licensee shall make any addition to, deletion from or alteration of any signed contract or other document relating to a real estate transaction without the written, telefax or telegraphic consent or direction from all signatories. No licensee shall process any contract or other document that has been altered after being signed, unless each addition, deletion or alteration is signed or initialed by all signatories at the time of the addition, deletion or alteration.

c) A true copy of the original or corrected contract or other document relating to a real estate transaction shall be delivered or mailed within 24 hours of the time of signing or initialing the original or correction to the person signing or initialing the contract or other document.

d) All forms used by licensees intended to become binding real estate contracts shall clearly state this in the heading in large bold type. No licensee shall use a form designated Offer to Purchase when it is intended that the form shall be a binding real estate contract.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.205 Referral Fees and Affinity Relationships

a) No licensee may pay a referral fee to an unlicensed person who is not a principal to the transaction. In order to meet the license requirement, the person receiving the referral fee may be duly licensed as a real estate broker in either Illinois or the person's state or country of domicile. If the person's country of domicile does not have a licensing statute for real estate agents, then in order to receive a referral fee the person must comply with the laws, if any, of his or her country concerning the practice of real estate brokerage business.

b) No licensee may request a referral fee unless reasonable cause for payment of the referral fee exists. Reasonable cause for payment of a referral fee means that:

1) an actual introduction of a client has been made to a licensee; or

2) a contractual referral fee relationship exists with the licensee. The fact that reasonable cause to demand a referral fee exists does not necessarily mean that a legal right to the referral fee exists.

c) A licensee is prohibited from interfering with the agency relationship of another licensee or attempting to induce a client to break a listing or an exclusive representation agreement with another licensee for the purpose of replacing that agreement with a new listing or representation agreement in order to obtain a referral fee. For purposes of this Section, an agency relationship shall be deemed to exist when a written, exclusive agency agreement (either a listing or buyer representation agreement) is entered into. Interfering with the agency relationship of another licensee includes, but is not limited to:

1) demanding a referral fee from another licensee without reasonable cause;

2) threatening to take harmful action against the client of another licensee because of their existing agency relationship and in order to obtain a referral fee; or

3) counseling the client of another licensee on how to terminate or amend an existing agency contract in order to obtain a referral fee.

Any activities that involve the communication of corporate relocation policies or benefits to a transferring employee, as long as that communication does not involve advice or encouragement on how to terminate or amend an existing agency contract shall not be considered interference.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

SUBPART E: AGENCY RELATIONSHIPS

Section 1450.207 Confidentiality

Licensees in receipt of confidential information shall take reasonable steps to safeguard the information from unauthorized disclosure.

Section 1450.210 Failure to Disclose Information Not Affecting Physical Condition

No cause of action shall arise against a licensee for the failure to disclose:

a) that an occupant of that property was afflicted with Human Immunodeficiency Virus (HIV) or any other medical condition;

b) that the property was the site of an act or occurrence which had no effect on the physical condition of the property or its environment or the structures located thereon (Section 15-20 of the Act). Such acts shall include, but are not limited to, murder or suicide;

c) fact situations on property that is not the subject of the transaction; or

d) physical conditions located on property that is not the subject of the transaction that do not have a substantial adverse effect on the value of the real estate that is the subject of the transaction. This provision is intended to apply to actions taken by OBRE under the Act as well as to all civil actions in Illinois.

Section 1450.215 Licensee Serving as a Dual Agent in a Transaction Where a Licensee is a Party to the Transaction

A licensee may not serve as a dual agent in any transaction to which he or she or an entity in which he or she has an ownership interest is a party to the transaction.

SUBPART F: DISCIPLINE RULES AND PROCEDURES

Section 1450.220 Unprofessional Conduct

OBRE may suspend, revoke, or take other disciplinary action based upon its finding that the licensee or applicant has engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. The following descriptions are illustrative of the types of conduct that would constitute "dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public."

a) Failure to act in the best interests of a client.

b) Deliberately misleading a client as to the market value of the property.

c) Failing to advertise the property as obligated by the listing agreement.

d) Deliberately misrepresenting to prospective purchasers or their agents the condition of the property or the availability of access to show the property.

e) Purchasing or transferring of the property through an intermediary in order to conceal the purchase by the licensee.

f) Inducing a seller to list the property through false representations.

g) Inducing a seller through false representations or false promises to transfer the property to the licensee.

h) Taking unfair advantage of a client's or customer's age, disability, or lack of understanding of the English language.

i) Engaging in conduct with the public or other real estate licensees in the practice of real estate in a manner that is abusive, harassing, or lewd.

j) Representing oneself as a sponsoring broker or managing broker without providing the actual supervision and management of the real estate business.

k) Failing to reasonably safeguard confidential information or improperly using confidential information.

l) Obstructing an inspection, audit, investigation, examination, or a disciplinary proceeding.

m) Any violation of Section 1450.175, Special Accounts, shall be deemed unprofessional conduct.

n) Assisting or inducing a licensee to violate the Act or this Part.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.225 Discipline for Failure to Comply with Illinois Tax Acts, Child Support Order or Default on Illinois Guaranteed Student Loan

a) If OBRE receives certification that a licensee is in violation of Section 20-35, 20-40, or 20-45 of the Act, OBRE shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be disciplined unless the licensee provides to OBRE certification

that the licensee has complied with all applicable Illinois tax Acts, eliminated the delinquency, or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

b) If OBRE receives certification that an applicant is in violation of Section 20-35, 20-40, or 20-45 of the Act, OBRE shall notify such applicant, by certified or registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant provides to OBRE certification that the applicant has complied with all applicable Illinois tax Acts, eliminated the delinquency or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

c) For the purposes of this Section "certification " shall mean:

1) a verified statement by the appropriate administering agency of such delinquency, failure to file, failure to pay or default or satisfaction thereof; or

2) a finding by an administrative body, or a finding by a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois guaranteed student loan obligation.

d) A licensee or applicant may participate in a hearing, but the basis for the hearing shall only be for the purpose of proving that the petitioner is not the person for which such failure to pay or delinquency information was received, that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed and approved by both parties, or that the petitioner has satisfied the outstanding debt; collateral attack of the certification is not permitted.

e) A licensee will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay, default or delinquency has been satisfied and by completing the appropriate application and paying any fees as established by this Part.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.230 Temporary Suspension

a) The grounds for temporary suspension, as set forth in Section 20-65 of the Act, shall be based on evidence sufficient to cause OBRE to reasonably believe that the public interest, safety, or welfare imperatively requires emergency action. Emergency action is imperatively required when a licensee's conduct poses a threat that the public's or another licensee's money will be stolen or defalcated or

that the continued licensure of a licensee will be a threat to the physical safety of the public or another licensee. When determining imminent harm, OBRE may consider any combination of acts committed by a licensee including, but not limited to:

1) Failure to account for or to remit any moneys or documents that belong to others, as set forth in Section 20-20(h)(7) of the Act;

2) Failure to maintain and deposit in a special or escrow account, separate and apart from personal and other business accounts, all escrow moneys belonging to others entrusted to a licensee while acting as a real estate broker, escrow agent, or temporary custodian of the funds of others as set forth in Section 20-20(h)(8) of the Act;

3) Failure to make available to real estate enforcement personnel of OBRE during normal business hours all escrow records and related documents within 24 hours after a request for those documents by OBRE personnel, as set forth in Section 20-20(h)(9) of the Act and Section 1450.180 of this Part; however, this action in and of itself shall not be sufficient grounds for a temporary suspension; and

4) Commingling money or property of others with the licensee's own as set forth in Section 20-20(h)(13) of the Act.

b) A petition for temporary suspension shall:

1) State the statutory basis for the action petitioned;

2) Allege facts, supported by evidence or affidavit sufficient for temporary suspension;

3) Be signed by the Director or the Director's designee; and

4) Be presented to the Commissioner either in person or by telephone and in the presence of a court reporter.

c) An order for temporary suspension shall:

1) Contain findings of fact sufficient to support imposition of a temporary suspension;

2) Recite the statutory basis for the action;

3) Appoint a hearing officer;

4) Demand immediate surrender of the license; and

5) Be signed by the Commissioner.

d) A notice of temporary suspension shall accompany the order and shall:

1) Set a hearing date within 15 days after the date on which the order takes effects;

2) Name the hearing officer who shall conduct the hearing; and

3) Include a copy of OBRE's Practice in Administrative Hearings

Section 1450.235 Otherwise Discipline

a) "Discipline" means a refusal to issue or renew a license, probation, suspension, or revocation of a license, censure, reprimand, fine, or any other sanction explicitly provided for in the Act.

b) In conjunction with any of the disciplines enumerated in the Act, OBRE may impose "other discipline" in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public, which may include:

1) Restricting a licensee's access to escrow funds;

2) Requiring the successful completion of any approved real estate course, including courses for those licensees who would otherwise not be required to complete continuing education pursuant to Section 5-70 of the Act; or

3) Requiring the licensee to provide any report, record or document regarding real estate activity which OBRE may deem relevant and appropriate.

Section 1450.240 Dissolution: Effect of Suspension or Revocation of Sponsoring Brokers or Managing Brokers

a) Suspension or revocation of sponsoring broker:

Upon the effective date of a temporary or otherwise suspension or revocation of the license of a sponsoring broker corporation, limited liability company, partnership, or sole proprietorship and their respective principal or sponsoring broker, unless an interim sponsoring broker or receiver is appointed by the real estate brokerage company or its representative and subject to approval by OBRE:

1) The licenses of all respective sponsored licensees are automatically inoperative. However, each broker may resume the practice of real estate only upon securing a properly completed 45 day sponsor card, signed

either as a self sponsored broker or by another sponsoring broker. Each salesperson or leasing agent may resume the practice of real estate only upon securing a properly completed 45 day sponsor card signed by an active sponsoring broker.

2) All brokerage agreements with the sponsoring broker, including listing agreements, are deemed expired pursuant to Section 10-25 of the Act unless a new sponsoring broker is named within 7 business days. Unless a new sponsoring broker is named within 7 days the suspended or revoked sponsoring broker shall notify, in writing, all clients with whom the sponsoring broker has an active brokerage agreement, and advise that the brokerage agreement expired as of the date which is 7 business days after the suspension or revocation, and that the clients are legally authorized to enter into another brokerage agreement with any active broker.

3) Suspensions or revocations of a sponsoring broker shall not have an effect on the enforceability of any pending, executed real estate contracts.

A) the suspended or revoked sponsoring broker shall send a written notice to all clients with a pending, executed real estate contract explaining the suspensions or revocations, and that the suspensions or revocations shall not have an effect on the enforceability of the pending, executed real estate contracts. The notice shall also identify the name, address, and telephone number of the person in control of the escrow money. To the extent that the clients require additional real estate services, the notice shall provide that the clients may seek those services from another active broker.

B) a suspension or revocation shall not preclude the receipt of any commission or other compensation earned by the suspended or revoked sponsoring broker or other formerly sponsored licensee prior to the effective date of a suspension or revocation of the sponsoring broker.

b) Suspension or revocation of managing broker:

In the event of a suspension or revocation of a managing broker the offices and branch offices managed by that managing broker may resume the practice of real estate upon securing a replacement managing broker. Consistent with Section 5-45(e) of the Act, if a replacement managing broker is unable to be secured immediately after a suspension or revocation of the managing broker, the entity may continue to practice real estate for the first 15 days after the suspension or revocation. If, after 15 days, a replacement managing broker has not been secured, the office may only continue to practice real estate upon securing the written authorization of OBRE as provided for in Section 5-45(e) of the Act.

c) In the event of the voluntary retirement or the voluntary dissolution of a sponsoring broker, the sponsoring broker shall, at a reasonable time prior to the voluntary retirement or voluntary dissolution, provide written notice to all sponsored licensees to allow the sponsored licensees to secure new sponsoring brokers, and shall provide written notice to all active clients to allow the clients to secure brokerage agreements with new brokers.

Section 1450.245 Inspections and Audits

a) Inspections. OBRE is authorized to inspect those areas of a sponsoring broker's office open and generally available to the public at any time during normal business hours with or without the sponsoring broker's consent. With the sponsoring or responsible managing broker's consent or, if no consent is given, then upon 24 hours' notice OBRE may conduct a visual and physical inspection of the non-public areas of a sponsoring broker's office and interview any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practice of real estate. The licensee may have an attorney present if he or she so chooses.

Except as provided in subsection (b), upon any written or oral request by OBRE personnel for written documentation, a licensee shall produce the requested documentation within 30 days after the request.

b) Escrow Audits. OBRE is authorized to audit special accounts, escrow records and documents related to any escrow accounts maintained by the licensee. Escrow Audits may be conducted at any time with the sponsoring broker's consent or without consent during normal business hours with at least 24 hours' notice and the ability for the licensee to have an attorney present if her or she so chooses. Escrow Audits may include:

1) A review and examination of all required, original escrow records as set forth in this Part.

2) A review and examination of any document, including originals, related to a licensee's escrow accounts.

3) Interviews of any person, including any licensee or non-licensee, who may have knowledge or information about the licensee's practices for maintaining and administering his or her escrow accounts.

Upon any written or oral request by OBRE personnel for an Escrow Audit, a licensee shall make available during normal business hours any and all requested escrow records and related documents within 24 hours after the request. If those documents are not required to be kept on site, they shall be provided within 30 days after the request.

c) Subject to Section 20-20(h)(9) and (18) of the Act, OBRE is authorized to obtain a licensee's original records for the purposes of inspection, audit, and reproduction. OBRE shall promptly return all original documents or records to the licensee.

Section 1450.246 Audits of Special Funds by Outside Auditors

a) General Rule. OBRE may cause audits of special accounts of sponsoring brokers to be conducted by licensed certified public accountants under the circumstances and as provided for in this Section.

b) Basis for Audit. Upon receipt of:

1) a complaint from one or more members of the public;

2) information from another regulatory or law enforcement agency; or

3) evidence developed by OBRE;

which causes OBRE to reasonably believe that escrow moneys required to be kept in a special account have been misappropriated, OBRE may contract with a licensed certified public accountant for the purpose of auditing the special accounts of the sponsoring broker responsible for the accounts in question.

c) Definitions. The following terms shall have the meanings set forth in this Section:

1) Reasonable belief. The complaints, information or evidence available to OBRE are of such a nature or have sufficient credibility that a prudent person in the exercise of good judgment would reasonably rely or act upon that information or evidence.

2) Misappropriated or Misappropriation. The use of escrow moneys for a purpose other than that for which the escrow moneys were deposited or that is permitted by the Real Estate License Act of 2000, this Part, or the agreements providing for the handling of the escrow moneys. The mere failure to follow the provisions of Section 1450.175 dealing with the deposit and accounting for escrow moneys shall not constitute misappropriation.

3) Escrow Moneys. Shall have the same definition as set forth in Section 1-10 of the Act.

d) Notice of Audit. OBRE shall notify in writing the sponsoring broker responsible for the special accounts to be audited that an auditor has been retained to audit those special accounts, the identity of the auditor or auditing firm, and the fact

that the sponsoring broker shall submit all pertinent records for audit within 30 days after receipt of the written notice.

e) Procedures for Audit. The auditor or OBRE shall contact the sponsoring broker responsible for the special accounts for the purpose of scheduling the audit of the special accounts. The sponsoring broker shall provide the records requested at the scheduled time and location or as otherwise agreed by the sponsoring broker and the auditor or OBRE.

f) Written Report. Any licensed certified public accountant performing an audit for OBRE under the provisions of this Section and the Act shall provide a written report to OBRE, with a copy to the sponsoring broker, detailing the findings of the auditor with specific reference to compliance with the special account requirements of the Act and this Part.

g) Noncompliance and Cost of Audit. The sponsoring broker shall be liable for the cost of the audit if an order is issued by the Commissioner, pursuant to Section 20-60 of the Act, finding that escrow moneys were misappropriated by the sponsoring broker or his, her, or its employees, independent contractors, agents or designees.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.250 Case File Review Committee

a) The Real Estate Case File Review Committee of the Real Estate Administration and Disciplinary Board, authorized by Sections 20-60(c) and 25-10 and 25-15(4) of the Act, shall be composed of at least 2 voting members of the Real Estate Administration and Disciplinary Board as appointed by the Director with approval of the Board, the Director, an Investigation Supervisor and Chief of Prosecutions.

b) The Case File Review Committee shall meet at least once every 2 months to exercise its functions and duties as set forth in subsection (c) below. The Case File Review Committee members may take the actions listed below without meeting in person, but through other communication. The Case File Review Committee may meet concurrently with members of the regulatory staff or Board members of related professions, including, but not limited to Auctioneers, Land Sales, Time Share, Appraisal, Mortgage Brokers to discuss interrelated professional matters. The Case File Review Committee shall make every effort to consider expeditiously and take prompt action on each item on its agenda.

c) A "complaint" means the initial claim or allegation made against a licensee which results in a preliminary investigation to determine whether or not a formal complaint shall be brought. "Case file" means a complaint has been made against

a licensee that resulted in a preliminary inquiry and information has been sought pursuant to the Act and this Part in order to determine whether a formal complaint should be initiated and/or prosecution pursued.

d) The Case File Review Committee shall have the following duties and functions:

1) Shall recommend whether a case file be closed or refer the case file to Prosecutions for further review and action.

2) May recommend that an Administrative Warning Letter be issued, with or without a compliance agreement that may include an administrative fee pursuant to Section 1450.95(h)(11), and the case file closed. A case file may be closed without an Administrative Warning Letter if the Case File Review Committee deems it appropriate.

3) May recommend that cases of similar types of allegations be offered a standard disposition within a range recommended by the Board. A recommendation of an offer of standard disposition shall not restrict the Board from hearing an individual case at a hearing and issuing a recommendation based upon the individual facts and evidence in rebuttal, mitigation or aggravation in the individual matter.

4) May expedite a case file to Prosecutions if, in the opinion of the Director, Investigation Supervisor, or Chief of Prosecutions, the matter requires immediate attention. Case files requiring immediate attention may include, but are not limited to: conduct involving fraud, dishonesty, embezzlement, or unlicensed practice; actual or imminent harm or injury to a member of the public; reports of an escrow account shortage or discrepancies; or, refusal to provide escrow account records or related documents within the required time period.

5) Shall report a summary of the actions of the Case File Review Committee at each Board meeting.

e) In determining what action to take or whether to proceed with a formal complaint, investigation and prosecution of a case file, the Case File Review Committee shall consider factors including, but not limited to:

1) the effect on the public's health, safety and welfare;

2) any indication of fraud;

3) commingling or embezzlement;

4) evidence of escrow account shortages or discrepancies;

5) refusal to provide escrow account records or related documents within the required time period; or

6) prosecutorial merit.

f) Disqualification of a Case File Review Committee member:

1) A Case File Review Committee member shall be recused from consideration of a case file when a conflict of interest or prejudice would prevent that Committee member from being fair and impartial.

2) Participation in the initial stages of the handling of a case file, including participation on the Case File Review Committee and in informal conferences, shall not bar a Case File Review Committee member from later participating in decision making relating to that case file as a formal complaint or prosecution.

g) Meetings of the Case File Review Committee are an exception to the Open Meetings Act and shall be closed to the public, in accordance with 5 ILCS 120/2(c)(15).

Section 1450.255 Hearings

All disciplinary hearings brought before the Board under Article 20 of the Act shall be conducted in accordance with the Rules of Practice in Administrative Hearings as provided for in 68 Ill. Adm. Code 1110.

Section 1450.260 Real Estate Recovery Fund

a) Necessity of Notice

When any person commences, in the civil courts, an action for a judgment which may result in collection from the Real Estate Recovery Fund, that person shall notify OBRE in writing at the time of commencement of the action.

b) Time of Notice

"Time of the commencement of the action" shall be construed to mean within 7 days after:

1) the plaintiff in a civil action files a Complaint or an Amended Complaint in the Circuit Court or the Federal District Court; or

2) the aggrieved party files a proof of claim or an adversary action regarding nondischargeability of the debt in a bankruptcy matter.

c) Place and Manner of Notice

Notice required by Section 20-90 of the Act or by this Section shall be sent by certified mail, return receipt requested, or shall be delivered by hand, to OBRE in Chicago, Illinois, Attention: Docket Clerk.

d) Contents of Notice

Every notice required by Section 20-90 of the Act or by this Section shall include:

1) a copy of the Court document:

A) the complaint showing the "Filed" stamp of the Clerk of the Court in which the complaint was filed; or

B) the proof of claim or an adversary complaint regarding nondischargeability in a bankruptcy matter.

2) copies of relevant documents available to the claimant, including:

A) real estate sales contract, lease, closing statement, disbursement directions, or other evidence of title to real property on which the claim is based, or if claimant does not possess title, evidence of the interest in real property on which the claim is based (evidence includes such documents as title policy, deed, or lease);

B) proof of any check or money order regarding earnest money or security deposit, other negotiable instruments, or dishonored checks issued by the licensee.

3) an itemized statement of losses of actual cash money which the claimant alleges occurred as a result of conduct identified in Section 20-85 of the Act by a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker. Where no itemized statement is possible, the claimant must state under oath that his or her losses are estimated and that his or her calculation of estimated losses is as accurate as circumstances permit him or her to make.

e) Necessity of Natural Person as a Defendant

No notice of claim will be recognized or accepted where the underlying complaint does not name at least one natural person, either a licensed broker, salesperson, leasing agent, or unlicensed employee of a broker, as a defendant.

Section 1450.265 Automatic Termination Upon Order to Payout from the Real Estate Recovery Fund

A licensee who desires to contest an automatic termination for payment out of the Real Estate Recovery Fund pursuant to Section 20-90(i) of the Act, must file the appropriate motion or appeal with the Court which ordered the payment from the Fund.

Section 1450.266 Advisory Letters

a) OBRE may issue advisory letters on issues dealing with the interpretation and application of the Real Estate License Act of 2000 and this Part.

b) A licensee is entitled to rely upon an advisory letter from OBRE and will not be disciplined by OBRE for actions taken in reliance on the advisory letter. An advisory letter may only be relied upon by the licensee seeking the advisory letter. However, OBRE may change its position prospectively, at which time the licensee who sought the advisory letter will have to meet the new position or policy of OBRE.

c) Although not binding on OBRE, licensees other than the licensee who sought the advisory letter may refer to an advisory letter issued by OBRE as the reason for a licensee's acts or omissions that result in OBRE considering disciplinary action against the licensee. OBRE will consider such arguments but will not be bound by the advisory letter except as to the licensee who actually sought the advisory letter from OBRE.

d) Requests for advisory letters shall be submitted in writing to OBRE. The request shall include at a minimum the following:

    1) the name of the licensee on whose behalf the advisory letter is sought;

    2) the factual situation or hypothetical factual situation on which the advisory letter is sought;

    3) citations to any provisions of the Act, rules or cases that the licensee or the licensee's advisor believes is relevant to the issue as well as a discussion of the relevance of the cited material to the issue on which advice is sought; and

    4) a statement of the issue or issues on which advice is sought.

e) Because advisory letters will be available through the Freedom of Information Act and may also be published by OBRE, the party requesting the advisory letter should indicate whether the name of the licensee should be disclosed in the advisory letter. If the request for the advisory letter includes a request to keep the name of the licensee or other parties in the letter confidential, then the person

requesting the advisory letter shall submit along with the request a second letter using generic business names, for example Licensee A, Company B, for the names to be kept confidential. If OBRE receives such a request, then the published response will only use the generic names.

f) OBRE shall respond to the licensee requesting the advisory letter within 60 days after receipt of the request by OBRE. The response may be the advisory letter, an estimated time for providing an advisory letter, a request for clarification or additional information, or a statement that OBRE declines to issue an advisory letter as requested with an indication of the reason for declining to issue the advisory letter. OBRE shall provide a copy of all correspondence concerning a request for an advisory letter to the sponsoring broker, if any, of the licensee requesting the advisory letter.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.270 Definition of Schools and School Branch (Repealed)

(Source: Repealed at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.275 Pre-License Schools

a) In accordance with Section 30-5(a) of the Act, any person or entity seeking approval to provide pre-license education shall submit an application on forms provided by OBRE along with the appropriate fee required by this Part. OBRE shall, after review by the Advisory Council, approve a pre-license school if it meets certain minimum requirements and pays the required fee as provided in the Act and this Part.

b) The program of education for a pre-license school shall:

1) Be approved by the school's governing and/or supervising body;

2) Use instructors who have a valid license as a pre-license instructor as set forth in the Act and Section 1450.278;

3) Have a curriculum that conforms to the standards of Section 1450.276;

4) Administer a final course examination as outlined in Section 1450.276.

c) Facilities

1) A pre-license school must provide an office in Illinois for the maintenance of all records, office equipment and office space necessary for customer service.

2) The premises, equipment and facilities of the pre-license school shall comply with all applicable community fire codes, building codes, and health and safety standards.

3) The pre-license school is subject to inspection prior to approval or at any time thereafter by authorized representatives of OBRE. The inspection shall be during regular business hours, with at least 24 hours' advance notice of the inspection.

4) No pre-license school shall be maintained in a private residence.

5) Whenever a pre-license school intends to operate a branch location, an application shall be submitted to OBRE for each branch location. Each application shall be accompanied by the fee as required by this Part.

6) No pre-license school shall allow the school premises or classrooms to be used during class time by anyone to directly or indirectly recruit students to become affiliated with a licensee. Instructors and school administrators shall promptly report to OBRE any such efforts to recruit students.

d) Administration

1) Pre-License schools shall use only licensed pre-license instructors.

2) No licensed pre-license school shall advertise that it is endorsed, recommended, or accredited by OBRE. The pre-license school, however, may indicate that the school is licensed by and the course of study has been approved by OBRE.

3) Every pre-license school shall submit to OBRE, upon its request, a schedule of all courses to be taught and when and where they will be taught. OBRE shall be notified of any changes to that schedule.

4) The pre-license school shall provide a prospective student prior to enrollment with information that specifies the course of study to be offered, the tuition to be charged, the school's policy regarding refund of unearned tuition when a student is dismissed or withdraws voluntarily or through hardship, any additional fee to be charged for supplies, materials or books that become the property of the student upon payment, and other matters that are material to the relationship between the school and the student.

5) Each pre-license school shall maintain for each student a record which shall include the course of instruction undertaken, dates of attendance, and areas of study completed satisfactorily. Each student's record shall be

maintained by the pre-license school for a period of 5 years and shall be available for inspection by the student or by OBRE or its designee during regular business hours.

6) A licensed pre-license school shall upon request give evidence of the financial resources available to equip and maintain the school, as documented by, e.g., a current balance sheet or an income statement.

7) OBRE shall be reimbursed by any out-of-state pre-license school for all reasonable expenses incurred by the inspector to inspect its facilities.

e) OBRE shall notify administrative officials of the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

f) OBRE shall be notified of all proposed changes in ownership of a pre-license school on forms provided by OBRE 30 days prior to the change in ownership.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.276 Curriculum for Pre-License Schools

a) Pre-license schools shall offer, at a minimum, the courses provided for in this Section.

b) The application for licensure as a pre-license school shall include a list of courses to be offered, an outline and course description for each course along with an examination and answer key. Each outline shall make reference to the textbook used and other material related to the course or subject matter, and shall conform to the approved curriculum outlines prepared by OBRE.

c) Pre-license schools must provide the following courses:

1) Real Estate Transactions shall include a minimum of 45 class hours. The course shall include instruction in real estate law, types of interest and ownership in real estate, home ownership, legal descriptions, titles, liens, taxes, encumbrances, listing, advertising, appraisal, finance, closings, and professional code of ethics. This course will be required for those wishing to obtain a salesperson's license.

2) Brokerage Administration shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in Illinois real estate law and licensure, listings, title search, forms for closing, contract forms, and the broker-salesperson relationship.

3) Contracts and Conveyances shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates. The course shall include instruction in deeds, fixtures, contracts, real estate closings, foreclosure and redemption, land use controls, landlord/tenant relationship, cooperatives and condominiums.

4) Advanced Principles 2000 shall consist of a minimum of 15 class hours and shall be mandatory for all broker candidates and shall include agency, disclosure, environmental issues, escrow, license law and other topics approved by the EAC and OBRE.

d) Pre-license schools shall provide two or more of the following courses:

1) Appraisal shall consist of a minimum of 15 class hours. The course shall include instruction in the appraisal process, real property and value, economic trends, depreciation and land value.

2) Property Management shall consist of a minimum of 15 class hours. The course shall include, but not be limited to, instruction in fundamentals of tenant-management relationship, property modernization, property maintenance, leases, real property insurance, commercial property, industrial property and advertising.

3) Financing shall consist of a minimum of 15 class hours. The course shall include instruction in types of financing, sources of financing, mortgages, mortgage documents, closing a mortgage, interest, liens, foreclosure, real property insurance, mortgage risk, principles of property value for mortgage credit, mortgage analysis and construction loans.

4) Sales and Brokerage shall consist of a minimum of 15 class hours. The course shall include instruction in qualifications and functions of a real estate broker; land utilization; appraisal principles and methods; office organization; selection, training and supervision of salespersons and office personnel; compensation of salesperson listings; prospects; real estate markets; financial control; and government regulations.

5) Farm Property Management shall include a minimum of 15 class hours. The course shall include instruction in inventorying assets, determining method of operation, tenants, budgeting, crop and livestock production, marketing, tax planning and depreciation, government programs and regulations, insurance and ethics.

6) Real Property Insurance shall include a minimum of 15 class hours. The course shall include instruction in risk, functions of insurance, insurance contracts, types and purposes of insurance.

7) Other courses as approved from time to time by OBRE. If additional elective courses are developed, they shall be approved by OBRE prior to implementation. The courses shall be approved upon determination that the course is at least 15 clock hours (one clock hour equals 50 minutes) in length and constitutes real estate related material.

e) Examinations. Each course shall end in a mandatory proctored final examination consisting of 50 questions for each 15 classroom hours for which the minimum passing score shall be no less than 75%.

f) Attendance at all classes is mandatory; however, credit for absences not to exceed 10% of the class hours may be made up by attendance at make-up classes as provided in subsection (g). Missing any class hours after having the opportunity to make up class hours as provided in subsection (g) shall result in failure of the course.

g) Each school shall provide time and facilities for conducting make-up classes for students who were absent from the regularly scheduled class period.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.277 Expiration Date and Renewal Period for Pre-License Schools

a) Every pre-license school and school branch license as well as their course approvals shall expire on June 30 of each odd numbered year.

b) Each pre-license school shall be responsible for submitting an application for renewal of the license on forms provided by OBRE. Failure to receive a renewal form shall not constitute a valid reason for failure to submit a renewal application or pay the renewal fee or to renew the appropriate license.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) As part of the renewal application each pre-license school shall submit a list of courses, an outline, course description and examination answer key for each course to be taught.

e) Operation of a pre-license school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

f) Any pre-license school or school branch whose license under the Act has expired for more than two years shall not be eligible for renewal of that license.

Any pre-license school whose license has been expired for less than two years may renew the license only after providing OBRE with evidence that all

qualifications of Section 1450.275 have been met and the required fees have been paid.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.278 Pre-License Instructors

a) An applicant for a license as a pre-license instructor must be approved by OBRE and meet the following criteria:

1) Except as provided in subsection (b), pass an examination approved by OBRE with a minimum score of 75 percent, make application for the license within one year after receiving the necessary minimum score, have a real estate broker's license and been active as a real estate broker for at least the last 3 years; and

2) Be currently admitted to practice law by the Supreme Court of Illinois, and for at least 3 years have been engaged in the active practice of law in Illinois; or

3) Be a properly credentialed pre-license instructor of real estate courses who is or has been engaged in the practice of teaching for at least 3 years; or as evidenced by a professional designation such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Be properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations and be a member of a nationally recognized association in that field, and for at least 3 years have been engaged in that practice; or

5) In the judgment of the Director of Real Estate, after receipt of a recommendation from the Advisory Council, the person is qualified by experience or education, or both, to supervise a course of study pursuant to the provisions of this Section. In determining whether a person is qualified to supervise a course of study under this Section, the Director shall consider:

A) The individual's teaching experience;

B) The individual's real estate experience;

C) Any real estate, business or legal education of the individual;

D) The results of a personal interview with the individual. The

personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

E) The recommendation of the Advisory Council. The Advisory Council shall evaluate the application and make a recommendation to the Director of Real Estate for approval or disapproval of the applicant as a pre-license instructor.

OBRE shall issue approval to the applicant or notify the applicant in writing why approval cannot be issued.

b) Previously approved pre-license instructors are exempt from taking the examination as long as they have maintained a valid instructor's license, and have no lapse in licensure greater than 2 years.

c) No approved pre-license instructor shall be seated for either the salesperson or broker licensure examination except for the purpose of securing a salesperson's or broker's license. Nothing in this provision shall prevent OBRE from using pre-license instructors to monitor and evaluate the examination.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.280 Expiration Date and Renewal Period for Pre-License Instructors

a) Pre-license instructor licenses expire on June 30 of each odd numbered year.

b) Each licensed pre-license instructor shall be responsible for submitting an application for renewal of the license on forms provided by OBRE verifying that a pre-license course was taught during the pre-renewal period by the applicant or the applicant attended an OBRE approved instructor training program during the pre-renewal period. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the renewal form or pay the required renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Instructing courses on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and may be grounds for discipline.

e) Any licensed pre-license instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, the State Militia called into the service or training of

the United States; or

2) engaged in training or education under the supervision of the United States prior to induction into military service; or

3) serving as the Director of Real Estate in the State of Illinois, or as an employee of OBRE.

A pre-license instructor renewing his or her license in accordance with this subsection (e) may renew the license within a period of two years following the termination of service and is not required to retest or reapply.

f) Except as otherwise provided in this Section, any pre-license instructor whose license under the Act has expired for more than two years shall not be eligible for renewal of that license.

g) Any pre-license instructor whose license has been expired for less than two years may renew the license only after providing OBRE with evidence that all qualifications of Section 1450.278 have been met, that the instructor taught at least one course within the period of licensure or has completed an OBRE approved instructor training program and the required fee is paid.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.285 Continuing Education Schools

a) Approval of continuing education (CE) Schools. Those entities seeking approval as CE schools shall maintain an office in Illinois for maintenance of all records, office equipment and office space necessary for customer service.

1) The CE school's office may be subject to inspection by authorized representatives of OBRE during regular working hours and upon at least 24 hours' notice when OBRE has reason to believe that there is not full compliance with the Act or this Part and that this inspection is necessary to ensure full compliance.

2) OBRE shall be reimbursed by any out-of-state CE school for all reasonable expenses incurred by the inspector to inspect its facilities.

3) Entities seeking licensure as CE schools shall file a CE school application, on forms provided by OBRE, along with the required fee. The application shall include the following:

A) An agreement by the applicant that the applicant shall provide to OBRE, upon request, a schedule including location, date, time, and

name of instructor of each CE course to be offered;

B) The CE school's certification:

i) that all CE courses offered by the CE school for CE credit will comply with the criteria in the Act and this Part;

ii) that the CE school will be responsible for verifying attendance at each CE course and providing a certificate of completion signed by the CE school;

iii) that the CE school will maintain its records for not less than 5 years and shall make these records available for inspection by OBRE or its designee during regular business hours;

iv) that upon request by OBRE, the CE school will submit evidence to establish compliance with this Section and Sections 30-15 through 30-25 of the Act;

v) that the CE schools will only offer CE, other than distance education CE, in an environment that is conducive to learning (i.e., adequate lighting, seating) and does not jeopardize the health, safety, and welfare of the attendees;

vi) that financial resources are available to equip and maintain its office in a manner necessary to enable the CE school to comply with Article 30 of the Act, this Section and this Part, documented by a current balance sheet, an income statement or any similar evidence as requested by OBRE; and

vii) that upon request the CE school will make available to a licensee who has taken one or more of the CE school's courses the records dealing with the licensee's participation in those courses.

4) Validly licensed pre-license schools seeking to offer CE courses qualify for a continuing education school license upon completion of the required application and submission of the required fee.

5) OBRE shall issue approval to the CE school or notify the CE school, in writing, why approval cannot be issued.

b) Licensed CE schools shall comply with the following:

1) No licensed CE school shall allow the premises or classrooms utilized during CE courses to be used by anyone to directly or indirectly recruit students. CE schools and CE instructors shall report to OBRE any efforts to recruit students.

2) No licensed CE school shall advertise that it is endorsed, recommended, or accredited by OBRE. The CE school, however, may indicate that the school and the CE course have been approved by OBRE.

3) Licensed CE schools shall utilize in the teaching of approved CE courses only CE instructors who have been licensed by OBRE.

4) Licensed CE schools shall specify in any advertising promoting CE courses the number of CE hours that may be credited toward Illinois CE requirements for license renewal. Further, licensed CE schools shall specify the number of core or elective CE course hours that may be earned by successfully completing the course.

5) All CE courses given by licensed CE schools shall be open to all licensees and not be limited to members of a single organization or group.

c) Administration

1) All CE schools shall seek a certificate of registration for all CE courses they plan to offer and shall not offer any CE course until OBRE has issued a certificate of registration for that course. All requests for registration of courses shall include a course description, course outline, examination and answer key.

2) Upon request all CE schools shall also notify OBRE as to all CE instructors they plan to use.

3) The CE school shall be responsible for assuring verified attendance at each CE course or self-study examination. No renewal applicant shall receive CE credit for time not actually spent attending the CE course or when a passing score of 70% on the examination was not achieved.

4) Each licensed CE school shall submit to OBRE, on or before the 15th of each month, a report of those licensees passing CE courses offered by it during the preceding calendar month.

A) The monthly reports shall, at a minimum, include the following information for each licensee:

i) the licensee's name, address, social security number, and license number;

ii) the CE school's name and license number; and

iii) the CE course name, course license number, course category (core or elective), and credit hours; and

iv) such other information as may be required by OBRE.

B) If no courses were given by a CE school during the preceding calendar month, that CE school shall report in writing that no courses were given.

C) The monthly reports shall be submitted on forms or in a computer readable format provided by OBRE.

D) There is no processing fee for a monthly report submitted in the computer readable format specified by OBRE. Each monthly report submitted on paper or in a format other than that specified by OBRE shall be accompanied by a processing fee of $.50 per licensee, per course listed on the report, payable by check to OBRE.

E) A monthly report received by OBRE with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative fee of $200 in addition to the fees set forth in subsection (c)(4)(D).

F) If a CE school fails to file monthly reports or a statement saying that no CE courses were given, or fails to pay the required fees for three successive months, then the courses offered by that school may be disqualified pursuant to procedures set forth in Section 30-15of the Act until all delinquent reports, processing fees, and administrative fees as set forth in this Section have been submitted to and are received by OBRE. OBRE shall send notice to the school of an informal conference before the Advisory Council and of pending disqualification pursuant to Section 30-15(d) of the Act by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.286 Curriculum for Continuing Education Schools and Course Registration Process

a) The following are the subject matters for core (mandatory) courses subject to change by OBRE, through its Advisory Council:

1) license law and escrow

2) fair housing

3) agency.

b) The following are the subject matters for elective courses subject to change by OBRE, through its Advisory Council:

1) antitrust

2) appraisal

3) property management

4) residential brokerage

5) farm property management

6) rights and duties of sellers, buyers and brokers

7) commercial brokerage and leasing

8) real estate financing

9) environmental

10) technology.

c) Credit hours may be earned for self-study programs approved by the Advisory Council.

d) A broker or salesperson may earn credit for a specific continuing education course only once during the prerenewal period.

e) OBRE shall issue certificates of registration for approved CE courses upon successful completion of the following process:

1) The person or entity seeking approval for the CE course shall complete and submit the application approved by OBRE for a certificate of registration;

2) The CE course shall be identified as either “core” or “elective” by the applicant;

3) The CE course description, outline, examination and answer key is

submitted along with the application;

4) The required fee as provided for in Section 1450.95 of this Part is submitted; and

5) The Advisory Council approves the application for registration of the CE course.

f) CE credit, which shall be limited to 3 hours, may be granted for pre-license courses but only after issuance of a certificate of registration by OBRE following the process provided for in subsection (e) of this Section.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.287 Expiration Date and Renewal Period for Continuing Education Schools

a) Every continuing education school license shall expire on June 30 of each even numbered year.

b) Every certificate of registration of a CE course shall expire on June 30 of each even numbered year.

c) Each licensed CE school shall be responsible for renewal of the license on forms provided by OBRE. Failure to receive a renewal form shall not constitute a valid reason for failure to submit the proper application for renewal.

d) The applicable fees shall be those set forth in Section 1450.95 of this Part.

e) Each CE school shall submit the renewal application along with the proper fee and a list of courses to be taught, course descriptions, course outlines, examinations and answer keys.

f) Operation of a CE school on an expired or inoperative license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline under the Act.

g) Any continuing education school whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any CE school whose license has been expired for less than two years may renew the license after providing OBRE with evidence that all qualifications of Section 1450.285 have been met and the proper renewal fees have been paid.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.288 Continuing Education Instructors

a) An applicant seeking approval from OBRE to become a licensed CE instructor shall submit a completed application, on forms provided by OBRE, along with the required fee as provided for in Section 1450.95 of this Part.

b) An individual applying to become a licensed CE instructor shall meet at least one of the following criteria:

1) Licensed and active in practice as a real estate broker for at least the last three years; or

2) Is currently admitted to practice law and for three years has been engaged in real estate related work as part of his or her active practice of law or has taught pre-licensure real estate courses; or

3) Is a properly credentialed instructor of real estate courses who is or has been engaged in the practice of teaching for at least three years; or as evidenced by a professional designation, such as, but not limited to, a designated real estate instructor (DREI); or approved by a college's or university's governing body to teach in a real estate degree program; or

4) Is properly licensed or certified to engage in the business of appraisal, finance and/or related real estate occupations (not including real estate salespersons or leasing agents) and for at least three years has been engaged in that practice; or

5) Is qualified by experience or education as outlined in Section 30-15(b)(9) of the Act. In determining whether a person is qualified to teach CE under that Section, the Director of Real Estate shall consider the following:

A) The individual's teaching experience;

B) The individual's real estate experience;

C) Any real estate, business or legal education of the individual;

D) The results of a personal interview with the individual. The personal interview may be conducted via telephone if it would be overly burdensome and unreasonable for the applicant to personally appear for the interview (e.g., applicant living out-of-state); and

E) The recommendation of the Advisory Council. The Advisory Council shall make a recommendation to the Director of Real Estate for approval or disapproval of the applicant as a CE

instructor.

c) Individuals validly licensed to teach salesperson and broker pre-license courses, pursuant to Section 1450.278 of this Part, are qualified as CE instructors as long as they submit an application to OBRE for licensure as a CE instructor and pay the required fee.

d) OBRE shall notify the applicant in writing within 15 days after its approval or disapproval. In the event the applicant is disapproved, the reasons will be detailed and the applicant advised that the applicant may request a hearing as provided for in Section 30-5 of the Act.

(Source: Added at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.290 Expiration Date and Renewal Period for Continuing Education Instructors

a) Every continuing education instructor license shall expire on June 30 of each even numbered year.

b) Each licensed CE instructor shall be responsible for renewal of the license on forms provided by OBRE. Failure to receive a renewal form shall not constitute a valid reason to submit the proper application for renewal and for failure to pay the proper renewal fee.

c) The applicable fees shall be those set forth in Section 1450.95 of this Part.

d) Teaching CE courses on an expired license shall constitute the unlicensed or unauthorized practice and shall be grounds for discipline .

e) Any licensed CE instructor whose license under the Act has expired is eligible to renew the license without paying any lapsed renewal fees or reinstatement fees provided that the license expired while the instructor was:

1) on active duty with the United States Army, United States Navy, United States Marine Corps, United States Air Force, United States Coast Guard, or the State Militia called into the service or training of the United States; or

2) engaged in training or education under the supervision of the United States prior to induction into military service; or

3) serving as the Director of Real Estate in the State of Illinois, or as an employee of OBRE.

A CE instructor renewing his or her license in accordance with this subsection may renew the license within a period of two years following the termination of

service and is not required to retest or reapply.

f) Any continuing education instructor whose license under the Act has expired for more than two years shall not be eligible for renewal of that license. Any CE instructor whose license has been expired for less than two years may renew the license only after providing OBRE with evidence that all qualifications of Section 1450.288 have been met and the proper renewal fee is paid.

g) Any CE instructor applying for renewal must verify he or she has taught at least one course within the period of licensure or has completed an OBRE approved instructor training program.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.295 Distance Education Courses

Distance education courses are courses in which instruction does not take place in a traditional face to face classroom situation but rather when instruction takes place through other media. Distance education programs include but are not limited to those that are presented through on-line courses, interactive classrooms, video conferencing, audio tape, print media, video tape, compact disks and interactive computer.

Distance education courses shall be affiliated with a licensed pre-license or CE school and meet the curriculum requirements set forth in Section 1450.276 and/or Section 1450.286 of this Part, as applicable.

a) Distance education courses must meet all requirements for pre-license or CE courses, whichever is applicable, and any additional requirements established by the Act and this Part.

b) Distance education courses shall be submitted to OBRE for review and approval as provided for in Section 1450.276 or Section 1450.286, whichever is applicable.

c) Pre-license or CE schools providing distance education courses shall establish written policies and procedures for grading examinations and lessons, which shall include provisions for instructor comments, suggestions and written correction of errors. There shall also be written procedures for the prompt return of materials. Copies of these policies shall be provided to OBRE upon request.

d) Schools providing distance education courses shall establish performance objectives for each course.

e) Pre-license schools offering distance education courses shall maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

f) Schools providing distance education courses shall provide for a valid licensed instructor to be available during normal business hours to answer student questions.

g) Each school offering distance education courses shall submit for approval by OBRE the general plans for proctoring exams for distance education courses and each school shall be responsible for the security and integrity of course final examinations and the suitability of the sites and proctors utilized by the school.

h) Each school offering distance education shall provide appropriate technical support throughout the period the courses are offered.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.300 Class Attendance Requirements (Repealed)

(Source: Repealed at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.305 Recruitment at Test Center

Recruitment of test takers to become affiliated with a licensee at test facilities where the Illinois Real Estate Licensing Examination is being conducted is not permitted before, during, or after the examination.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.310 Withdrawal of Approval of Schools (Repealed)

(Source: Repealed at 27 Ill. Reg. 12018, effective July 9, 2003)

Section 1450.315 Discipline of Schools or Instructors

a) The Advisory Council, after notice, can conduct an informal conference for the purpose of reviewing a school's or instructor's compliance with this Act and this Part. The Advisory Council may make a recommendation to the Board based upon its findings and conclusions resulting from that conference.

b) Upon written recommendation of the Board to the Commissioner, OBRE may refuse to issue or renew a license or certificate of registration, reprimand, fine, withdraw approval, place on probation, suspend, or revoke any license or otherwise discipline any license or certificate of registration, of any pre-license school, pre-license instructor, CE school, CE instructor, course, or applicant for the license or certificate of registration when, at any time:

1) The quality of the course, instruction or program fails to meet the established criteria as set forth in the Act and this Part.

2) If the license approval was based upon false or deceptive information.

3) If any other professional license, accreditation, certification of the instructor or school is suspended, revoked or otherwise disciplined.

4) When the applicant or licensee has:

A) subverted or attempted to subvert the integrity of any exam or course, including through improper reproduction of an exam, providing an answer key to an exam, cheating, bribery or otherwise, or aids and abets an applicant or licensee to subvert the integrity of any exam or course;

B) made any substantial misrepresentation, misleading or untruthful advertising, including without limitation guaranteeing success or a "pass score" on any exam or in any course or using any trade name or insignia of membership in any educational or any real estate organization of which the applicant or licensee is not a member;

C) taught real estate courses without being qualified, including, but not limited to, being unapproved by OBRE, being unlicensed, having a nonrenewed license or being uncertified, or aids and abets an unqualified individual to teach a real estate course;

D) failed to provide information to OBRE as required under any provision of the Act or this Part; or

E) disregarded or violated any provision of the Act or this Part.

5) If any approved pre-license school fails to maintain an average passing rate of at least 40% for all students who take the licensure examination for the first time over a 6 month period, either January through June or July through December.

c) Disciplinary proceedings shall be conducted by the Board as provided for in the Act and Subpart F of this Part.

d) OBRE may temporarily suspend without hearing the certificate of registration for a licensed CE school's courses for failure to comply with the Act or this Part upon recommendation of the Advisory Council. No CE credit shall be granted to any licensee for completing a CE course for which the certificate of registration has been temporarily suspended.

(Source: Amended at 27 Ill. Reg. 12018, effective July 9, 2003)

SUBPART H: GRANTING VARIANCES

Section 1450.320 Granting Variances

a) The Commissioner of Banks and Real Estate may grant variances from these rules in individual cases where he or she finds that:

1) the provision from which the variance is granted is not statutorily mandated;

2) no party will be injured by the granting of the variance; and

3) the rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Commissioner shall notify the Board of his or her intention to grant a variance, and the reasons therefore, at a meeting of the Board, prior to granting the variance.

SUBPART J: TRANSITION RULES

Section 1450.325 Salesperson Applicants - Transition Provisions

a) Until March 31, 2000, an applicant for a salesperson license may be allowed to sit for the examination if the applicant submits either:

1) a course completion transcript which verifies that on or before December 30, 1999, the applicant completed the previously required 30 hour Real Estate Transactions course; or

2) proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under the Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the age requirements.

b) If an applicant for a salesperson license eligible to sit for the examination under subsection (a) of this Section fails the salesperson examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Salesperson Real Estate Transaction Supplemental Course.

Section 1450.330 Broker Applicants - Transition Provisions

a) Until March 31, 2000, an applicant for a broker's license may be allowed to sit for the examination if the applicant:

1) submits a course completion transcript which verifies that on or before December 30, 1999, the applicant completed the previously required 90 credit hours of broker pre-license courses; or

2) submits proof of current Illinois attorney registration or a baccalaureate degree involving real estate as provided for under this Part, and otherwise meets the licensure requirements in effect on December 30, 1999, including the salesperson pre-license course completion, salesperson experience and age requirements.

b) If an applicant for a broker license eligible to sit for the examination under subsection(a) of this Section fails the broker examination three times, the applicant shall be allowed to sit for the examination on or before March 31, 2000, only upon completion of the 15 hour Broker Administration course.

Section 1450.335 Continuing Education - Transition Provisions

a) As of February 1, 2000, CE schools may no longer provide a consolidated classroom curriculum of four CE course for twelve credit hours in a calendar day and students may not earn more than six credit hours in a calendar day. CE course credit earned through a distance learning program is not subject to the maximum of six credit hours in a calendar day.

b) Renewal applicants may satisfy the CE core course requirements by the submission of completion of courses that had been approved at the time of completion as mandatory courses. The acceptance of mandatory courses in lieu of core courses shall be permitted until:

1) April 30, 2001, for salesperson renewal applicants; and

2) April 30, 2000, for broker renewal applicants.

Section 1450.340 Education License Renewals - Transition Provisions

a) Pre-license. Every active pre-license school, pre-license school branch location, and pre-license instructor shall be granted written authority to continue to educate through to June 30, 2000, as if the licenses had been renewed on December 31, 1999. A licensee offering educational services under this authority may be

disciplined in the same manner as an active licensee practicing by authority of a renewed certificate. Every pre-license school, pre-license school branch location, and pre-license instructor license and every pre-license course registration shall expire on June 30, 2000, and may be renewed for a period to June 30, 2001 upon submission of the required forms and payment of the fee required by Section 1450.95. Thereafter, the licenses will expire on June 30 of each odd numbered year.

b) CE. Every active license to a CE school, CE instructor, and restricted CE instructor under the Act shall be granted written authority to continue to educate through to June 30, 2000, as if the licenses had been renewed on April 30, 2000. A licensee offering educational services under this authority may be disciplined in the same manner as an active licensee practicing by authority of a renewed certificate. Every CE school, CE instructor, and restricted CE instructor license and every CE course registration shall expire on June 30, 2000, and may be renewed for a two year period upon submission of the required forms and payment of the fee required by Section 1450.95. Thereafter, the licenses will expire on June 30 of each even numbered year.