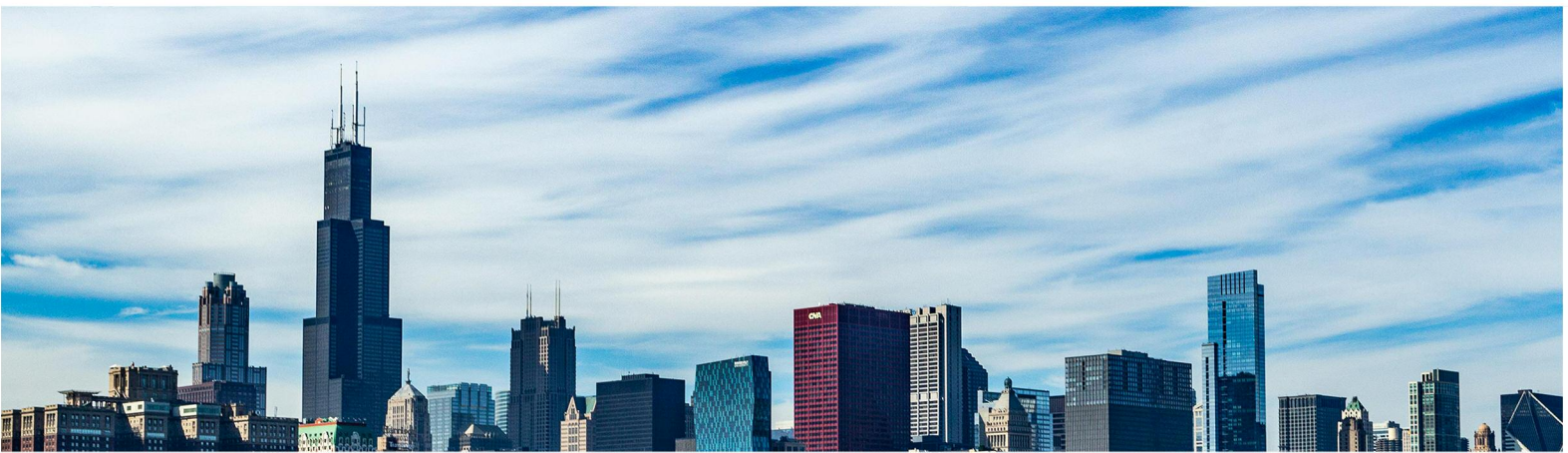




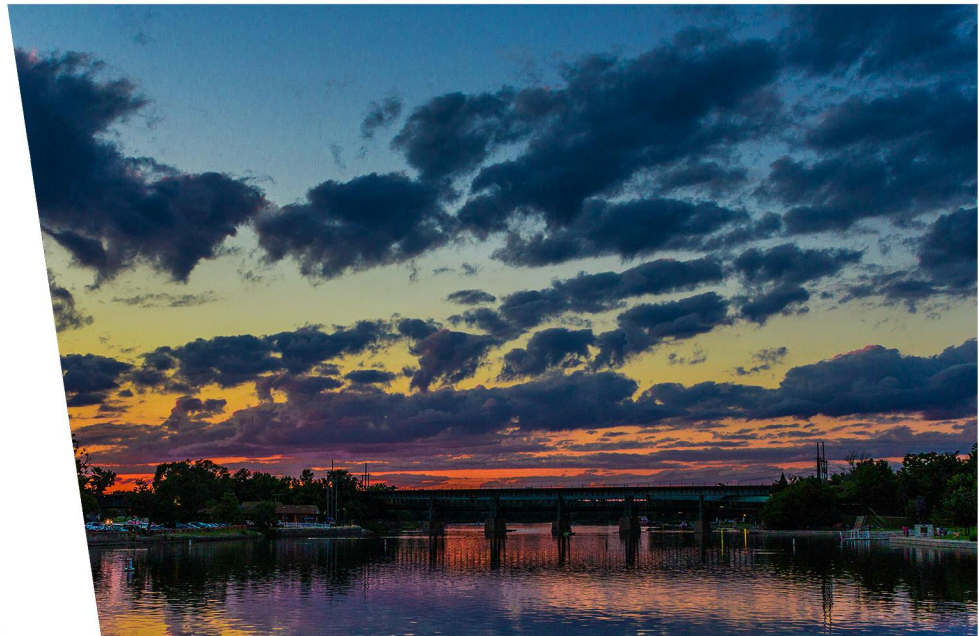
State of Illinois
Department of Financial and Professional Regulation
Division of Real Estate



LOOKING TO THE NEXT DECADE AND BEYOND:

Updates to the Real Estate License Act

Mario Treto, Jr.
Acting Director



Mission Statement

The Mission of the Division of Real Estate is to serve, safeguard, and promote the public welfare by ensuring that qualifications and standards for licensed real estate related professions are properly evaluated, uniformly applied, and systematically enforced. We strive to provide efficient service through effective communication and transparency in operations, while maintaining a commitment to excellence with both consumers and the industry.

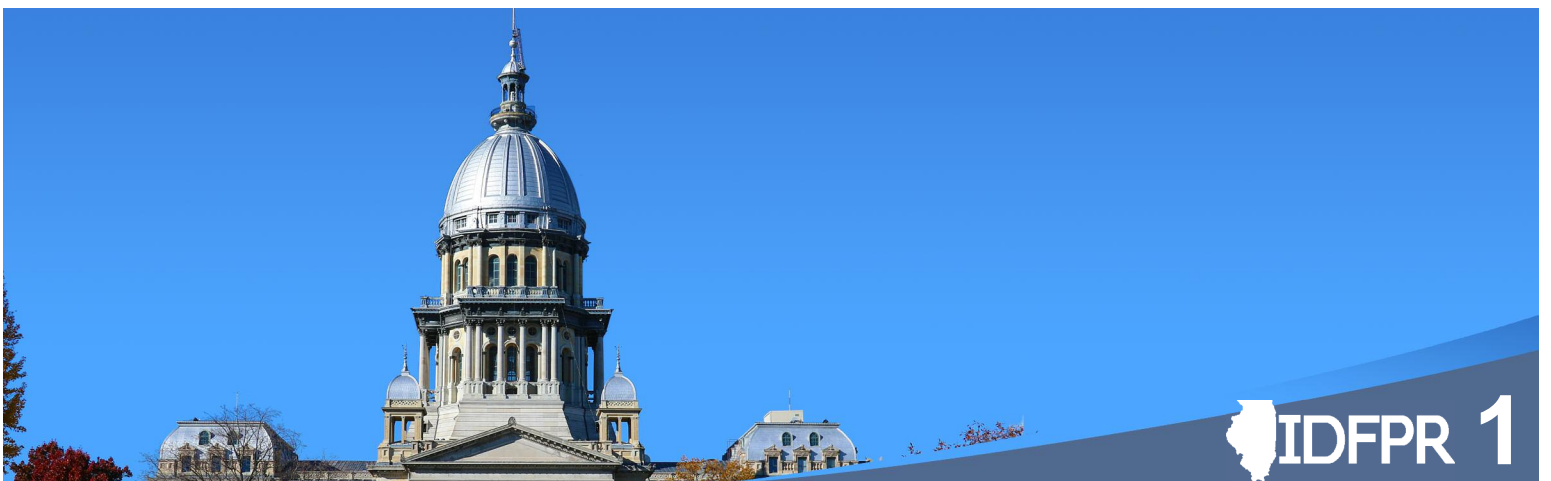
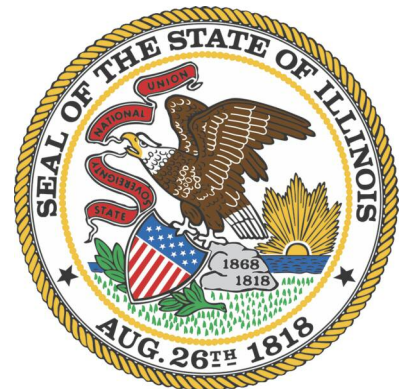


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A Message from the Acting Director



On August 9, 2019, Governor JB Pritzker signed Public Act 101-0357 into law, updating the Real Estate License Act of 2000 and extending it to January 1, 2030. Considered during a historic legislative session, this revision passed the House of Representatives and Senate unanimously, and is the product of numerous weeks of collaboration between licensees, stakeholders, and consumers. I am proud of the hard work and dedication the Division of Real Estate team invested in putting forth an exemplary bill.

The Real Estate Act rewrite is a comprehensive overhaul and effectively updates the Act to meet modern day standards, capture technological advances, adopt industry best practices, and strengthen consumer protections. While the Act is effective immediately, it is intended to endure the next decade. Our team also collaborated with stakeholders in anticipating advances in the real estate industry that we expect to see in the coming decade. As a governmental regulatory body, we are committed to ensuring that our Division is keeping pace with private sector developments as they unfold. This publication is intended to highlight important changes to the Act. For the full Act, please see Real Estate License Act, 225 ILCS 454/1-1 et seq.

While the Administrative Rules are in the process of being updated, I assure you that the Division will maintain transparency and communication to keep stakeholders informed. The Rule amendments are being updated with the same amount of intricate care as was the Act.

It is an exciting time to be a real estate professional in the State of Illinois and I remain committed to our Division's continuing efforts to further advance and enhance the real estate industry with the core mission of maintaining strong consumer protections.

Best,

A handwritten signature in blue ink that reads "Mario Treto, Jr." in a cursive script.

Mario Treto, Jr.
Acting Director of the Division of Real Estate

Advertising and Teams

Advertising

The sponsoring broker's name shall be at least equal in size or larger than the team name or that of the individual licensee. *225 ILCS 454 Section 10-30(f)*

Advertising is expanded to include social media and digital forums. *225 ILCS 454 Sections 10-30(a) and 10-35(a)*

A licensee using the internet or electronic advertising must not engage in phishing or the deceptive use of metatags, keywords or other methods to direct or divert internet traffic. *225 ILCS 454 Section 10-35(b)*

"Blind advertisement" is expanded to include electronic ads that do not provide a direct link to all the required disclosures. *225 ILCS 454 Section 1-10*

Individuals with an active managing broker license may now advertise themselves as a managing broker. Those managing brokers that are designated by their sponsoring broker as a designated managing broker shall identify themselves as the designated managing broker on all advertising except yard signs. *225 ILCS 454 Section 10-30(g)*

Teams

The Act defines "team" as any two or more licensees who:

- Provide real estate brokerage services;
- Represent themselves to the public as being part of a team or group;
- Are identified by a team name that is different than their sponsoring broker's name; and
- Are supervised by the same managing broker and sponsored by the same sponsoring broker. *225 ILCS 454 Section 1-10*

Team does not mean a separately organized, incorporated, or legal entity. *225 ILCS 454 Section 1-10*

Team names may not include misleading terms, such as "company," "realty," "real estate," "agency," "associates," "brokers," "properties," or "property." *225 ILCS 454 Section 10-30(a)*

Consumer Protection

Discipline

Discipline may be imposed:

Cheating – for cheating on continuing education courses or examinations. 225 ILCS 454 Section 20-20(a)(7)

Compensation – if a licensee pays compensation to an unlicensed person who is not a party to a transaction in exchange for a referral. 225 ILCS 454 Section 10-15(e)

Credit Card Payments – for submitting a credit or debit card payment using a card that is invalid, expired, or declined. 225 ILCS 454 Section 20-25

Criminal Convictions – for failing to notify the Department of any criminal conviction that occurs during the licensure term within 30 days after the conviction. 225 ILCS 454 Section 20-20(a)(45)

Licensee Status – if disclosure of licensee status is not indicated on any property data form accessible to the consumer. 225 ILCS 454 Section 10-30(c)(1)

Good Moral Character – if an applicant makes a false statement of material fact on their application. The Act also enumerates aggravating or extenuating circumstances that the Department shall consider when an applicant for a license has previously had their license revoked, has a history of certain criminal convictions, or guilty pleas, or has committed any of the practices that provide grounds for discipline under the Act. 225 ILCS 454 Section 5-25

Guaranteed Sales Plan – on licensed and unlicensed individuals offering a guaranteed sales plan which does not comply with the Act. 225 ILCS 454 Section 20-20(a)(29)

Proof of Sponsorship – if a sponsoring broker or licensee fails to timely provide sponsorship or termination of sponsorship information to the Department. 225 ILCS 454 Section 20-20(a)(20)

Unlicensed Practice – for engaging in the practice of real estate brokerage without a license, with an expired license, or while the license was inactive, revoked or suspended. 225 ILCS 454 Section 20-20(a)(6)

Real Estate Recovery Fund (“Fund”)

A claim against the Fund does not need to arise from a loss resulting from intentional misconduct. 225 ILCS 454 Section 20-85

The Department will determine by rule the maximum amount an aggrieved person may recover from the Fund as well as the maximum liability arising out of a licensee’s activities. There is no longer a cap on attorney’s fees. 225 ILCS 454 Section 20-85

The Act removes certain barriers to be eligible to recover from the Fund. 225 ILCS 454 Sections 20-85 and 20-90

Licensing and Education

Licensing Updates

Designated Managing Broker

The Act creates a new classification of managing broker. A “designated managing broker” is a managing broker appointed by the sponsoring broker who has supervisory responsibilities for licensees in one or multiple offices. *225 ILCS 454 Section 1-10*

The sponsoring broker is responsible for supervising all designated managing brokers, shall name a designated managing broker for each office, and notify the Department of all designated managing brokers and the office(s) they manage. *225 ILCS 454 Section 5-45(b)*

Designated managing broker’s responsibilities include:

- Supervision and training of all licensees and employees associated with each assigned office;
- Implementing company policies; and
- Supervision of all the sponsoring broker’s special accounts. *225 ILCS 454 Section 10-55(a)*

In addition, designated managing brokers shall directly handle all earnest money, escrows, contract negotiations, and advertisements for broker who have not completed the 45-hour post-license education. *225 ILCS 454 Section 10-55(b)*

A designated managing broker may be disciplined for failure to provide a written company policy or perform any of the duties set forth in Section 10-55. *225 ILCS 454 Section 20-20(a)(46)*

A designated managing broker must identify themselves to the public as the designated managing broker on all advertising except yard signs. *225 ILCS 454 Section 10-30(g)*

Requirements for Licensure

Every broker applicant must be at least 18 years old (previously 21). *225 ILCS 454 Section 5-27(a)*

Every managing broker applicant must be at least 20 years old (previously 21) and licensed at least 2 consecutive years out of the preceding 3 years as a broker. *225 ILCS 454 Section 5-28(a)*

Restrictions on Licensure

No person, partnership, or business entity shall be granted a license if any owner, officer, director, partner, limited liability partner, member, or manager has been denied a real estate license in the previous 5 years or is currently barred from practice by the Department. *225 ILCS 454 Section 5-15(f)*

No corporation, partnership, or limited liability company (LLC) shall be granted a license if any nonparticipating owner, officer, partner, member, or manager is currently barred from real estate practice by the Department. *225 ILCS 454 Section 5-15(b)(c) and (d)*

Licensing and Education

Sponsorship and Compensation

Physical sponsor cards are no longer required and are replaced by a valid sponsorship registered with the Department. *225 ILCS 454 Sections 5-10(b) and 5-27(c)*

24 hours' notice to the Department is required when establishing or terminating sponsorship with a licensee. *225 ILCS 454 Section 5-40*

If a sponsorship is terminated, the licensee's status will automatically become inactive until a new valid sponsorship is registered with the Department. Whether the termination is initiated by the sponsoring broker or the licensee, the initiating party is responsible for notifying the Department within 24 hours of the termination. *225 ILCS 454 Section 5-40(b)*

A business entity formed by a licensee for the purpose of receiving compensation from their sponsoring broker must either be owned solely by the licensee or by the licensee together with the licensee's spouse, but only if the spouse and licensee are both licensed and sponsored by the same sponsoring broker or the spouse is not also licensed. *225 ILCS 454 Section 10-20(e)*

Dual Agency

The Act addresses dual agency by adding language that not only allows an individual licensee to act as a dual agent, but also allows for a sponsoring broker to permit one or more of its licensees to act as dual agents in the same transaction only with the informed written consent of all clients. *225 ILCS 454 Section 15-45(a)*

Instructor License

Pre-license instructors may now teach pre-license, post license, continuing education core curriculum, continuing education elective curriculum, or broker management continuing education courses. *225 ILCS 454 Section 30-25(a-5)*

Licensed continuing education instructors are only permitted to teach continuing education elective curriculum courses. *225 ILCS 454 Section 30-25(a-5)*

License Status

Within 24 hours, licensees shall notify the Department of any changes in their address, telephone number, email address, or office location. *225 ILCS 454 Section 5-41*

Where applicable, licensees will now be considered "inactive" instead of "inoperative." In addition, the license of any business entity is considered inactive when it is not in good standing with the Illinois Secretary or State or not authorized to conduct business in Illinois. *225 ILCS 454 Section 1-10*

Licensing and Education

Exemptions from Licensure

Persons under the resident lessee exemption can now receive compensation of no more than \$5,000 or the equivalent of 2 months' rent in any 12-month period. *225 ILCS 454 Section 5-20(10)*

Hotel operator exemptions are broadened to include those participating in an online rental platform of their own residence. *225 ILCS 454 Section 5-20(15)*

Register

The Department is no longer required to maintain a register of all current licensees or issue a pocket card. Each licensee shall carry their license or an electronic version of their license with them. *225 ILCS 454 Section 5-50(e)*

Licensed Activities

The Act clarifies that licensed activities include those commonly referred to as "wholesaling." This pattern of business is defined as buying, selling, offering to buy or sell, marketing for sale, exchanging, or otherwise dealing in contracts, including assignable contracts for the purchase or sale of, or options on real estate. An individual or entity will need a broker's license if engaged in this pattern of business at least twice in a 12-month period. *225 ILCS 454 Section 1-10*

Broker Price Opinions and Comparative Market Analyses shall not be considered appraisals under the Real Estate Appraisal Licensing Act of 2002. *225 ILCS 454 Section 1-10*

Every sponsoring broker must have a written employment or independent contractor agreement with each licensee the broker sponsors. *225 ILCS 454 Section 10-20*

Residential Leasing Agents

The leasing agent license has been renamed the residential leasing agent license to emphasize the activities allowed under this license type as the leasing of residential properties and not commercial properties. The leasing of commercial properties requires a broker's license. *225 ILCS 454 Section 1-10*

Education Guidelines

Residential Leasing Agents

Residential leasing agents are now required to complete 8 hours of continuing education during their 2-year term of licensure. The curriculum shall consist of a single course or courses on the following: fair housing and human rights issues related to residential leasing, advertising and marketing, leases, applications, credit reports, criminal history, handling of funds, owner-tenant relationships and laws, and environmental issues relating to residential real estate. *225 ILCS 454 Section 5-10(d)*

Licensing and Education

Broker and Managing Broker

Licensees can now complete 12 hours of real estate continuing education at any time during the term of their license. The Act allows no more than 12 hours of continuing education to be taken in 1 calendar day. *225 ILCS 454 Section 5-70(b) and (j)*

An individual with an active managing broker license, upon written request to the Department, may have that license permanently and irrevocably placed on inactive status and a broker's license be issued in exchange. *225 ILCS 454 Section 5-27(e)*

Continuing Education Citations

To help alleviate the burden of minor continuing education deficiencies, the Department will create a new citation program to address these deficiencies in an efficient manner. Elements of this new citation program will include:

- The licensee can request a hearing. If no hearing is requested, then the citation will result in a final non-disciplinary order.
- Payment of a fine only becomes public discipline after a licensee receives at least 2 or more citations and paid 2 or more fines.
- The penalty imposed on a citation is not to exceed \$2,000 and does not excuse the licensee from completing all the continuing education requirements.
- The Department can still take further disciplinary action for additional, repeated or continued violations. *225 ILCS 454 Section 20-20.1*

Course Credit Requirements

Continuing education courses may now be taught at a minimum of 1-hour increments. In order to receive credit for the course, there must be a minimum of 50 minutes of instruction per 1 hour of course time. Courses provided through live, interactive webinar shall require all participants to demonstrate their attendance by responding to at least one polling question per 50 minutes of course instruction. *225 ILCS 454 Section 30-15(i)(1,3)*

Changes to Continuing Education

Courses offered by the Department may now be eligible for continuing education credit. *225 ILCS 454 Section 5-20(16)*

Subjects for continuing education courses have been expanded to include: transaction management rights and duties of parties in a transaction, broker supervision and designated managing broker responsibilities, professional conduct, and use of technology. *225 ILCS 454 Section 5-70(f)*

Licensing and Education

Broker Pre and Post Education Changes

The pre-license education requirement is now 75 hours with 15 hours consisting of situational and case studies presented in the classroom or by live, interactive webinar or online distance education. *225 ILCS 454 Section 5-27(a)(5)*

The post-license education requirement is now 45 hours consisting of three 15-hour courses, one each covering: applied brokerage principles, risk management and discipline, and transactional issues. Each course will require its own 50 question final exam. *225 ILCS 454 Section 5-50(b)*

Those individuals receiving their first broker license within 180 days preceding the next broker renewal deadline will be allowed to complete the 45 hours of post license education prior to the second broker renewal deadline following the receipt of their license. *225 ILCS 454 Section 5-50(b)*

Broker Post Education Guidelines

*Educational changes are applicable to individuals issued an initial Broker License during the dates detailed below.

| Issued a Real Estate Broker License on, or AFTER 2/1/2018 and on, or before 8/8/2019 | Issued a Real Estate Broker License on, or AFTER 8/9/2019 and on, or before 11/1/2019 | Issued a Real Estate Broker License on, or AFTER 11/2/2019 and on, or before 4/30/2020 |
|---|---|---|
| Requirements <ul style="list-style-type: none">• 90 hours of Pre-License Education• Pass Licensing Exam• Issued Licenses will expire 4/30/2020 | Requirements <ul style="list-style-type: none">• 90 hours of Pre-License Education• Pass Licensing Exam• Issued Licenses will expire 4/30/2020 | Requirements <ul style="list-style-type: none">• 75 hours of new Pre-License Education**• Pass Licensing Exam• Issued Licenses will expire 4/30/2022 |
| Need to accomplish by 2020 Renewal <p>30 Hours of Post-License Education and renew license by 4/30/2020</p> | Need to accomplish by 2020 Renewal <p>45 hours of new Post-License Education and renew license by 4/30/2020</p> | Need to Accomplish by 2022 Renewal <p>45 hours of new Post-License Education and renew license by 4/30/2022</p> |
| Additional Requirements <p>Complete required 1-Hour Sexual Harassment Prevention Training Course</p> | <p>The Department may in its discretion extend the date by which the 45-Hour Post License Education must be completed through 11/1/2020 without penalty or fine.</p> | Additional Requirements <p>Enhanced Designated Managing Broker Supervision</p> |
| | Additional Requirements <p>Enhanced Designated Managing Broker Supervision</p> | **The Department will accept the current 90-Hour Pre-License Curriculum until the new 75-Hour Pre-License Curriculum is available. |

Technology and Office

E-mail

Electronic mail may be used to:

- Send a notice of renewal to a sponsoring broker of all their sponsored licensees. *225 ILCS 454 Section 5-50(f)*
- Serve a citation or provide notice of investigations and a hearing to the accused and their designated managing broker and sponsoring broker. *225 ILCS 454 Sections 20-20.1 and 20-60*
- Serve a copy of the Real Estate Administration and Disciplinary Board's report upon a person subject to a disciplinary proceeding. *225 ILCS 454 Section 20-64*

Records

A physical record required to be maintained shall be securely stored and made accessible to the Department at the sponsoring broker's principal office. *225 ILCS 454 Section 5-45(d)*

Electronic records shall be securely stored in their original format and made accessible to the Department. *225 ILCS 454 Section 5-45(d)*

Any record relating to a transaction of a special account shall be maintained for at least 5 years and if electronic, backed up monthly. *225 ILCS 454 Section 5-45(d)*

Virtual Offices

The Department recognizes the growing trend toward the virtual real estate business model and may adopt rules to regulate the operation of a virtual real estate practice. *225 ILCS 454 Section 5-45(f)*



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