

## Illinois Compiled Statutes

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## PROFESSIONS AND OCCUPATIONS (225 ILCS 441) Home Inspector License Act.

(225 ILCS 441/Art. 1 heading)

### ARTICLE 1. GENERAL PROVISIONS

(225 ILCS 441/1-1)

(Section scheduled to be repealed on January 1, 2012)

Sec. 1-1. Short title. This Act may be cited as the Home Inspector License Act.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/1-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 1-5. Legislative intent. The intent of the General Assembly in enacting this Act is to evaluate the competency of persons, including any entity, engaged in the home inspection business and to regulate and license those persons engaged in this business for the protection of the public.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/1-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 1-10. Definitions. As used in this Act, unless the context otherwise requires:

"Applicant" means a person who applies to OBRE for a license under this Act.

"Board" means the Home Inspector Advisory Board.

"Client" means a person who engages or seeks to engage the services of a home inspector for an inspection assignment.

"Commissioner" means the Commissioner of the Office of Banks and Real Estate or his or her designee.

"Home inspection" means the examination and evaluation of the exterior and interior components of residential real property, which includes the inspection of any 2 or more of the following components of residential real property in connection with or to facilitate the sale, lease, or other conveyance of, or the proposed sale, lease or other conveyance of, residential real property:

(1) heating, ventilation, and air conditioning system;

(2) plumbing system;

(3) electrical system;

(4) structural composition;

(5) foundation;

(6) roof;

(7) masonry structure; or

(8) any other residential real property component as established by rule.

"Home inspector" means a person who, for another and for compensation either direct or indirect, performs home inspections.

"Home inspection report" or "inspection report" means a written evaluation prepared and issued by a home inspector upon completion of a home inspection, which meets the standards of practice as established by OBRE.

"Inspection assignment" means an engagement for which a home inspector is employed or retained to conduct a home inspection and prepare a home inspection report.

"OBRE" means the Office of Banks and Real Estate.

"Person" means individuals, entities, corporations, limited liability companies, registered limited liability partnerships, and partnerships, foreign or domestic, except that when the context otherwise requires, the term may refer to a single individual or other described entity.

"Residential real property" means real property that is used or intended to be used as a residence by one or more individuals.

"Standards of practice" means recognized standards and codes to be used in a home inspection, as determined by OBRE and established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 5 heading)

#### ARTICLE 5. LICENSING PROVISIONS

(225 ILCS 441/5-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-5. Necessity of license; use of title; exemptions.

(a) Beginning January 1, 2003, it is unlawful for any person, including any entity, to act or assume to act as a home inspector, to engage in the business of home inspection, to develop a home inspection report, to practice as a home inspector, or to advertise or hold himself, herself, or itself out to be a home inspector without a home inspector license issued under this Act. A person who violates this subsection is guilty of a Class A misdemeanor.

(b) Beginning January 1, 2003, it is unlawful for any person, other than a person who holds a valid home inspector license issued pursuant to this Act, to use the title "home inspector" or any other title, designation, or abbreviation likely to create the impression that the person is licensed as a home inspector pursuant to this Act. A person who violates this subsection is guilty of a Class A misdemeanor.

(c) The licensing requirements of this Article do not apply to:

(1) any person who is employed as a code enforcement official by the State of Illinois or any unit of local government, while acting within the scope of that government employment;

(2) any person licensed by the State of Illinois while acting within the scope of his or her license; or

(3) any person engaged by the owner or lessor of residential real property for the purpose of preparing a bid or estimate as to the work necessary or the costs associated with performing home construction, home remodeling, or home repair work on the residential real property, provided such person does not hold himself or herself out, or advertise himself or herself, as being engaged in business as a home inspector.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-10. Application for home inspector license. Every natural person who desires to obtain a home inspector license shall:

- (1) apply to OBRE on forms provided by OBRE accompanied by the required fee;
- (2) be at least 21 years of age;
- (3) provide evidence of having attained a high school diploma or completed an equivalent course of study as determined by an examination conducted by the Illinois State Board of Education;
- (4) personally take and pass an examination authorized by OBRE; and
- (5) prior to taking the examination, provide evidence to OBRE that he or she has successfully completed the prerequisite classroom hours of instruction in home inspection, as established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-12)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-12. Application for home inspector license; entity. Every entity that is not a natural person that desires to obtain a home inspector license shall apply to OBRE on forms provided by OBRE and accompanied by the required fee.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-15)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-15. Practice prior to this Act. A person who has actively and lawfully practiced as a home inspector in the State of Illinois prior to the effective date of this Act may take the examination required by subsection (4) of Section 5-10 without having successfully completed the classroom hours required under subsection (5) of Section 5-10, provided that he or she:

- (1) is a resident of the State of Illinois;
- (2) makes application to OBRE on forms provided by OBRE within 6 months after the effective date of this Act;
- (3) verifies that he or she has practiced as a home inspector for a period of at least 2 years prior to the effective date of this Act; and
- (4) verifies that he or she has conducted a minimum of 200 home inspections that meet the standards established by rule within the 2 years prior to the effective date of this Act.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-16)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-16. Renewal of license.

(a) The expiration date and renewal period for a home inspector license issued under this Act shall be set by rule. Except as otherwise provided in subsections (b) and (c) of this Section, the holder of a license may renew the license within 90 days preceding the expiration date by:

- (1) completing and submitting to OBRE a renewal application form as provided by OBRE;
- (2) paying the required fees; and
- (3) providing evidence of successful completion of the continuing education requirements through courses approved by OBRE given by education providers licensed by OBRE, as established by rule.

(b) A home inspector whose license under this Act has

expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of subparagraphs (1), (2), and (3) of subsection (a) of this Section and paying any late penalties established by rule.

(c) Notwithstanding subsection (b), a home inspector whose license under this Act has expired may renew the license without paying any lapsed renewal fees or late penalties if (i) the license expired while the home inspector was on active duty with the United States Armed Services, (ii) application for renewal is made within 2 years following the termination of the military service or related education, training, or employment, and (iii) the applicant furnishes to OBRE an affidavit that he or she was so engaged.

(d) OBRE shall provide reasonable care and due diligence to ensure that each licensee under this Act is provided a renewal application at least 90 days prior to the expiration date, but it is the responsibility of each licensee to renew his or her license prior to its expiration date.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-17)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-17. Renewal of home inspector license; entity.

(a) The expiration date and renewal period for a home inspector license for an entity that is not a natural person shall be set by rule. The holder of a license may renew the license within 90 days preceding the expiration date by completing and submitting to OBRE a renewal application form as provided by OBRE and paying the required fees.

(b) An entity that is not a natural person whose license under this Act has expired may renew the license for a period of 2 years following the expiration date by complying with the requirements of subsection (a) of this Section and paying any late penalties established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-20)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-20. Reciprocity; consent to jurisdiction.

(a) A nonresident who holds a valid home inspector license issued to him or her by the proper licensing authority of a state, territory, possession of the United States, or the District of Columbia that has licensing requirements equal to or substantially equivalent to the requirements of the State of Illinois and otherwise meets the requirements for licensure may obtain a license without examination, provided that:

(1) OBRE has entered into a valid reciprocal agreement with the proper licensing authority of the state, territory, or possession of the United States or the District of Columbia;

(2) the applicant provides OBRE with a certificate of good standing from the applicant's licensing authority;

(3) the applicant completes and submits an application provided by OBRE; and

(4) the applicant pays all applicable fees required under this Act.

(b) A nonresident applicant shall file an irrevocable consent form with OBRE authorizing that actions may be commenced against the applicant or nonresident licensee in a court of competent jurisdiction in the State of Illinois by the service of summons, process, or other pleading authorized by law upon the Commissioner. The consent shall stipulate and agree that service of the summons, process, or pleading upon the Commissioner shall be taken and held in all courts to be valid and binding as if actual service had been made upon the

nonresident licensee in Illinois. If a summons, process, or other pleading is served upon the Commissioner, it shall be by duplicate copies, one of which shall be retained by OBRE and the other shall be immediately forwarded by certified or registered mail to the last known address of the nonresident licensee against whom the summons, process, or other pleading is directed.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-25)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-25. Pre-license education requirements. The prerequisite classroom hours necessary for a person to be approved to sit for the examination for a home inspector shall be established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-30)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-30. Continuing education renewal requirements. The continuing education requirements for a person to renew a license as a home inspector shall be established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/5-45)

(Section scheduled to be repealed on January 1, 2012)

Sec. 5-45. Fees. OBRE shall establish rules for fees to be paid by applicants and licensees to cover the reasonable costs of OBRE in administering and enforcing the provisions of this Act. OBRE may also establish rules for general fees to cover the reasonable expenses of carrying out other functions and responsibilities under this Act.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 10 heading)

#### ARTICLE 10. BUSINESS PRACTICE PROVISIONS

(225 ILCS 441/10-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 10-5. Standards of practice. All persons licensed under this Act must comply with standards of professional home inspection adopted by OBRE and established by rule. OBRE shall consider nationally recognized standards and codes prior to adopting the rules for the standards of practice.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/10-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 10-10. Retention of records. A person licensed under this Act shall retain the original or a true and exact copy of all written contracts engaging his or her services as a home inspector and all home inspection reports, including any supporting data used to develop the home inspection report, for a period of 5 years or 2 years after the final disposition of any judicial proceeding in which testimony was given, whichever is longer.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 15 heading)

#### ARTICLE 15. DISCIPLINARY PROVISIONS

(225 ILCS 441/15-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-5. Unlicensed practice; civil penalty; injunctive relief.

(a) Any person who violates Section 5-5 of this Act shall, in addition to any other penalty provided by law, pay a civil penalty to OBRE in an amount not to exceed \$10,000 for each violation as determined by the Commissioner. The civil penalty shall be assessed by the Commissioner after a hearing in accordance with the provisions of this Act.

(b) OBRE has the authority to investigate any activity that may violate this Act or the rules adopted under this Act.

(c) A civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The OBRE may petition the circuit court for a judgment to enforce the collection of the penalty. Any civil penalties collected under this Act shall be made payable to the Office of Banks and Real Estate and deposited into the Home Inspector Administration Fund. In addition to or in lieu of the imposition of a civil penalty, OBRE may report a violation of this Act or the failure or refusal to comply with an order of OBRE to the Attorney General or the appropriate State's Attorney.

(d) Practicing as a home inspector without holding a valid license as required under this Act is declared to be adverse to the public welfare, to constitute a public nuisance, and to cause irreparable harm to the public welfare. The Commissioner, the Attorney General, or the State's Attorney of any county in the State may maintain an action for injunctive relief in the name of the People of the State of Illinois in any circuit court to enjoin any person from engaging in such practice.

Upon the filing of a verified petition in a circuit court, the court, if satisfied by affidavit or otherwise that a person has been engaged in the practice of home inspections without a valid license, may enter a temporary restraining order without notice or bond enjoining the defendant from further practice. The showing of non-licensure, by affidavit or otherwise, is sufficient for the issuance of a temporary injunction. A copy of the verified complaint shall be served upon the defendant and the proceeding shall be conducted as in other civil cases except as modified by this Section. If it is established that the defendant has been or is engaged in unlawful practice, the court may enter an order or judgment perpetually enjoining the defendant from further unlawful practice. In all proceedings under this Section, the court, in its discretion, may apportion the costs among the parties interested in the action, including the cost of filing the complaint, service of process, witness fees and expenses, court reporter charges, and reasonable attorneys' fees. These injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided in this Act.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-10. Grounds for disciplinary action.

(a) The Office of Banks and Real Estate may suspend, revoke, or refuse to issue or renew a license, and may reprimand, place on probation or administrative supervision, or otherwise discipline a licensee, including imposing conditions limiting the scope, nature, or extent of the home inspection practice of a licensee and may impose a civil penalty not to exceed \$10,000 upon a licensee, for one or any combination of the following:

(1) Procuring or attempting to procure a license by knowingly making a false statement, submitting false

information, making any form of fraud or misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.

(2) Failing to meet the minimum qualifications for licensure as a home inspector established by this Act.

(3) Paying money, other than for the fees provided for by this Act, or anything of value to a member of the Board or an employee of the Office of Banks and Real Estate to procure licensure under this Act.

(4) Being convicted of a felony in any state or federal court; of any crime, an essential element of which is dishonesty, fraud, theft, or embezzlement; of obtaining money, property, or credit by false pretenses; or of any other crime that is reasonably related to the practice of home inspection.

(5) Committing an act or omission involving dishonesty, fraud, or misrepresentation with the intent to substantially benefit the licensee or another person or with the intent to substantially injure another person.

(6) Violating a provision or standard for the development or communication of home inspections as provided in Section 10-5 of this Act or as defined in the rules.

(7) Failing or refusing without good cause to exercise reasonable diligence in the development, reporting, or communication of a home inspection report, as defined by this Act or the rules.

(8) Violating a provision of this Act or the rules.

(9) Having been disciplined by another state, the District of Columbia, a territory, a foreign nation, a governmental agency, or any other entity authorized to impose discipline if at least one of the grounds for that discipline is the same as or the equivalent of one of the grounds for which a licensee may be disciplined under this Act.

(10) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(11) Accepting an inspection assignment when the employment itself is contingent upon the home inspector reporting a predetermined analysis or opinion, or when the fee to be paid is contingent upon the analysis, opinion, or conclusion reached or upon the consequences resulting from the home inspection assignment.

(12) Developing home inspection opinions or conclusions based on the race, color, religion, sex, national origin, ancestry, age, marital status, family status, physical or mental handicap, or unfavorable military discharge, as defined under the Illinois Human Rights Act, of the prospective or present owners or occupants of the area or property under home inspection.

(13) Being adjudicated liable in a civil proceeding on grounds of fraud, misrepresentation, or deceit. In a disciplinary proceeding based upon a finding of civil liability, the home inspector shall be afforded an opportunity to present mitigating and extenuating circumstances, but may not collaterally attack the civil adjudication.

(14) Being adjudicated liable in a civil proceeding for violation of a State or federal fair housing law.

(15) Engaging in misleading or untruthful advertising or using a trade name or insignia of membership in a home inspection organization of which the licensee is not a member.

(16) Failing to fully cooperate with an OBRE

investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.

(17) Failing to include within the home inspection report the home inspector's license number and the date of expiration of the license. All home inspectors providing significant contribution to the development and reporting of a home inspection must be disclosed in the home inspection report. It is a violation of this Act for a home inspector to sign a home inspection report knowing that a person providing a significant contribution to the report has not been disclosed in the home inspection report.

(18) Advising a client as to whether the client should or should not engage in a transaction regarding the residential real property that is the subject of the home inspection.

(19) Performing a home inspection in a manner that damages or alters the residential real property that is the subject of the home inspection without the consent of the owner.

(20) Performing a home inspection when the home inspector is providing or may also provide other services in connection with the residential real property or transaction, or has an interest in the residential real property, without providing prior written notice of the potential or actual conflict and obtaining the prior consent of the client as provided by rule.

(b) The Office of Banks and Real Estate may suspend, revoke, or refuse to issue or renew an education provider's license, may reprimand, place on probation, or otherwise discipline an education provider licensee, and may suspend or revoke the course approval of any course offered by an education provider, for any of the following:

(1) Procuring or attempting to procure licensure by knowingly making a false statement, submitting false information, making any form of fraud or misrepresentation, or refusing to provide complete information in response to a question in an application for licensure.

(2) Failing to comply with the covenants certified to on the application for licensure as an education provider.

(3) Committing an act or omission involving dishonesty, fraud, or misrepresentation or allowing any such act or omission by any employee or contractor under the control of the education provider.

(4) Engaging in misleading or untruthful advertising.

(5) Failing to retain competent instructors in accordance with rules adopted under this Act.

(6) Failing to meet the topic or time requirements for course approval as the provider of a pre-license curriculum course or a continuing education course.

(7) Failing to administer an approved course using the course materials, syllabus, and examinations submitted as the basis of the course approval.

(8) Failing to provide an appropriate classroom environment for presentation of courses, with consideration for student comfort, acoustics, lighting, seating, workspace, and visual aid material.

(9) Failing to maintain student records in compliance with the rules adopted under this Act.

(10) Failing to provide a certificate, transcript, or other student record to OBRE or to a student as may be

required by rule.

(11) Failing to fully cooperate with an OBRE investigation by knowingly making a false statement, submitting false or misleading information, or refusing to provide complete information in response to written interrogatories or a written request for documentation within 30 days of the request.

(c) In appropriate cases, OBRE may resolve a complaint against a licensee through the issuance of a Consent to Administrative Supervision order. A licensee subject to a Consent to Administrative Supervision order shall be considered by OBRE as an active licensee in good standing. This order shall not be reported as or considered by OBRE to be a discipline of the licensee. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by OBRE except as mandated by law. The complainant shall be notified that his or her complaint has been resolved by a Consent to Administrative Supervision order.  
(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-15)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-15. Investigation; notice; hearing.

(a) Upon the request of the Office of Banks and Real Estate or the Board, or upon a complaint in writing of a person setting forth facts that, if proven, would constitute grounds for suspension, revocation, or other disciplinary action against a licensee or applicant for licensure, the Office of Banks and Real Estate shall investigate the actions of the licensee or applicant so accused.

(b) Formal disciplinary proceedings shall commence upon the issuance of a written complaint detailing the charges that are the basis of the disciplinary action and delivery of the detailed complaint to the address of record of the licensee or applicant. OBRE shall notify the licensee or applicant to file a verified written answer within 20 days after the service of the notice and complaint. The notification shall inform the licensee or applicant that he or she has a right to be heard in person or by legal counsel; that the hearing will be afforded not sooner than 30 days after receipt of the answer to the specific charges; that failure to file an answer will result in a default being entered against the licensee or applicant; and that the license may be suspended, revoked, or placed on probationary status and other disciplinary action may be taken pursuant to this Act, including limiting the scope, nature, or extent of the licensee's practice. If the licensee or applicant fails to file an answer after receiving notice, his or her license may, at the discretion of the Office of Banks and Real Estate, be suspended, revoked, or placed on probationary status and the Office of Banks and Real Estate may take whatever disciplinary action it deems proper, including limiting the scope, nature, or extent of the person's practice, without a hearing.

(c) At the time and place fixed in the notice, the Board shall conduct a hearing of the charges, providing both the accused person and the complainant ample opportunity to present in person or by counsel such statements, testimony, evidence, and arguments as may be pertinent to the charges or to any defense thereto.

(d) The Board shall present to the Commissioner a written report of its findings and recommendations. A copy of the report shall be served upon the licensee or applicant, either personally or by certified mail. Within 20 days after the service, the licensee or applicant may present the Commissioner with a motion in writing for either a rehearing,

a proposed finding of fact, a conclusion of law, or an alternative sanction, and shall specify the particular grounds for the request. If the accused shall order and pay for a transcript of the record as provided in this Act, the time elapsing thereafter and before the transcript is ready for delivery to the accused shall not be counted as part of the 20 days. If the Commissioner is not satisfied that substantial justice has been done, the Commissioner may order a rehearing by the Board or other special committee appointed by the Commissioner, may remand the matter to the Board for their reconsideration of the matter based on the pleadings and evidence presented to the Board, or may enter a final order in contravention of the Board's recommendation. In all instances, under this Act, in which the Board has rendered a recommendation to the Commissioner with respect to a particular licensee or applicant, the Commissioner, if he or she disagrees with the recommendation of the Board, shall file with the Board and provide to the licensee or applicant the Commissioner's specific written reasons for disagreement with the Board. The reasons shall be filed within 60 days of the Board's recommendation to the Commissioner and prior to any contrary action. At the expiration of the time specified for filing a motion for a rehearing, the Commissioner shall have the right to take any of the actions specified in this paragraph. Upon the suspension or revocation of a license, the licensee shall be required to surrender his or her license to OBRE, and upon failure or refusal to do so, OBRE shall have the right to seize the license.

(e) The Office of Banks and Real Estate has the power to issue subpoenas and subpoenas duces tecum to bring before it any person in this State, to take testimony, or to require production of any records relevant to an inquiry or hearing by the Board in the same manner as prescribed by law in judicial proceedings in the courts of this State. In a case of refusal of a witness to attend, testify, or to produce books or papers concerning a matter upon which he or she might be lawfully examined, the circuit court of the county where the hearing is held, upon application of the Office of Banks and Real Estate or any party to the proceeding, may compel obedience by proceedings as for contempt of court.

(f) Any license that is suspended indefinitely or revoked may not be restored for a minimum period of 2 years. After the 2 year period, OBRE may restore the license without examination, upon the written recommendation of the Board.  
(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-20)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-20. Administrative Review Law; certification fees; Illinois Administrative Procedure Act.

(a) All final administrative decisions of the Commissioner under this Act are subject to judicial review pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant thereto. The term "administrative decision" has the meaning ascribed to it in Section 3-101 of the Administrative Review Law.

(b) OBRE shall not be required to certify any record, file any answer, or otherwise appear unless the party filing the administrative review complaint pays the certification fee to OBRE as provided by rule. Failure on the part of the plaintiff to make such a deposit shall be grounds for dismissal of the action.

(c) The Illinois Administrative Procedure Act is hereby expressly adopted and incorporated herein. In the event of a conflict between this Act and the Illinois Administrative Procedure Act, this Act shall control.

(Source: P.A. 92-239, eff. 8-3-01; 92-651, eff. 7-11-02.)

(225 ILCS 441/15-25)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-25. Temporary suspension. The Commissioner may temporarily suspend the license of a licensee without a hearing, while instituting a proceeding for a hearing as provided for in Section 15-15 of this Act, if the Commissioner finds that the evidence indicates that the public interest, safety, or welfare imperatively requires emergency action. In the event that the Commissioner temporarily suspends the license without a hearing before the Board, a hearing shall be held within 30 days after the suspension has occurred. The suspended licensee may seek a continuance of the hearing during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-30)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-30. Statute of limitations. No action may be taken under this Act against a person licensed under this Act unless the action is commenced within 5 years after the occurrence of the alleged violation. A continuing violation is deemed to have occurred on the date when the circumstances last existed that gave rise to the alleged continuing violation.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-35)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-35. Signature of the Commissioner. An order of revocation or suspension or a certified copy of the order, bearing the seal of OBRE and purporting to be signed by the Commissioner, shall be prima facie proof that:

(1) the signature is the genuine signature of the Commissioner;

(2) the Commissioner is duly appointed and qualified; and

(3) the Board and its members are qualified.

This proof may be rebutted.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-40)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-40. Violation of tax Acts. OBRE may refuse to issue or renew or may suspend the license of any person who fails to file a return, pay the tax, penalty, or interest shown in a filed return, or pay any final assessment of tax, penalty, or interest, as required by any tax Act administered by the Department of Revenue, until such time as the requirements of that tax Act are satisfied.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-45)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-45. Disciplinary action for educational loan defaults. OBRE shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State. OBRE may issue a license or renewal if the person has established a satisfactory repayment record as determined by the Illinois Student Assistance Commission or other appropriate governmental agency of this State. Additionally, a license issued by OBRE may be suspended or revoked if the Commissioner, after the opportunity for a hearing under this

Act, finds that the licensee has failed to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted loan.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-50)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-50. Nonpayment of child support. In cases where the Department of Healthcare and Family Services (formerly Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to OBRE, OBRE may refuse to issue or renew or may revoke or suspend that person's license or may take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services (formerly Department of Public Aid). Redetermination of the delinquency by OBRE shall not be required. In cases regarding the renewal of a license, OBRE shall not renew any license if the Department of Healthcare and Family Services (formerly Department of Public Aid) has certified the licensee to be more than 30 days delinquent in the payment of child support unless the licensee has arranged for payment of past and current child support obligations in a manner satisfactory to the Department of Healthcare and Family Services (formerly Department of Public Aid). OBRE may impose conditions, restrictions, or disciplinary action upon that renewal.

(Source: P.A. 95-331, eff. 8-21-07.)

(225 ILCS 441/15-55)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-55. Returned checks; penalty fee; termination. A person who delivers a check or other payment to OBRE that is returned to OBRE unpaid by the financial institution upon which it was drawn shall pay to OBRE, in addition to the amount already owed, a penalty fee of \$50. OBRE shall notify the person, by certified mail return receipt requested, that his or her check or payment was returned and that the person shall pay to OBRE by certified check or money order the amount of the returned check plus a \$50 penalty fee within 30 calendar days after the date of the notification. If, after the expiration of 30 calendar days of the notification, the person has failed to remit the necessary funds and penalty, OBRE shall automatically terminate the license or deny the application without hearing. If the returned check or other payment was for issuance of a license under this Act and that person practices as a home inspector, that person may be subject to discipline for unlicensed practice as provided in this Act. If, after termination or denial, the person seeks a license, he or she shall petition OBRE for restoration and he or she may be subject to additional discipline or fines. The Commissioner may waive the penalties or fines due under this Section in individual cases where the Commissioner finds that the penalties or fines would be unreasonable or unnecessarily burdensome.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/15-60)

(Section scheduled to be repealed on January 1, 2012)

Sec. 15-60. Cease and desist orders. OBRE may issue, cease and desist orders to persons who engage in activities prohibited by this Act. Any person in violation of a cease and desist order issued by OBRE is subject to all of the penalties provided by law.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 20 heading)

ARTICLE 20. EDUCATION PROVISIONS

(225 ILCS 441/20-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 20-5. Education provider.

(a) Beginning January 1, 2002, only education providers licensed by OBRE may provide the pre-license and continuing education courses required for licensure under this Act.

(b) A person or entity seeking to be licensed as an education provider under this Act shall provide satisfactory evidence of the following:

(1) a sound financial base for establishing, promoting, and delivering the necessary courses;

(2) a sufficient number of qualified instructors;

(3) adequate support personnel to assist with administrative matters and technical assistance;

(4) a written policy dealing with procedures for management of grievances and fee refunds;

(5) a qualified school administrator, who is responsible for the administration of the school, courses, and the actions of the instructors; and

(6) any other requirements provided by rule.

(c) All applicants for an education provider's license shall make initial application to OBRE on forms provided by OBRE and pay the appropriate fee as provided by rule. The term, expiration date, and renewal of an education provider's license shall be established by rule.

(d) An education provider shall provide each successful course participant with a certificate of completion signed by the school administrator. The format and content of the certificate shall be specified by rule.

(e) All education providers shall provide to OBRE a monthly roster of all successful course participants as provided by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/20-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 20-10. Course approval.

(a) Only courses that are approved by OBRE and offered by licensed education providers shall be used to meet the requirements of this Act and rules.

(b) An education provider licensed under this Act may submit courses to OBRE for approval. The criteria, requirements, and fees for courses shall be established by rule.

(c) For each course approved, OBRE shall issue a certificate of course approval to the education provider. The term, expiration date, and renewal of a course approval shall be established by rule.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 25 heading)

ARTICLE 25. ADMINISTRATIVE PROVISIONS

(225 ILCS 441/25-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-5. Home Inspector Administration Fund; surcharge.

(a) The Home Inspector Administration Fund is created as a special fund in the State Treasury. All fees, fines, and penalties received by OBRE under this Act shall be deposited

into the Home Inspector Administration Fund. All earnings attributable to investment of funds in the Home Inspector Administration Fund shall be credited to the Home Inspector Administration Fund. Subject to appropriation, the moneys in the Home Inspector Administration Fund shall be appropriated to OBRE for the expenses incurred by OBRE and the Board in the administration of this Act.

(b) The State Comptroller and State Treasurer shall transfer \$150,000 from the Real Estate License Administration Fund to the Home Inspector Administration Fund on July 1, 2002.

The State Treasurer shall transfer \$50,000 from the Home Inspector Administration Fund to the Real Estate License Administration Fund on July 1, 2003, July 1, 2004, and July 1, 2005; except that if there is a sufficient fund balance in the Home Inspector Administration Fund, the Commissioner may recommend the acceleration of any of these repayment transfers to the State Comptroller and State Treasurer, who may, in their discretion, accelerate the transfers in accordance with the Commissioner's recommendation.

(c) Until a total of \$150,000 has been transferred to the Real Estate License Administration Fund from the Home Inspector Administration Fund under subsection (b), each initial applicant for a license under this Act shall pay to OBRE a surcharge of \$150 in addition to the license fees otherwise required under this Act.

(c-5) Moneys in the Home Inspection Administration Fund may be transferred to the Professions Indirect Cost Fund, as authorized under Section 2105-300 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(d) Upon the completion of any audit of OBRE, as prescribed by the Illinois State Auditing Act, that includes an audit of the Home Inspector Administration Fund, OBRE shall make the audit report open to inspection by any interested person.

(Source: P.A. 94-91, eff. 7-1-05.)

(225 ILCS 441/25-10)

(Section scheduled to be repealed on January 1, 2012)  
Sec. 25-10. Home Inspector Advisory Board.

(a) There is hereby created the Home Inspector Advisory Board. The Board shall be composed of 7 voting members appointed by the Commissioner, plus the liaison under Section 25-15, who shall serve ex officio and without vote. Members shall be appointed to the Board subject to the following conditions:

(1) All appointed members shall have been residents and citizens of this State for at least 5 years prior to the date of appointment.

(2) The appointed membership of the Board should reasonably reflect the geographic distribution of the population of the State.

(3) Five appointed members shall be actively engaged and currently licensed as home inspectors, except that the initial appointees may be persons without a license who have been actively engaged as home inspectors for a period of 5 years immediately before the effective date of this Act. Failure of an initial appointee under this item (3) to obtain a license by January 1, 2003 shall constitute resignation from the Board.

(4) One appointed member shall hold a valid license as a real estate broker and shall have been actively engaged as a real estate broker for a period of not less than 5 years.

(5) One appointed member shall represent the

interests of the general public. This member and the member's spouse shall not be licensed under this Act, nor be employed by nor have any interest in a home inspection business or a real estate brokerage business.

In making appointments to the Board, the Commissioner shall give due consideration to recommendations by members and organizations representing the home inspection and real estate industries.

(b) The term for members of the Board shall be 4 years, except for the initial appointees. Of the initial appointees, 4 members shall be appointed for terms ending January 1, 2007 and 3 members shall be appointed for terms ending January 1, 2006. No member shall serve more than 10 years in a lifetime.

(c) The Commissioner may terminate the appointment of any member for cause that, in the opinion of the Commissioner, reasonably justifies the termination. Cause for termination may include, without limitation, misconduct, incapacity, neglect of duty, or missing 4 Board meetings during any one calendar year.

(d) A majority of the voting members currently appointed shall constitute a quorum. A vacancy in the membership of the Board shall not impair the right of a quorum to exercise all of the rights and perform all of the duties of the Board.

(e) The Board shall meet at least quarterly and may be convened by the Chairperson or 3 members of the Board upon 10 days' written notice.

(g) The liaison appointed pursuant to Section 25-15 of this Act shall serve, ex officio, as Chairperson of the Board, without vote.

(h) The Board shall advise OBRE on matters of licensing and education and shall make recommendations to OBRE on those matters. OBRE shall give due consideration to all recommendations presented by the Board.

(i) The Board shall hear and make recommendations to the Commissioner on disciplinary matters that require a formal evidentiary hearing. The Commissioner shall give due consideration to the recommendations of the Board involving discipline and questions about the standards of professional conduct of licensees.

(j) The Board may make recommendations to OBRE concerning the consistency of the rules with the provisions of this Act and the administration and enforcement of the rules. OBRE shall give due consideration to the recommendations of the Board prior to promulgating rules.

(k) The Board shall make recommendations to OBRE on the approval of courses submitted to OBRE pursuant to this Act and rules. OBRE shall give due consideration to the recommendations of the Board prior to approving courses.

(l) Each voting member of the Board shall receive a per diem stipend in an amount to be determined by the Commissioner. Each voting member shall be paid his or her necessary expenses while engaged in the performance of his or her duties.

(m) Members of the Board shall be immune from suit in an action based upon any disciplinary proceedings or other acts performed in good faith as members of the Board.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/25-15)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-15. Liaison; duties. The Commissioner shall appoint an employee of OBRE to:

(1) serve as a liaison to and as Chairperson of the Home Inspector Advisory Board, without vote;

(2) be the direct liaison between OBRE, the profession, home inspectors, and related industry

organizations and associations; and

(3) prepare and circulate to licensees such educational and informational material as OBRE deems necessary for providing guidance or assistance to licensees.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/25-20)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-20. OBRE; powers and duties. The Office of Banks and Real Estate shall exercise the powers and duties prescribed by the Civil Administrative Code of Illinois for the administration of licensing acts and shall exercise such other powers and duties as are prescribed by this Act for the administration of this Act. OBRE may contract with third parties for services necessary for the proper administration of this Act, including, without limitation, investigators with the proper knowledge, training, and skills to properly investigate complaints against home inspectors.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/25-25)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-25. Rules. OBRE, after considering any recommendations of the Board, shall adopt any rules that may be necessary for the administration, implementation, and enforcement of this Act.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/25-30)

(Section scheduled to be repealed on January 1, 2012)

Sec. 25-30. Exclusive State powers and functions; municipal powers. It is declared to be the public policy of this State, pursuant to paragraph (h) of Section 6 of Article VII of the Illinois Constitution of 1970, that any power or function set forth in this Act to be exercised by the State is an exclusive State power or function. Such power and function shall not be exercised concurrently, either directly or indirectly, by any unit of local government, including home rule units.

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 950 heading)

#### ARTICLE 950. AMENDATORY PROVISIONS

(225 ILCS 441/950-5)

(Section scheduled to be repealed on January 1, 2012)

Sec. 950-5. (Amendatory provisions; text omitted).

(Source: P.A. 92-239, eff. 8-3-01; text omitted.)

(225 ILCS 441/950-10)

(Section scheduled to be repealed on January 1, 2012)

Sec. 950-10. (Amendatory provisions; text omitted).

(Source: P.A. 92-239, eff. 8-3-01.)

(225 ILCS 441/Art. 999 heading)

#### ARTICLE 999. EFFECTIVE DATE

(225 ILCS 441/999-99)

(Section scheduled to be repealed on January 1, 2012)

Sec. 999-99. Effective date. This Act takes effect upon becoming law.

(Source: P.A. 92-239, eff. 8-3-01.)

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