

STATUTORY AND REGULATORY REQUIREMENTS

In an effort to increase awareness of and compliance with the Illinois Real Estate License Act of 2000, the State of Illinois launched a Real Estate Division Examination Program in late 2001. The purpose of the program is to ascertain compliance with the Illinois Real Estate License Act of 2000 and Rule by Illinois real estate sponsoring brokers.

As background, many times the Department of Financial and Professional Regulation (DFPR) receives complaints which are minor or technical in nature and these complaints have further slowed the investigative processes. This program is an attempt to assist licensees to comply with the laws and regulations. The intent of DFPR is to conduct a compliance audit of all real estate offices in the State. If DFPR finds an egregious violation a subsequent investigation may be initiated. As you review the audit report outline you will see the intent of DFPR is to ensure that the basic rudiments of licensure are followed, and if not, are changed in order to be in compliance.

As you review this brochure, the sections that will be reviewed in the examination by DFPR will list the appropriate reference (in parentheses) to the Illinois Real Estate License Act of 2000 or the Rule (reference to the Rule will begin with 1450.__). You may download a copy of the Real Estate License Act of 2000 and Rule at our Web site at www.idfpr.com.

Illinois Department of Financial and Professional Regulation

www.idfpr.com

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SPONSORING BROKER RESPONSIBILITIES



A Helpful Guide Published by the Illinois Department
of Financial and Professional Regulation

OFFICE REQUIREMENTS

- Identification sign must be appropriately displayed on the outside of your place of business. (5-45(d))
- Collective membership marks are only to be used by members of that organization, i.e. the term REALTOR® or listed as a member of the National Association of REALTORS®. (20-20(h)(4))
- Ensure your firm advertising is both truthful and accurate. (10-30(a))
- Real estate office must be located in a separate area/apart from other businesses. (5-45(d) and 20-20(d))
- All licensure certificates shall be conspicuously displayed in the broker's place of business. (5-45(d))

EMPLOYMENT AGREEMENT(S)

As a broker, be sure you have a written agreement with all sponsored licensees, including yourself unless you are a sole proprietor. Written agreement must include supervision guidelines, licensee's duties, commission agreement, and termination agreement. (10-20(c))

LISTING AGREEMENT(S)

All exclusive listing agreements and exclusive buyer brokerage agreements must be in writing. Be sure the agreements include the list (asking) price (in listing agreements), agreed amount of compensation (sales commission), time of payment, defined date of termination with no condition for automatic extension, broker's and client's name, signatures of all parties, identification of property (in listing agreement), duties of listing broker, required anti-discrimination clause, including listing all protected classes in Rules and Article 3 of the Illinois Human Rights Act. (1-10 and 1450.195) If the listing agreement provides that, in the event of a default by a buyer, the broker's commission or fees will be paid from the earnest money first and the remainder of the earnest money paid to the seller, then that provision must be displayed in larger type than the rest of the print in your listing agreement. (1450.195)

COMPANY LICENSURE

- If licensed as an Illinois Corporation, be sure to maintain an Illinois Charter, issued by the State of Illinois Secretary of State. (1450.85(c)(2))
- Persons who act as an Illinois Limited Partnership or Limited Liability Company must receive Illinois approval issued by the State of Illinois Secretary of State. (1450.85(d) and (f))
- Make sure appropriate licenses are held by individuals within your firm.
 - ✓ All corporation officers must be licensed as real estate brokers. (5-15(b))
 - ✓ All employees who act as a real estate salesperson or leasing agent of the corporation or partnership must hold a license as a real estate broker, salesperson or leasing agent. (5-15(b))
 - ✓ General partners must be licensed as real estate brokers. (5-15(c))
- Individuals or groups of salespersons may not own more than 49% share of stock or other ownership (5-15(e)). You will be asked to identify all shareholders and their ownership interest in the firm and their individual license numbers.
- Double check to make sure all corporation officers/general partners have active licenses. You will be asked to publish their names and license numbers.
- Conspicuously display licenses of sponsoring broker and all licensees in office.

LEASING AGENT LICENSE

- Individuals acting as a leasing agent must be licensed as a leasing agent within 120 consecutive days. (5-5(d); 1450.40(a))
- Identify all leasing agents to DFPR within 24 hours. (1450.40(b))

ESCROW (if escrow monies are held by your office)

- **Review your escrow bookkeeping system. (1450.175)**
 - ✓ Does it include a chronological journal? (1450.175(i)(1); 1450.180(a)(1))
 - ✓ Does it include a ledger for each transaction? (1450.175(i)(2); 1450.180(a)(1))

- ✓ Does it include a monthly reconciliation work sheet? (1450.175(i)(3); 1450.180(a)(1))

■ **Know the name of your escrow account(s).**

- ✓ Know the account number(s).
- ✓ Be prepared to show all account(s) and account numbers.

■ **Know the name of bank where account is located.**

- ✓ If an interest bearing account—have a W-9 for each account and a written agreement between the principals, providing the interest bearing account. (1450.175(b)(2))
- ✓ Notify DFPR of signatories to the escrow account, of account and account number. (1450.175(m))

SUPERVISION

The sponsoring broker shall name a managing broker for every office. That managing broker shall exercise reasonable supervision over the activities of licensees and unlicensed assistants working in those offices managed by the managing broker. The sponsoring broker shall remain ultimately responsible for compliance with the supervision requirements provided in 1450.130.

DFPR COMPLIANCE PROCEDURES

When selected to participate in the DFPR Compliance Program, you will receive a letter from DFPR establishing a time for the review or a request to complete a *Brokerage Verification Report* to assess your level of licensed real estate activity prior to scheduling an on-site review. Your letter of introduction for a Compliance Audit will provide you with a contact person at DFPR. That representative will conduct a review of your business records, identify any deficiencies and provide you with the applicable sites from the Act and Rule to assist you with correction of the issues. A follow-up will be established to review those findings in order to ensure compliance with the Act and Rule. It is in the best interest of each licensee to actively and aggressively make the corrective steps for compliance or be subject to future discipline.