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United States • Illinois Real Estate Broker License Exam

Illinois

Study Guide

KNOWLEDGE POINTS	CHAPTERS	EDITION
62	18	2026-10-18

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Edition 2026-10-18 • 62 knowledge points • 18 chapters

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CHAPTER 1

Article 15: Agency relationships (Sec. 15-5–15-75): designated agency, duties to clients and customers, dual agency consent, compensation, termination

1.1 Default Relationship is Designated Agency

A licensee is considered to be representing the consumer they are working with as a designated agent for that consumer, unless there is a written agreement between the sponsoring broker and the consumer providing for a different relationship. This means designated agency is the default status in Illinois.

- ✓ Licensees are presumed designated agents of the consumer they work with by default
- ✓ A written agreement between sponsoring broker and consumer is required to establish a different relationship

1.2 Duties of Licensees Representing Clients

A licensee representing a client must perform the terms of the brokerage agreement; promote the client's best interest; and exercise reasonable skill and care. Promoting best interest includes seeking a transaction at the price/terms in the agreement or acceptable to the client, timely presenting all offers (unless waived), disclosing material facts of which the licensee has actual knowledge (unless confidential), timely accounting for money and property, obeying lawful specific directions, and acting to promote the client's interest over the licensee's or others' self-interest. The licensee must also keep confidential information confidential and comply with the Act and all applicable statutes including fair housing and civil rights laws.

- ✓ Licensees must promote the client's best interest and exercise reasonable skill and care
- ✓ All offers must be timely presented to and from the client unless the client waives the duty
- ✓ Material facts of which the licensee has actual knowledge must be disclosed unless confidential
- ✓ Licensees must timely account for all money and property in which the client has an interest
- ✓ Confidential client information must be kept confidential
- ✓ Licensees must comply with fair housing and civil rights statutes

1.3 No Duty to Disclose Non-Physical / Stigma Information

No cause of action arises against a licensee for failing to disclose: that an occupant had HIV or any other medical condition; that the property was the site of an act or occurrence with no effect on physical condition; fact situations on property not the subject of the transaction; or physical conditions on property not the subject of the transaction that do not have a substantial adverse effect on the value of the subject real estate.

- ✓ Licensees need not disclose an occupant's HIV status or other medical condition
- ✓ Licensees need not disclose that a property was the site of a non-physical act or occurrence
- ✓ No liability for failing to disclose conditions on property not the subject of the transaction that don't substantially affect value

1.4 Duties to Customers

Licensees must treat all customers honestly and must not negligently or knowingly give them false information. A licensee engaged by a seller client must timely disclose to customer-buyers all latent material adverse facts pertaining to the physical condition of the property that are actually known and could not be discovered by a reasonably diligent inspection. A licensee is not liable for false information provided by the licensee's own client if the licensee had no actual knowledge it was false. No cause of action arises against a licensee for revealing information in compliance with this Section.

- ✓ Licensees must treat all customers honestly and not give them false information
- ✓ Latent material adverse physical defects actually known and not reasonably discoverable must be disclosed to customer-buyers
- ✓ A licensee is not liable for false information from its client unless the licensee had actual knowledge it was false

1.5 Duties After Termination of Brokerage Agreement

Except as provided in a written agreement, after termination, expiration, or completion of the brokerage agreement, neither the sponsoring broker nor any affiliated licensee owes further duties to the client except: (1) to account for all moneys and property relating to the transaction; and (2) to keep confidential all confidential information received during the brokerage agreement.

- ✓ Only two duties survive termination: accounting for money/property and maintaining confidentiality
- ✓ Confidentiality of information received during the agreement continues after termination

1.6 Agency Relationship Disclosure

A licensee acting as a designated agent must advise the consumer in writing—no later than beginning to work as a designated agent—that a designated agency relationship exists (unless a written agreement provides a different relationship) and provide the name(s) of the designated agent(s). The disclosure may be part of the brokerage agreement or a separate document, retained by the sponsoring broker and provided to the consumer. The licensee must discuss the sponsoring broker's compensation policy including terms and any amounts offered to cooperating brokers. A licensee must disclose in writing to a customer that the licensee is not acting as the customer's agent—timed to prevent disclosure of confidential information, but no later than the preparation of an offer to purchase or lease.

- ✓ Written designated agency disclosure must be given no later than beginning to work as the consumer's agent
- ✓ Disclosure must name the designated agent(s) and a copy provided to the consumer
- ✓ Customer must receive written disclosure that the licensee is not their agent, no later than preparation of an offer
- ✓ Licensee must discuss the sponsoring broker's compensation policy with the consumer

1.7 Compensation Does Not Determine Agency

The payment or promise of payment of compensation to a licensee is not determinative of whether an agency relationship has been created between any licensee and a consumer.

- ✓ Who pays compensation does not establish an agency relationship
- ✓ Agency is determined by the relationship, not by the source of payment

1.8 Dual Agency Requirements and Consent

A licensee (or sponsored licensees) may act as a dual agent representing both sides in the same transaction only with the informed written consent of all clients. Consent is presumed when a client signs the statutory dual agency disclosure document explaining the conflict of interest, what the licensee can and cannot do, and advising clients to seek independent advice. The disclosure form must be presented at the time the brokerage agreement is entered into and may be signed then or before the licensee acts as a dual agent. A separate written confirmation of prior consent must be obtained when clients execute an offer/contract; if included in another document, the client must sign and initial the confirmation provision.

- ✓ Dual agency is permitted only with the informed written consent of ALL clients
- ✓ The statutory dual agency disclosure form must be presented when the brokerage agreement is entered into
- ✓ Written confirmation of prior consent must be obtained at the time of executing the offer/contract
- ✓ If dual agency confirmation is in another document, the client must both sign and initial it

1.9 Dual Agent Permitted and Prohibited Disclosures

When acting as a dual agent, a licensee CAN: treat all clients honestly, provide property information to buyer/tenant, disclose known latent material defects, disclose buyer/tenant financial qualification to seller/landlord, explain terms, help arrange inspections, explain closing costs, help compare financing, and provide comparable sales data. A dual agent CANNOT disclose without permission: confidential information about a client; the price/terms the seller will take beyond listing price; the price/terms the buyer is willing to pay; or a recommended/suggested price or terms either party should offer or accept.

- ✓ A dual agent may not disclose a client's confidential information without permission
- ✓ A dual agent may not disclose what price or terms the other party will accept or pay without permission
- ✓ A dual agent may not recommend a price or terms to offer or accept
- ✓ A dual agent must still treat all clients honestly and disclose known latent material defects

1.10 Brokerage Agreements and Designated Agency

A sponsoring broker entering a brokerage relationship for listing property or representing a person in buying, selling, exchanging, renting, or leasing must set forth the terms in a written brokerage agreement that specifically designates the affiliated licensees acting as legal agents, to the exclusion of all other affiliated licensees. Such a broker is not acting for more than one party if licensees are specifically designated and not representing more than one party. Absence of a written agreement does not create an affirmative defense to the existence of an agreement or whether licensed activity was performed, and does not prevent enforcement of an oral agreement or legal/equitable remedies. The sponsoring broker must take ordinary and necessary care to protect confidential information; a designated agent may disclose confidential information to the sponsoring broker for advice benefiting the client, but it may not be further disclosed unless required by the Act or permitted by the client.

- ✓ Brokerage relationships must be set forth in a written brokerage agreement designating the legal agents
- ✓ Designating specific licensees prevents the sponsoring broker from being deemed to act for more than one party
- ✓ Absence of a written agreement does not bar enforcement of an oral agreement or create an affirmative defense
- ✓ Confidential information disclosed to the sponsoring broker may not be further disclosed unless required by the Act or permitted by the client

1.11 Legislative Intent of Article 15

Article 15 codifies the relationships between real estate licensees and consumers of brokerage services, replacing common law concepts of principal/agent and fiduciary duties. It governs relationships to the extent not covered by an individual written agreement between a sponsoring broker and a consumer, providing there is a relationship other than designated agency. It may serve as a basis for private rights of action and defenses by sellers, buyers, landlords, tenants, managing brokers, and brokers, but these private rights do not extend to any other Articles of the Act.

- ✓ Article 15 applies to the exclusion of common law principal/agent concepts and fiduciary duties
- ✓ Private rights of action under Article 15 do not extend to any other Articles of this Act
- ✓ Article 15 does not affect contractual relationships between managing brokers and their affiliated licensees

1.12 Material Facts Exclusions and False Information Protection

Material facts do not include, when located on or related to real estate not the subject of the transaction: physical conditions without substantial adverse effect on value, fact situations, or occurrences/acts at the property. A licensee representing a client does not breach a duty by showing alternative properties, showing the client's property to other prospects, or preparing contemporaneous offers on the same property—but must give written disclosure to all clients for whom contemporaneous offers are prepared and refer any requesting client to another designated agent. A buyer/tenant licensee is not presumed to have breached a duty by working on a basis that yields a higher fee. A licensee is not liable for providing false information given by a customer unless the licensee knew or should have known it was false. Common law duties on negligent/fraudulent misrepresentation remain unchanged.

- ✓ Written disclosure required to all clients when preparing contemporaneous offers on the same property
- ✓ A licensee must refer to another designated agent any client requesting such referral
- ✓ A licensee is not liable for false information provided by a customer unless the licensee knew or should have known it was false
- ✓ Common law duty as to negligent or fraudulent misrepresentation is not changed by this Section

1.13 Dual Agency Protections and Limitations

No cause of action arises against a dual agent for making disclosures allowed or required by the Article, and making such disclosures does not terminate any agency relationship. In dual agency, each client and the licensee possess only actual knowledge—there is no imputation of knowledge among clients, brokers, or affiliated licensees. A licensee may withdraw without liability from representing a client who has not consented to disclosed dual agency, without prejudice to representing the other client; but no referral fee may be received unless written disclosure is made to both clients. A licensee may NOT serve as a dual agent when the licensee (or an entity in which the licensee has any ownership interest) is a party to the transaction.

- ✓ No imputation of knowledge among clients, brokers, or affiliated licensees in dual agency
- ✓ A licensee may withdraw without liability from a client who does not consent to dual agency
- ✓ No referral fee upon withdrawal unless written disclosure is made to both clients
- ✓ A licensee cannot be a dual agent when the licensee or an owned entity is a party to the transaction

1.14 No Subagency Through MLS

A broker is not considered a subagent of another broker's client solely by reason of membership or affiliation in a multiple listing service or similar information source, and an offer of subagency may not be made through an MLS or similar source.

- ✓ MLS membership alone does not create subagency
- ✓ An offer of subagency may not be made through an MLS or similar information source

1.15 Consumer Vicarious Liability Protection

A consumer is not vicariously liable for the acts or omissions of a licensee in providing licensed activities for or on behalf of the consumer.

- ✓ Consumers are not vicariously liable for a licensee's acts or omissions in licensed activities

1.16 Actions for Damages and Limitations Period

In any action under Article 15, the court may, in its discretion, award only actual damages and court costs, or grant injunctive relief. Actions must be commenced within 2 years after the person knew or should reasonably have known of the act or omission, and in no event more than 5 years after the act or omission occurred. If the person is under 18 or under legal disability, the limitations period does not begin until the disability is removed.

- ✓ Only actual damages and court costs (or injunctive relief) may be awarded under Article 15
- ✓ Actions must be brought within 2 years of discovery and no more than 5 years after the act or omission
- ✓ The limitations period is tolled for persons under 18 or under legal disability

1.17 Exclusive Brokerage Agreements Minimum Services

All exclusive brokerage agreements must be in writing and specify that the sponsoring broker, through sponsored licensees, provides at minimum: (1) accepting delivery of and presenting offers/counteroffers to buy, sell, or lease; (2) assisting the client in developing, communicating, negotiating, and presenting offers, counteroffers, and notices until a lease or purchase agreement is signed and contingencies satisfied or waived; and (3) answering the client's questions relating to offers, counteroffers, notices, and contingencies.

- ✓ Exclusive brokerage agreements must be in writing
- ✓ They must specify at minimum three services: presenting offers, assisting with negotiation, and answering client questions

CHAPTER 2

Article 20: Disciplinary provisions, unlicensed practice, grounds for discipline, citations, hearings, Real Estate Recovery Fund (Sec. 20-5–20-125)

2.1 Unlicensed Practice Civil Penalty

Any person who practices, offers, attempts, or holds oneself out to practice as a managing broker, broker, or residential leasing agent without a license must pay a civil penalty to the Department of up to $25,000 per offense, in addition to any other legal penalty. The penalty is assessed after a hearing conducted like a disciplinary hearing, and must be paid within 60 days of the effective date of the order. The order constitutes a judgment enforceable like any court of record judgment. The Department has full authority to investigate all unlicensed activity.

- ✓ Civil penalty up to $25,000 per offense for unlicensed practice (Sec. 20-10)
- ✓ Penalty assessed after a hearing and payable within 60 days of the order
- ✓ Department may investigate any and all unlicensed activity
- ✓ The order constitutes an enforceable judgment

2.2 Grounds for Discipline and Fine Amount

The Department may refuse to issue or renew, place on probation, suspend, or revoke a license, reprimand, or take other action, and may impose a fine not to exceed $25,000 per violation upon any licensee, applicant, or person holding oneself out as such, including a licensee handling one's own property. Sec. 20-20 lists 47 causes for discipline (with 25.5 added and 36 blank).

- ✓ Fine up to $25,000 per violation (Sec. 20-20)
- ✓ Discipline applies to licensees, applicants, and those holding themselves out as such
- ✓ Applies even when a licensee handles their own property

2.3 Key Disciplinary Causes Under Sec. 20-20

Testable grounds include: fraud/misrepresentation in obtaining a license; conviction/plea to a felony, misdemeanor, or a Sex Offender Registration Act crime; inability to practice due to illness or disability; discipline by another jurisdiction (certified record is prima facie evidence); practicing without/after an expired, inactive, revoked, or suspended license; cheating on the exam or continuing education; false or misleading advertising and false promises; acting for more than one party without written notice; representing a broker other than the sponsoring broker; failing to account for or remit others' moneys; dishonest, unethical, or unprofessional conduct; commingling; blind advertising (except as permitted in Sec. 10-30); steering/promoting segregated housing; and violating the Illinois Human Rights Act Article 3.

- ✓ Certified copy of another jurisdiction's discipline is prima facie evidence
- ✓ Acting for more than one party requires written notice to all parties
- ✓ Representing any broker other than the sponsoring broker is a ground for discipline
- ✓ Blind advertising is prohibited except as permitted under Sec. 10-30
- ✓ Steering and promoting racially/religiously segregated housing is a disciplinary cause

2.4 Escrow Account and Commingling Rules

Licensees must maintain all escrow moneys belonging to others in a special account separate from personal and business accounts, and keep them on deposit until the transaction is consummated or terminated. Funds may only be disbursed early per written direction/contract of the principals or a court order, or deemed abandoned and transferred to the State Treasurer as unclaimed property (after 6 months following written demand and no claim/disbursement). The account must be noninterest-bearing unless law or the principals in writing require interest. Escrow records must be made available to the Department within 24 hours of request. Commingling others' money/property with the licensee's own is a violation.

- ✓ Escrow moneys must be kept in a separate special account, not commingled (Sec. 20-20(17), (22))
- ✓ Funds held until transaction consummated/terminated unless disbursed per written direction, contract, or court order
- ✓ Accounts are noninterest-bearing unless required by law or the principals in writing
- ✓ Escrow records must be produced to the Department within 24 hours of request
- ✓ Escrow may be deemed abandoned only after 6 months from written demand with no claim or disbursement

2.5 Criminal Penalty for Unlicensed Activity

Any person found working or acting as a managing broker, broker, or residential leasing agent, or holding themselves out as one, without a valid active license is guilty of a Class A misdemeanor. A second or subsequent offense is a Class 4 felony.

- ✓ First unlicensed offense is a Class A misdemeanor (Sec. 20-22)
- ✓ Second or subsequent offense is a Class 4 felony

2.6 Real Estate Recovery Fund Purpose and Limits

The Recovery Fund reimburses persons aggrieved by a licensee's or unlicensed employee's fraud, misrepresentation, discrimination, deceit, embezzlement, or unlawful obtaining of money—resulting in loss of actual cash money (not lost market value). Recovery is by post-judgment order of the circuit court, with maximum liability amounts per act and per licensee/transaction set by rule, and does not include interest on the judgment. Recovery requires a valid judgment and post-judgment order; the loss must result from acts done while (or apparently) acting in a licensed capacity.

- ✓ Fund covers loss of actual cash money, not lost market value (Sec. 20-85)
- ✓ Recovery requires a valid judgment and post-judgment court order
- ✓ Maximum liability caps per act and per licensee are set by Department rule
- ✓ Post-judgment orders do not include interest on the judgment

2.7 Automatic Revocation After Fund Payment

If the Department pays any amount from the Recovery Fund to settle or satisfy a judgment against a licensee or their unlicensed employee, the licensee's license is automatically revoked upon issuance of the payment order. No restoration petition is heard until full repayment (plus statutory interest) is made. A bankruptcy discharge does not relieve the person of these penalties. The Department is subrogated to the judgment creditor's rights after payment.

- ✓ License is automatically revoked when the Fund pays on a licensee's behalf (Sec. 20-90(i))
- ✓ No restoration until full repayment plus interest is made
- ✓ Bankruptcy discharge does not relieve these penalties
- ✓ Department is subrogated to the judgment creditor's rights (Sec. 20-100)

2.8 Single Act Constitutes a Violation

The commission of a single act prohibited by the Act, prohibited by rules adopted under the Act, or a violation of a disciplinary order issued under the Act constitutes a violation of the Act. A pattern is not required.

- ✓ A single prohibited act is a violation (Sec. 20-15)
- ✓ Violating a disciplinary order also constitutes a violation

2.9 Citations for Education Deficiencies

The Department may issue citations to licensees who fail to meet continuing education or post-license education requirements. The citation must include the licensee's name, address, license number, hours not completed, and the penalty (not to exceed $2,000). A citation does not excuse completing the required education. A cited licensee may request a hearing within 30 days; if none is requested, a final non-disciplinary order is entered and any fine is due within 30 days. Paying a citation fine is generally NOT reportable discipline unless the licensee has previously received 2 or more citations and been assessed 2 or more fines.

- ✓ Citation penalty cannot exceed $2,000 (Sec. 20-20.1)
- ✓ Licensee must request a hearing within 30 days or a final non-disciplinary order is entered
- ✓ Citations do not excuse completing the required education
- ✓ Fine is not reportable discipline unless the licensee has 2+ prior citations and 2+ fines

2.10 Injunctions and Cease and Desist Orders

If a person violates the Act, the Secretary may seek an injunction through the Attorney General or a State's Attorney; courts may issue temporary restraining orders without notice and enjoin violations, with contempt for violations. The Department may issue a rule to show cause why a cease and desist order should not be entered, allowing at least 7 days to answer; failure to answer satisfactorily results in an immediate cease and desist order. Injunctive remedies are in addition to other penalties.

- ✓ Secretary may seek injunctions via Attorney General or State's Attorney (Sec. 20-21.1)
- ✓ At least 7 days allowed to answer a rule to show cause before a cease and desist order
- ✓ These remedies are in addition to, not in lieu of, other penalties

2.11 Confidentiality of Investigations

Information collected during an examination or investigation—including complaints—is confidential and used only by the Department. It may only be disclosed to law enforcement, regulatory agencies with an appropriate interest, or via a lawful subpoena. However, a formal complaint filed by the Department or any order issued against a licensee/applicant is a public record.

- ✓ Investigation information and complaints are confidential (Sec. 20-23)
- ✓ Disclosure limited to law enforcement, regulators, or lawful subpoena
- ✓ Formal complaints filed by the Department and its orders are public records

2.12 Discipline for Illegal Discrimination

When a civil, criminal, or administrative adjudication finds a licensee illegally discriminated in licensed activity, the Department—after notice, hearing, and the Board's recommendation—must suspend/revoke or take disciplinary action, unless in the appeal process. The prior finding is a matter of record whose merits cannot be re-challenged at the Department hearing.

- ✓ A prior discrimination adjudication triggers mandatory discipline (Sec. 20-50)
- ✓ The merits of the finding cannot be re-challenged at the licensee's hearing
- ✓ Action is stayed if the adjudication is in the appeal process

2.13 Hearing Procedures and Notice

Before disciplinary action, the Department must, at least 30 days before the hearing, notify the person charged and the designated managing/sponsoring broker in writing of the charges, time, and place, and whether the license is temporarily suspended. The person must file a written answer under oath within 20 days of service. Failure to answer may result in default and discipline without a hearing. Notice may be served by mail or electronic means to the address of record. A copy of the final disciplinary order goes to the managing and sponsoring broker.

- ✓ At least 30 days' written notice before a hearing (Sec. 20-60)
- ✓ Written answer under oath due within 20 days of service
- ✓ Failure to answer may result in default and discipline without a hearing
- ✓ Designated managing and sponsoring brokers must be notified

2.14 Rehearing and Temporary Suspension

After a hearing, the Board's report is served on the party, who may move for rehearing within 20 days (extended if a transcript is timely ordered). The Secretary may enter an order per the Board's recommendations, or issue an order contrary to the Board's or hearing officer's recommendation. The Secretary may temporarily suspend a license WITHOUT a hearing if the public interest, safety, or welfare imperatively requires emergency action; a hearing must then begin within 30 days of the suspension.

- ✓ Motion for rehearing must be filed within 20 days of service (Sec. 20-64)
- ✓ Secretary may issue an order contrary to Board/hearing officer recommendations (Sec. 20-66)
- ✓ Emergency temporary suspension allowed without a hearing (Sec. 20-65)
- ✓ A hearing must commence within 30 days of a temporary suspension

2.15 Restoration of License and Time Limits

After successful completion of suspension, revocation, or probation, the Department may restore a license on the Board's written recommendation unless restoration is not in the public interest. No disciplinary action may be taken by the Department unless commenced within 5 years of the alleged violation—except this limit does not apply where an initial application contains false or misleading information.

- ✓ License may be restored after the disciplinary term on Board recommendation (Sec. 20-69)
- ✓ 5-year limitation on Department disciplinary actions (Sec. 20-115)
- ✓ No time limit applies to false/misleading initial applications

2.16 Recovery Fund Claim Procedure

An action leading to a Fund recovery must be started within 2 years of when the aggrieved person knew or should have known of the acts. All responsible licensees/employees/contractors (and their business entities) must be named as defendants or recovery is barred. If service cannot be obtained, the court may allow service on the Secretary. The aggrieved person must give the Department 30 days' notice of judgment and 20 days' notice of supplementary proceedings. Claimants must prove they are not the debtor's spouse/representative, complied with all requirements, obtained a judgment, and shown reasonable attorney's fees.

- ✓ Action must start within 2 years of discovery of the acts (Sec. 20-90)
- ✓ All responsible licensees must be named as defendants or recovery is barred
- ✓ Claimant cannot be the debtor's spouse or the spouse's personal representative
- ✓ 30 days' notice of judgment and 20 days' notice of supplementary proceedings required

2.17 Discipline Related to Tax and Child Support Delinquency

The Department may refuse to issue/renew or suspend the license of a person who fails to file returns or pay taxes required by any Act administered by the Department of Revenue until satisfied. It may also refuse, revoke, or suspend a license based solely on a certification from the Department of Healthcare and Family Services that the person is more than 30 days delinquent in child support.

- ✓ License may be suspended for unpaid state taxes until satisfied (Sec. 20-20(b))
- ✓ License may be denied/revoked/suspended for child support delinquency over 30 days (Sec. 20-20(d))

2.18 Returned Checks and Dishonored Charges

A person whose check is returned unpaid or whose credit/debit card payment is declined owes the Department a $50 fee plus the amount owed. Payment by certified check or money order must be made within 30 days of notification. Failure to pay results in automatic revocation of the license or denial of the application without a hearing. Restoration requires reapplication and payment of all fees and fines. The Secretary may waive fees where unreasonable or burdensome.

- ✓ $50 fee for returned checks or dishonored card charges (Sec. 20-25)
- ✓ Payment due within 30 days or automatic revocation/denial without hearing
- ✓ Restoration requires reapplication and payment of all fees and fines

2.19 Administrative and Judicial Review

Final administrative decisions are subject to judicial review under the Administrative Review Law. Judicial review is commenced in the circuit court where the party resides; if the party is not an Illinois resident, venue is in Sangamon County or Cook County. The Department need not certify the record or appear unless the plaintiff files a receipt for the certification costs with the complaint.

- ✓ Review is under the Administrative Review Law (Sec. 20-75)
- ✓ Venue is the party's county of residence, or Sangamon/Cook County if a non-resident
- ✓ Plaintiff must file a receipt for record certification costs or the action is dismissed (Sec. 20-73)

2.20 Fund Deposits and Discipline Not Limited

Fines and penalties collected under the Act are deposited in the Real Estate License Administration Fund and may be transferred to the Recovery Fund. Repaying the Recovery Fund in full does not nullify other disciplinary proceedings, and the Fund provisions do not limit the Department's disciplinary authority. Failure to comply with Fund procedures waives rights under Sections 20-85 and 20-90.

- ✓ Repaying the Fund does not nullify other discipline (Sec. 20-110)
- ✓ Noncompliance with Fund procedures waives recovery rights (Sec. 20-105)
- ✓ Fines are deposited in the Real Estate License Administration Fund (Sec. 20-82)

2.21 No Private Right of Action

Except as expressly provided in the Act, nothing in the Act grants any person a private right of action for damages or to enforce the Act's provisions or rules.

- ✓ No private right of action except as expressly provided (Sec. 20-125)
- ✓ The Act generally cannot be privately enforced for damages

CHAPTER 3

Supplement: License Law Basics

3.1 Who Needs a License and Statutory Exemptions

Under the Real Estate License Act of 2000 (225 ILCS 454/5-10), no person may act as a broker, managing broker or residential leasing agent, or advertise or hold themselves out as such, without a license issued by the Illinois Department of Financial and Professional Regulation (IDFPR). Licensed activity includes selling, buying, leasing, negotiating, listing, advertising or offering to do any of these for another for compensation, including brokering business opportunities that include real estate. Section 5-20 exempts, among others: owners or lessors dealing with their own property and their regular employees; attorneys acting within the scope of their duties; receivers, trustees, executors, guardians and others acting under court order; government officers and employees; resident managers of apartment buildings (or their employees) who lease units in the building where they reside; and hotel and motel operators. A person needing only to lease residential property may hold the limited residential leasing agent license instead of a broker license. Source: 225 ILCS 454/5-10, 5-15, 5-20

- ✓ Performing any licensed activity for another for compensation without a license violates 225 ILCS 454/5-10.
- ✓ Owners and their regular salaried employees are exempt when dealing with the owner's own property.
- ✓ Attorneys are exempt only when performing acts within the scope of legal duties, not as a general brokerage business.
- ✓ Court-appointed receivers, trustees, executors and guardians are exempt for property they administer.
- ✓ A resident manager of an apartment building may lease units in that building without a license.

3.2 License Categories, Education, Examination, Renewal and Continuing Education

Illinois issues three license types: broker (the entry-level license; the salesperson license was eliminated in 2011), managing broker, and residential leasing agent (225 ILCS 454/5-15). A broker applicant must be at least 18, hold a high school diploma or equivalent, complete 75 hours of approved pre-license education (60 hours of topics plus a 15-hour interactive applied principles course), pass the state exam, and then complete 45 hours of post-license education before the first renewal (5-27, 5-28). A managing broker applicant must have been a licensed broker for at least 2 of the preceding 3 years, complete 45 hours of managing broker pre-license education and pass the managing broker exam (5-27). A leasing agent applicant needs 15 hours of education and the exam, and may work for up to 120 days on a leasing agent permit while completing them (5-5). Brokers renew by April 30 of even-numbered years and complete 12 hours of CE per 2-year cycle including core hours (with sexual harassment prevention and implicit bias awareness components); managing brokers renew by April 30 of odd-numbered years and complete 12 hours of CE plus 12 hours of broker management CE; leasing agents renew by July 31 of even-numbered years with 8 hours of CE (5-70, 5-72; 68 Ill. Adm. Code 1450 - verify current hour breakdown). Source: 225 ILCS 454/5-15, 5-27, 5-28, 5-45, 5-70, 5-72; 68 Ill. Adm. Code 1450

- ✓ Three license types: broker, managing broker, residential leasing agent; no salesperson license since 2011.
- ✓ Broker pre-license education is 75 hours, then 45 hours post-license before the first renewal.
- ✓ Managing broker requires 2 of the prior 3 years as a broker plus 45 hours of pre-license education and an exam.
- ✓ Brokers renew April 30 of even years (12 hours CE); managing brokers renew April 30 of odd years (12 hours CE plus 12 hours broker management CE).
- ✓ Leasing agents need 15 hours of education, may work 120 days on a permit, and renew July 31 of even years.

3.3 Sponsoring Broker Supervision, Offices, Sponsor Cards and Compensation Channels

Every broker and leasing agent must be sponsored by exactly one sponsoring broker, who holds the licensee's license, issues a sponsor card and is responsible for supervising the licensee's brokerage activities (225 ILCS 454/5-40, 10-20). A sponsoring broker must maintain a definite place of business in Illinois (subject to the nonresident exception), and every office and branch office must be under the direct supervision of a managing broker whose name is registered with IDFPR; a managing broker may supervise more than one office (10-20). When sponsorship ends, the sponsoring broker must notify IDFPR through the online system and the licensee may not practice until a new sponsoring broker is registered. Only a sponsoring broker may compensate a licensee for licensed activity, a licensee may accept compensation only from his or her own sponsoring broker, and a sponsoring broker may not pay compensation for licensed acts to an unlicensed person, although referral fees may be paid to licensed brokers of other jurisdictions and a licensee may receive payment through a business entity he or she owns (10-15). A licensee must disclose in writing to the client if compensation will be received from more than one party (10-15). Source: 225 ILCS 454/5-40, 10-15, 10-20

- ✓ A licensee may have only one sponsoring broker at a time and cannot practice without one.
- ✓ The sponsoring broker holds the license and issues the sponsor card; every office and branch must have a registered managing broker.
- ✓ Only the sponsoring broker may pay a licensee; the licensee may not accept commissions directly from clients or other brokers.
- ✓ Compensation for licensed acts may not be paid to unlicensed persons; referral fees to out-of-state licensed brokers are permitted.
- ✓ Receiving compensation from more than one party requires written disclosure to the client.

3.4 Advertising Rules Including Team and Internet Advertising

All advertising by a licensee must be conducted in the name of and under the supervision of the sponsoring broker and must include the sponsoring broker's business name; blind advertising that omits the sponsoring broker is prohibited (225 ILCS 454/10-30; 68 Ill. Adm. Code 1450.715). A licensee must advertise only under the name in which he or she is licensed or a registered assumed name, and may not advertise a property without the owner's written consent or in a false or misleading way. Team advertising is permitted, but the team name may not be more prominent than the sponsoring broker's name and team names must indicate they are a team, not an independent brokerage. Internet and electronic advertising must identify the sponsoring broker on every page or in a readily visible manner, and a licensee advertising his or her own property for sale or lease must disclose licensee status in the advertisement. Source: 225 ILCS 454/10-30; 68 Ill. Adm. Code 1450.715

- ✓ Every advertisement must include the sponsoring broker's registered business name; blind ads are prohibited.
- ✓ Team names may not appear more prominently than the sponsoring broker's name in any advertising.
- ✓ A licensee may advertise only under the licensed or registered assumed name.
- ✓ Advertising a listing requires the owner's written consent and must not be false or misleading.
- ✓ A licensee selling or leasing own property must disclose licensee status in the ad.

CHAPTER 4

Supplement: Property Disclosures

4.1 Residential Real Property Disclosure Act

The Residential Real Property Disclosure Act (765 ILCS 77) requires a seller of residential real property with 1 to 4 dwelling units to complete the statutory Residential Real Property Disclosure Report, answering a fixed list of yes, no or not applicable questions about material defects based on the seller's actual knowledge, and to deliver it to the prospective buyer before the buyer signs the contract. If the report is delivered after the contract is signed, the buyer may terminate the contract within 3 business days after receipt (but not after conveyance). The report is not a warranty and does not substitute for inspections; a seller is not liable for defects of which he or she had no actual knowledge, but must supplement the report if new information is learned before closing. Exempt transfers include court-ordered transfers, transfers by a lender after foreclosure or deed in lieu, transfers by fiduciaries administering estates or trusts, transfers between co-owners or to a spouse or lineal relative, and new construction never occupied. A buyer's action for a knowing violation may recover actual damages, court costs and attorney fees, and must be filed within 1 year from the earlier of possession, occupancy or recording. Source: 765 ILCS 77/5 through 77/60

- ✓ Applies to residential property with 1 to 4 dwelling units; seller discloses based on actual knowledge only.
- ✓ Report must be delivered before the buyer signs the contract.
- ✓ If delivered after signing, buyer may terminate within 3 business days after receipt, but not after closing.
- ✓ Exempt: court-ordered, lender post-foreclosure, fiduciary, co-owner, spouse or lineal relative, and never-occupied new construction transfers.
- ✓ Suit for violation must be filed within 1 year of the earlier of possession, occupancy or recording.

4.2 Illinois Radon Awareness Act Disclosures for Sales and Rentals

Under the Illinois Radon Awareness Act (420 ILCS 46), before a buyer is obligated under a contract to purchase residential real property with 1 to 4 units, the seller must provide the IEMA pamphlet Radon Testing Guidelines for Real Estate Transactions and the completed Disclosure of Information on Radon Hazards form, including any known radon test results and mitigation. The Act does not require the seller to test or mitigate; it is a disclosure-only statute, and units located on the third story or higher above ground level are exempt. Effective January 1, 2024 (P.A. 103-0086), a landlord must also give prospective tenants of covered dwelling units the pamphlet and a disclosure of any known radon hazard before the lease is signed; if a tenant's test shows an elevated level (4 pCi/L or higher) and the landlord does not mitigate, the tenant may terminate the lease under the procedures in the Act (verify current procedural details). Licensees commonly handle the forms but the duty rests on the seller or landlord. Source: 420 ILCS 46/10, 46/20, 46/25; P.A. 103-0086

- ✓ Seller must deliver the IEMA radon pamphlet and the radon hazard disclosure form before the buyer is bound by the contract.
- ✓ The Act requires disclosure only; no radon testing or mitigation is mandated for sellers.
- ✓ Dwelling units on the third story or higher above ground are exempt.
- ✓ Since January 1, 2024, landlords must provide radon disclosures to tenants before lease signing.
- ✓ A tenant with an elevated test result (4 pCi/L or more) may terminate if the landlord fails to mitigate.

CHAPTER 5

Supplement: Fair Housing

5.1 Illinois Human Rights Act Protected Classes and Housing Exemptions

Article 3 of the Illinois Human Rights Act (775 ILCS 5/3-101 et seq.) prohibits discrimination in real estate transactions, including sales, rentals, financing, brokerage services and advertising, and adds protected classes beyond federal law: ancestry, age (40 and over), marital status, sexual orientation (including gender-related identity), military status, unfavorable discharge from military service, order of protection status, pregnancy, source of income (effective January 1, 2023) and immigration status (effective January 1, 2025), in addition to race, color, religion, sex, national origin, disability and familial status. Blockbusting, steering and discriminatory advertising are expressly prohibited. Section 3-106 exempts the rental of units in an owner-occupied building of not more than 5 units, the private sale of a single-family home by an owner not using a broker or discriminatory advertising, religious organizations and private clubs for noncommercial housing, and housing for older persons as to familial status; these exemptions never permit a licensee to discriminate. Complaints are filed with the Illinois Department of Human Rights within 1 year of the alleged violation and may be heard by the Human Rights Commission or in circuit court (verify current civil penalty amounts). Source: 775 ILCS 5/3-101 to 3-106, 5/7A

- ✓ Illinois adds ancestry, age 40+, marital status, sexual orientation and gender identity, military status, unfavorable discharge, order of protection status, pregnancy, source of income and immigration status to federal protected classes.
- ✓ Source of income became protected January 1, 2023; immigration status January 1, 2025.
- ✓ Owner-occupied rentals of 5 or fewer units and private owner sales without a broker are exempt, but licensees may never discriminate.
- ✓ Blockbusting, steering and discriminatory advertising are prohibited under 3-102 and 3-103.
- ✓ Housing discrimination charges are filed with the Illinois Department of Human Rights within 1 year.

CHAPTER 6

Supplement: Taxes and Closing

6.1 Real Estate Transfer Tax, Declarations and Closing Customs

Illinois imposes a state real estate transfer tax of $0.50 per $500 (or fraction) of consideration and counties impose an additional $0.25 per $500, for a combined $0.75 per $500 or $1.50 per $1,000 (35 ILCS 200/31-10; 55 ILCS 5/5-1031); by custom the seller pays these and stamps are affixed to the deed before recording. A Real Estate Transfer Declaration (PTAX-203, filed electronically through MyDec) must accompany the deed unless the transfer is exempt under 35 ILCS 200/31-45, which exempts deeds for consideration under $100, transfers to or from governmental bodies, deeds securing debt, corrective deeds, tax deeds, partition deeds and certain related-entity transfers. Home rule municipalities may impose their own transfer taxes; Chicago charges $3.75 per $500 paid by the buyer plus a $1.50 per $500 CTA portion paid by the seller (verify current rates). In Illinois closings, attorneys customarily prepare deeds and represent parties, contracts typically contain an attorney review period, and licensees may only fill in blanks on preprinted approved forms and may not draft legal instruments. Source: 35 ILCS 200/31-10, 31-25, 31-45; 55 ILCS 5/5-1031

- ✓ State transfer tax is $0.50 per $500 of consideration; county tax is $0.25 per $500; total $0.75 per $500.
- ✓ Example: a $300,000 sale generates $300 state and $150 county transfer tax, customarily paid by the seller.
- ✓ Deeds for under $100 consideration, government transfers, deeds securing debt and corrective deeds are exempt but require an exemption statement.
- ✓ A transfer declaration (PTAX-203 via MyDec) must accompany the deed for recording.
- ✓ Chicago and other home rule cities impose additional transfer taxes; Chicago's main tax is paid by the buyer.

6.2 Property Tax Assessment, Homestead Exemptions and Tax Sale Redemption

Under the Property Tax Code (35 ILCS 200), real property outside Cook County is assessed at 33 1/3 percent of fair cash value, while Cook County uses classification (10 percent for residential); the Department of Revenue applies an equalization factor (multiplier) to bring county assessments to the statutory level. Taxes are paid in arrears in two installments the year after they accrue, and the tax lien is superior to all other liens. The general homestead exemption reduces equalized assessed value by up to $6,000 ($10,000 in Cook County), the senior citizens homestead exemption by $5,000 ($8,000 in Cook County), the senior citizens assessment freeze is available at household income of $65,000 or less, and the homestead improvement exemption shields up to $75,000 of added fair cash value for 4 years (verify current amounts, which the General Assembly adjusts periodically). Delinquent taxes are sold at the annual tax sale; the owner may redeem generally within 2 years, extended to 2 years and 6 months for owner-occupied residential property of 6 units or fewer, after which the tax buyer may obtain a tax deed. Source: 35 ILCS 200/9-145, 15-170, 15-175, 15-180, 21-350

- ✓ Statewide assessment level is 33 1/3 percent of fair cash value; Cook County classifies residential at 10 percent.
- ✓ Property taxes are paid in arrears, normally in two installments in the following year.
- ✓ General homestead exemption is up to $6,000 of EAV ($10,000 in Cook); senior homestead is $5,000 ($8,000 in Cook) - verify current figures.
- ✓ Senior assessment freeze requires household income of $65,000 or less.
- ✓ Redemption after a tax sale is generally 2 years, or 2.5 years for owner-occupied residential of 6 units or fewer.

CHAPTER 7

Supplement: Landlord-Tenant

7.1 Security Deposit Acts, Eviction Notices and Rent Control Preemption

Illinois has no statewide cap on residential security deposits, but the Security Deposit Return Act (765 ILCS 710) requires a landlord of residential property with 5 or more units to return the deposit within 45 days after the tenant vacates, and if deductions for damage are taken, to furnish an itemized statement with paid receipts or estimates within 30 days (with paid receipts within 30 days thereafter); bad-faith violations make the landlord liable for twice the deposit plus attorney fees and costs. The Security Deposit Interest Act (765 ILCS 715) requires landlords of 25 or more units in a building or complex to pay interest on deposits held more than 6 months, at the rate paid by the largest Illinois commercial bank on minimum-deposit passbook savings on the prior December 31, payable within 30 days after each 12-month period, with a two-times-deposit penalty for willful failure. Under the Eviction Act (735 ILCS 5/9), a landlord must serve a 5-day notice for nonpayment of rent, a 10-day notice for other lease breaches, 30 days written notice to end a month-to-month tenancy and 7 days for week-to-week, and may regain possession only through a court eviction order, never by self-help such as lockouts or utility shutoffs. The Rent Control Preemption Act (50 ILCS 825) bars municipalities from enacting rent control, and the Landlord Retaliation Act (765 ILCS 720) prohibits retaliation against tenants who complain or exercise legal rights; Chicago's RLTO imposes stricter local rules. Source: 765 ILCS 710; 765 ILCS 715; 735 ILCS 5/9-209, 9-210, 9-207; 50 ILCS 825

- ✓ Security Deposit Return Act applies to 5 or more units: return within 45 days, itemized damage statement within 30 days, penalty 2x deposit plus fees.
- ✓ Security Deposit Interest Act applies to 25 or more units when the deposit is held more than 6 months; interest paid within 30 days after each year.
- ✓ Eviction notices: 5 days for nonpayment, 10 days for other breaches, 30 days to end month-to-month, 7 days for week-to-week.
- ✓ Self-help eviction is prohibited; possession requires a court order under the Eviction Act.
- ✓ The Rent Control Preemption Act forbids local rent control anywhere in Illinois.

CHAPTER 8

Supplement: License Law Administration

8.1 IDFPR, the Real Estate Administration and Disciplinary Board and the Real Estate Coordinator

The Real Estate License Act of 2000 is administered by the Illinois Department of Financial and Professional Regulation (IDFPR, the Department), acting through its Secretary; the Department, not the Board, issues, renews and disciplines licenses and adopts rules (68 Ill. Adm. Code Part 1450). The Real Estate Administration and Disciplinary Board (Sec. 25-10) is an advisory and hearing body of 15 members appointed by the Governor for 4-year terms; the majority must have been actively engaged as brokers or managing brokers for at least 10 years and the remainder are public members (verify exact allocation). The Board conducts disciplinary hearings and makes recommendations, but the Secretary makes the final order and may accept, reject or modify a Board recommendation. The Secretary appoints a Real Estate Coordinator, who must be a licensed broker or managing broker with significant experience, to act as the Department chief real estate officer and Board liaison. A Real Estate Education Advisory Council advises on pre-license, post-license and continuing education curricula. Source: 225 ILCS 454/25-10, 454/25-15, 454/25-20.

- ✓ IDFPR (the Department) issues licenses and imposes discipline; the Board recommends, the Secretary decides.
- ✓ The Real Estate Administration and Disciplinary Board has 15 members appointed by the Governor to 4-year terms.
- ✓ Most Board members must have at least 10 years of active experience as brokers or managing brokers; the rest are public members.
- ✓ The Real Estate Coordinator is appointed by the Secretary and must be a licensed broker or managing broker.
- ✓ The Real Estate Education Advisory Council advises the Department on education requirements.

CHAPTER 9

Supplement: Contracts and Closing Practice

9.1 Licensees May Not Practice Law: Filling in Blanks and the Attorney Approval Contingency

Under Chicago Bar Association v. Quinlan and Tyson, Inc., 34 Ill. 2d 116 (1966), an Illinois licensee may fill in the blanks of a preprinted, attorney-prepared purchase contract form for a transaction the licensee is negotiating, but may not draft contracts, deeds, riders or other legal instruments, give legal advice, or charge a separate fee for completing forms. Drafting deeds, mortgages and closing documents is the practice of law reserved to attorneys; unauthorized practice is a ground for discipline under Sec. 20-20 of the License Act. Illinois closing custom is for both buyer and seller to be represented by attorneys, and standard multi-board contracts contain an attorney review or modification contingency (commonly 5 business days) allowing attorneys to propose changes to everything except price and dates. Licensees should advise parties to consult attorneys and should not opine on title, legal effect or tax consequences. Source: Chicago Bar Ass'n v. Quinlan & Tyson, 34 Ill. 2d 116 (1966); 225 ILCS 454/20-20.

- ✓ A licensee may only fill in blanks on a standard preprinted contract form for a transaction he or she is handling.
- ✓ A licensee may not draft deeds, riders or other legal documents, give legal advice, or charge a fee for completing forms.
- ✓ Unauthorized practice of law is a disciplinable violation under Sec. 20-20 of the License Act.
- ✓ Illinois custom: attorneys represent both parties, and contracts contain an attorney review contingency (commonly 5 business days) that cannot alter price.

CHAPTER 10

Supplement: Illinois Property Law

10.1 Illinois Land Trusts and the Land Trust Beneficial Interest Disclosure Act

The Illinois land trust is a state-specific ownership device in which a trustee (usually a bank or trust company) holds both legal and equitable title to the real estate, while the beneficiary holds a beneficial interest that is treated as personal property. The beneficiary keeps the power of direction, the right to possession and all income and proceeds, and can transfer the beneficial interest by assignment without recording a deed, giving privacy of ownership and simplifying multiple ownership. Under the Land Trust Beneficial Interest Disclosure Act, beneficiaries must be disclosed in writing when the trust applies for zoning, permits, licenses or other benefits from a governmental body or contracts with the state or a municipality (765 ILCS 405). Assignments of beneficial interest are subject to state and local real estate transfer tax under the Land Trust Recordation and Transfer Tax Act (765 ILCS 420). A land trust does not exempt the property from creditors of the beneficiary, and the trustee acts only on written direction of the beneficiary. Source: 765 ILCS 405; 765 ILCS 420; 765 ILCS 430.

- ✓ In an Illinois land trust the trustee holds legal and equitable title; the beneficiary holds personal property (the beneficial interest).
- ✓ The beneficiary retains the power of direction, possession, income and proceeds; the trustee acts only on written direction.
- ✓ Beneficial interests may be assigned privately without a recorded deed, but such assignments are subject to real estate transfer tax.
- ✓ Beneficiaries must be disclosed to governmental bodies when the trust seeks zoning, permits or public contracts (765 ILCS 405).

10.2 Co-Ownership in Illinois: Joint Tenancy Language, Tenancy by the Entirety and Abolition of Dower

Under the Illinois Joint Tenancy Act, a conveyance to two or more persons creates a tenancy in common unless the instrument expressly declares that the grantees take as joint tenants and not as tenants in common; joint tenancy is never presumed (765 ILCS 1005/1). Tenancy by the entirety is available only to spouses (including civil union partners) and only for their homestead residence, must be expressly declared in the deed, and protects the home from the individual creditors of one spouse (765 ILCS 1005/1c). Dower and curtesy were abolished in Illinois effective January 1, 1972 (755 ILCS 5/2-9), so a non-titled spouse does not have to sign a deed except to release homestead rights. Illinois also permits a Transfer on Death Instrument, which since 2022 may convey any Illinois real estate outside probate if signed, witnessed by two witnesses, notarized and recorded before the owner death (755 ILCS 27). Source: 765 ILCS 1005/1, 1005/1c; 755 ILCS 5/2-9; 755 ILCS 27.

- ✓ Illinois presumes tenancy in common; joint tenancy requires express words such as as joint tenants and not as tenants in common.
- ✓ Tenancy by the entirety is limited to married or civil union spouses and to homestead property, and must be expressly declared.

✓

Dower and curtesy were abolished in Illinois effective 1972-01-01; a spouse signs only to waive homestead.

- ✓ A Transfer on Death Instrument must be witnessed by 2 witnesses, notarized and recorded before death to be effective.

10.3 Adverse Possession Periods in Illinois: 20 Years and 7 Years With Color of Title

Illinois recognizes title by adverse possession when possession is actual, open and notorious, exclusive, hostile (without permission) and continuous for the statutory period. The general limitation period for recovering land is 20 years (735 ILCS 5/13-101). The period is shortened to 7 years when the possessor holds under color of title (a defective deed or other claim of record) made in good faith and pays all taxes legally assessed for those 7 years (735 ILCS 5/13-109); vacant and unoccupied land can be acquired by paying taxes for 7 years under color of title (735 ILCS 5/13-107). Title cannot be acquired against the State, the United States or municipal land held for public use, and successive adverse possessors may tack their periods together if in privity. A claimant perfects marketable title through a quiet title action rather than automatically. Source: 735 ILCS 5/13-101, 5/13-107, 5/13-109.

- ✓ General Illinois adverse possession period: 20 years of actual, open, exclusive, hostile and continuous possession.
- ✓ With good-faith color of title plus payment of all taxes, the period drops to 7 years.
- ✓ Vacant land: 7 years of tax payment under color of title suffices.
- ✓ Adverse possession does not run against government-owned land.

10.4 Illinois Homestead Exemption From Creditors ($15,000 / $30,000) and Spousal Waiver

Separate from the property tax homestead exemptions, Illinois grants every individual an estate of homestead in the owner-occupied residence (including a condominium, cooperative or mobile home) that is exempt from judgment liens and forced sale for general debts up to $15,000 of equity; where two or more owners share the homestead the total exemption is $30,000 (735 ILCS 5/12-901, 5/12-902). The exemption does not protect against a mortgage or purchase-money lien voluntarily given, real estate taxes, mechanics liens, or debts for the purchase or improvement of the property. To convey or mortgage homestead property free of the exemption, the deed or mortgage must contain an express release or waiver of homestead signed and acknowledged by both spouses, even if only one is on title (735 ILCS 5/12-904). The homestead continues for a surviving spouse and for minor children until the youngest reaches 18. Source: 735 ILCS 5/12-901 through 5/12-912.

- ✓ Creditor-protection homestead exemption: $15,000 per owner, $30,000 maximum where owners share the homestead.
- ✓ Homestead does not defeat mortgages, tax liens, mechanics liens or purchase-money debts.
- ✓ A non-titled spouse must sign the deed or mortgage to waive homestead rights.

✓

Homestead survives for the surviving spouse and minor children.

CHAPTER 11

Supplement: Condominium/HOA

11.1 Condominium and Common Interest Community Resale Disclosures

Section 22.1 of the Condominium Property Act (765 ILCS 605/22.1) requires a unit owner reselling a condominium to obtain from the association and make available to the prospective purchaser on demand: the declaration, bylaws and rules; a statement of any liens including unpaid assessments against the unit; a statement of anticipated capital expenditures for the current and 2 succeeding fiscal years; the amount of reserves and any earmarked portions; the most recent financial statement; the status of pending litigation and judgments; insurance coverage; and a statement that any improvements by the seller comply with the declaration. The association must furnish this information within 10 business days of a written request and may charge only a reasonable fee for direct out-of-pocket costs, capped by statute at $375 as adjusted for inflation (verify current cap). Section 22 requires the developer on initial sales to provide the declaration, bylaws, projected operating budget, floor plans and related documents, and a purchaser who did not receive them before contracting may void the contract within 5 days after receipt. The Common Interest Community Association Act (765 ILCS 160/1-35) imposes parallel resale disclosure duties on non-condominium homeowner associations, subject to its size exemptions. Source: 765 ILCS 605/22, 22.1; 765 ILCS 160/1-35

- ✓ Condo resellers must provide the 22.1 disclosure package: governing documents, liens and unpaid assessments, capital expenditures, reserves, financials, litigation and insurance.
- ✓ The association must respond to a written 22.1 request within 10 business days.
- ✓ The 22.1 fee is limited to reasonable out-of-pocket costs, statutorily capped at $375 adjusted for inflation (verify).
- ✓ Developer initial-sale disclosures under Section 22 give the buyer a 5-day right to void if delivered after contract.
- ✓ The Common Interest Community Association Act applies similar resale disclosure duties to HOAs.

CHAPTER 12

Supplement: Foreclosure

12.1 Illinois Mortgage Foreclosure Law: Judicial Process, Reinstatement and Redemption

Illinois is a judicial foreclosure state: a mortgage may be foreclosed only through a court action under the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq.), and power-of-sale foreclosure is not permitted. A residential mortgagor has a statutory right to reinstate by curing the default within 90 days after service of summons, and a right to redeem the entire debt until the later of 7 months after service or 3 months after entry of the judgment of foreclosure (6 months and 3 months respectively for nonresidential property); the judicial sale cannot occur until the redemption period expires and must be confirmed by the court. If the lender is the successful bidder for less than the amount of the judgment, a residential owner has a special right to redeem within 30 days after confirmation by paying the sale price plus interest and costs. Deficiency judgments are permitted, and the Law also recognizes deeds in lieu of foreclosure and consent foreclosure, in which the lender takes title free of redemption in exchange for waiving any deficiency; bona fide tenants of foreclosed residential property are entitled to at least 90 days notice before being required to vacate. Source: 735 ILCS 5/15-1401, 15-1402, 15-1508, 15-1602, 15-1603, 15-1604, 15-1224

- ✓ Illinois allows judicial foreclosure only; no power-of-sale foreclosure.
- ✓ Residential reinstatement right: cure the default within 90 days after service of summons.
- ✓ Residential redemption ends at the later of 7 months after service or 3 months after judgment; nonresidential 6 months or 3 months.
- ✓ Special right to redeem within 30 days after sale confirmation if the lender bought for less than the judgment amount.
- ✓ Deficiency judgments are allowed; consent foreclosure gives the lender title in exchange for waiving the deficiency.

CHAPTER 13

Supplement: Landlord-Tenant Law

13.1 Residential Tenants Right to Repair Act and Landlord Retaliation Act

Under the Residential Tenants Right to Repair Act, a residential tenant may give the landlord written notice of a repair the landlord is obligated to make; if the landlord fails to act within 14 days (or promptly in an emergency), the tenant may have the repair made by a licensed or qualified tradesperson and deduct the cost from rent, but the deduction may not exceed the lesser of $500 or one-half of one month rent, and the tenant must furnish the paid receipt (765 ILCS 742). The Act does not apply where a municipal ordinance (such as the Chicago Residential Landlord and Tenant Ordinance) already provides repair-and-deduct rights, and it does not cover public housing or damage caused by the tenant. Effective January 1, 2025, the Landlord Retaliation Act (765 ILCS 721) replaced the older Retaliatory Eviction Act and prohibits a landlord from terminating or refusing to renew a tenancy, raising rent, decreasing services or bringing an eviction because the tenant complained to a government agency, requested repairs, joined a tenant organization or testified in court. A tenant who proves retaliation may recover the greater of two months rent or twice the actual damages sustained, plus attorney fees, and may use retaliation as a defense to eviction. Source: 765 ILCS 742; 765 ILCS 721.

- ✓ Repair and deduct: written notice, 14 days for landlord to act, deduction capped at the lesser of $500 or one-half month rent.
- ✓ The Right to Repair Act yields to local ordinances that already provide repair-and-deduct rights (e.g., Chicago RLTO).
- ✓ The Landlord Retaliation Act (effective 2025-01-01) bars eviction, non-renewal, rent increases or service cuts in response to protected tenant activity.
- ✓ Retaliation is a defense to eviction and supports damages of the greater of two months rent or twice the actual damages, plus attorney fees.

CHAPTER 14

Supplement: Liens and Title

14.1 Illinois Mechanics Lien Act: 4-Month Recording, 2-Year Suit and 90-Day Subcontractor Notice

Under the Illinois Mechanics Lien Act, a contractor who improves real estate under a contract with the owner has a lien that attaches as of the date of the contract and takes priority over later encumbrances. To enforce the lien against third parties such as purchasers and lenders, the contractor must record a claim for lien with the county recorder within 4 months after completion of the work (770 ILCS 60/7); against the owner alone the claim may be filed within 2 years. Suit to foreclose the lien must be brought within 2 years after completion. A subcontractor must serve written notice of its claim on the owner within 90 days after completing its work (770 ILCS 60/24), and on owner-occupied single-family residences a contractor must give the owner written notice of subcontractor lien rights. Buyers customarily obtain a contractor and owner affidavit and lien waivers at closing to protect title. Source: 770 ILCS 60/1, 60/7, 60/9, 60/24.

- ✓ Record the mechanics lien claim within 4 months after completion to bind third-party purchasers and lenders.
- ✓ Suit to enforce the lien must be filed within 2 years after completion.
- ✓ A subcontractor must give the owner written notice within 90 days after finishing its work.
- ✓ The lien relates back to the date of the contract for priority purposes.

CHAPTER 15

Supplement: State Mortgage Law

15.1 Illinois Interest Act, Prepayment Penalties, Mortgage Escrow Account Act and Mortgage Release Deadlines

The Illinois Interest Act sets no maximum interest rate on loans secured by a mortgage on real estate, so there is no usury ceiling on Illinois mortgage loans (815 ILCS 205/4). However, where the interest rate on a loan secured by residential real estate exceeds 8% per year, the lender may not charge or collect a prepayment penalty (815 ILCS 205/4(2)(a)). Under the Mortgage Escrow Account Act, once a borrower on a single-family owner-occupied home has paid the loan down to 65% of the original principal and is current, the borrower may terminate the tax and insurance escrow account unless the loan is government-insured or the mortgage documents require escrow; lenders must notify borrowers of this right (765 ILCS 910). The Mortgage Act requires the mortgagee to deliver a release of mortgage within one month after full payment; a lender who fails to do so is liable for a $200 statutory penalty plus damages and attorney fees (765 ILCS 905/2, 905/4). Source: 815 ILCS 205/4; 765 ILCS 910; 765 ILCS 905.

- ✓ No usury limit applies to Illinois loans secured by real estate mortgages.
- ✓ No prepayment penalty may be charged on a residential mortgage loan bearing interest above 8% per year.
- ✓ A borrower may cancel the escrow account once the loan is paid down to 65% of original principal (Mortgage Escrow Account Act).
- ✓ A mortgage release must be delivered within one month of payoff; failure carries a $200 statutory penalty plus damages and attorney fees.

CHAPTER 16

Supplement: Property Condition and Safety Statutes

16.1 Smoke Detector Act and Carbon Monoxide Alarm Detector Act Requirements

The Illinois Smoke Detector Act requires every dwelling unit to have at least one approved smoke detector on every story including basements and within 15 feet of every room used for sleeping; since January 1, 2023 any newly installed or replacement battery-powered detector must be a sealed unit with a 10-year non-removable battery (425 ILCS 60). The Carbon Monoxide Alarm Detector Act requires an approved CO alarm within 15 feet of every room used for sleeping in any dwelling that has a fossil-fuel burning appliance, fireplace or attached garage (430 ILCS 135). In rental housing the owner must supply and install the detectors and alarms, and the tenant is responsible for testing them and replacing batteries. Violations are petty offenses and municipalities may adopt stricter codes; sellers and landlords are commonly asked to certify compliance at closing or lease-up. Source: 425 ILCS 60; 430 ILCS 135.

- ✓ Smoke detectors: at least one on every story (including basement) and within 15 feet of each sleeping room.
- ✓ Since 2023-01-01 new battery smoke detectors must have sealed 10-year batteries.
- ✓ CO alarms: within 15 feet of every sleeping room where there is a fuel-burning appliance, fireplace or attached garage.
- ✓ Landlord installs detectors; tenant tests them and replaces batteries.

CHAPTER 17

Supplement: Contracts and Title

17.1 Statute of Frauds, Acknowledgment and Race-Notice Recording Under the Illinois Conveyances Act

The Illinois Statute of Frauds requires any contract for the sale of land or any interest in land, and any lease for a term longer than one year, to be in writing and signed by the party to be charged; oral leases of one year or less are enforceable (740 ILCS 80/2). A deed is valid between the parties when signed and delivered, but it must be acknowledged before a notary or other authorized officer to be recorded (765 ILCS 5/20). Illinois follows a race-notice recording rule: an unrecorded deed or mortgage is void as to creditors and subsequent bona fide purchasers without notice, and instruments take effect against such third parties only from the time they are filed for record with the county recorder (765 ILCS 5/30). Recording gives constructive notice, and possession gives inquiry notice. The Torrens (registered title) system formerly used in Cook County was abolished, with all registered titles converted to the recording system by 1997. Source: 740 ILCS 80/2; 765 ILCS 5/20, 5/30.

- ✓ Land sale contracts and leases longer than 1 year must be written and signed to be enforceable; leases of 1 year or less may be oral.
- ✓ A deed must be acknowledged to be recorded, but acknowledgment is not required for validity between grantor and grantee.
- ✓ Illinois is a race-notice state: an unrecorded instrument loses to a later bona fide purchaser without notice who records first.
- ✓ Cook County Torrens registration was abolished; Illinois uses the recording system statewide.

CHAPTER 18

Supplement: Timeshare and Subdivision Regulation

18.1 Real Estate Timeshare Act of 1999 and Land Sales Registration Act of 1999

The Real Estate Timeshare Act of 1999 requires developers to register each timeshare plan with IDFPR and deliver a public offering statement to purchasers before or at contract signing; timeshare sales in Illinois must be conducted by persons licensed under the Real Estate License Act (765 ILCS 101). A timeshare purchaser has a non-waivable right to cancel the purchase contract within 5 calendar days after signing or after receiving the public offering statement, whichever is later, and deposits must be escrowed until the rescission period ends (765 ILCS 101/10-10). The Land Sales Registration Act of 1999 requires registration with IDFPR and delivery of a property report before offering unimproved subdivided lots (generally 25 or more lots in a common promotional plan) to Illinois residents, with a purchaser rescission right and exemptions for lots with existing homes or sold to builders (765 ILCS 86 - verify thresholds). Violations of either Act are grounds for license discipline and civil penalties. Source: 765 ILCS 101; 765 ILCS 86.

- ✓ Timeshare plans must be registered with IDFPR and sold with a public offering statement by licensed real estate brokers.
- ✓ Timeshare buyers may cancel within 5 calendar days of signing or receiving the public offering statement, whichever is later.
- ✓ Subdivided vacant lots (about 25 or more) offered to Illinois residents require registration and a property report under the Land Sales Registration Act.
- ✓ Failure to comply is a basis for discipline under the Real Estate License Act.