



EXECUTIVE ORDER

14-03

CREATION OF THE DIVISION OF REAL ESTATE WITHIN THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

WHEREAS, the citizens of Illinois are best served when State government operates as efficiently and effectively as possible; and

WHEREAS, Executive Order 6 (2004) consolidated the Office of Banks and Real Estate, the Department of Insurance, the Department of Professional Regulation, and the Department of Financial Institutions into an agency known as the Illinois Department of Financial and Professional Regulation ("Department") with the 4 previous stand-alone agencies constituting the 4 divisions of the agency; and

WHEREAS, in 2009, Executive Order 4 and Public Act 96-811 removed the Division of Insurance from the Department of Financial and Professional Regulation and reinstated it as a stand-alone Department of Insurance; and

WHEREAS, also in 2009, Public Act 96-1365 eliminated the Office of Banks and Real Estate and replaced it with a Division of Banking; and

WHEREAS, the Department of Financial and Professional Regulation is an executive agency directly responsible to the Governor that currently consists of three Divisions; namely, the Division of Banking, the Division of Financial Institutions and the Division of Professional Regulation; and

WHEREAS, currently, the regulation of real estate by the Department is undertaken by the Bureau of Real Estate Professions within the Division of Professional Regulation; and

WHEREAS, the real estate industry and related professionals comprise a large employment and economic base in Illinois and many of its communities; and

WHEREAS, the Real Estate License Administration Fund ("Fund") created in 225 ILCS 454/25-30 is to be used for the expenses of the Department in the administration of the Real Estate License Act of 2000 and for the administration of any other Act administered by the Department providing revenue to the Fund; and

WHEREAS, substantial efficiencies to the benefit of consumers and the real estate profession can be achieved by the reorganization of all Functions ("Functions") of the Bureau of Real Estate Professions, Division of Professional Regulation, into a Division of Real Estate ("Division"); and

WHEREAS, the transfer of the Functions of the Bureau of Real Estate Professions, Division of Professional Regulation, into the Division shall not impede, disrupt or impair in any fashion any council, commission, board or other entity previously established and operating under the Department; and

WHEREAS, Article V, Section 11, of the Illinois Constitution authorizes the Governor to reassign functions or reorganize executive agencies that are directly responsible to him by means of executive order; and

WHEREAS, Section 3.2 of the Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that “Reorganization” includes, in pertinent part, (i) the consolidation or coordination of any part of any agency or the functions thereof with any other part of the same agency or the functions thereof and (ii) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of reorganization will not have, any functions; and

THEREFORE, pursuant to the powers vested in me by Article V, Section 11, of the Illinois Constitution, I hereby order:

I. REORGANIZATION OF THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

- a. Effective 60 calendar days after the date on which this Executive Order is delivered to the General Assembly, or as soon thereafter as practicable, the Division shall be created and known as the “Division of Real Estate.”
- b. The Division shall have an officer as its lead known as the Director of Real Estate (“Director”) who shall be responsible for all division Functions. Appointment to this office shall be made by the Governor, by and with the advice and consent of the Senate. The Director shall receive an annual salary as set by the Governor, but the salary received by the Director shall not exceed the salary received by the Director of Professional Regulation.
- c. The Division shall also have other staff as may be appropriate for the efficient operation of the Division.

II. TRANSFER OF FUNCTIONS

Effective 60 calendar days after the date on which this Executive Order is delivered to the General Assembly, or as soon thereafter as practicable, the Functions and all associated powers, duties, rights and responsibilities of the Bureau of Real Estate Professions, Division of Professional Regulation, shall be transferred to the Division. The statutory powers, duties, rights and responsibilities of the Bureau of Real Estate Professions, Division of Professional Regulation, associated with these Functions derive from the following statutes:

- a. Auction License Act (225 ILCS 407)
- b. Community Association Manager Licensing and Disciplinary Act (225 ILCS 427)
- c. Home Inspector License Act (225 ILCS 441)
- d. Real Estate License Act of 2000 (225 ILCS 454)
- e. Real Estate Appraiser Licensing Act of 2002 (225 ILCS 458)
- f. Appraisal Management Company Registration Act (225 ILCS 459)
- g. Land Sales Registration Act of 1999 (765 ILCS 86)
- h. Real Estate Timeshare Act of 1999 (765 ILCS 101)

III. EFFECT OF TRANSFER

- a. The Bureau of Real Estate Professions, Division of Professional Regulation, powers, duties, rights and responsibilities related to the Functions and transferred by the Division of Professional Regulation to the Division of Real Estate shall not be affected by this Executive Order, except that those powers, duties, rights and responsibilities shall all be carried out by the Division from the effective date of the transfers.
- b. The employees of the Division of Professional Regulation and the Department of Financial and Professional Regulation engaged in the performance of the Functions shall be transferred to the Division of Real Estate. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement or annuity plan shall not be affected by this Executive Order. To the extent that an employee performs duties for the Bureau of Real Estate Professions, Division of Professional Regulation, for the Department of Financial and Professional Regulation itself, or for any other division within the Department

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of Financial and Professional Regulation, that employee shall be transferred to the Division at the Governor's discretion.

All personnel records, documents, books, correspondence, and other property, both real and personal, contracts, and pending business pertaining to the powers, duties, rights and responsibilities transferred by this Executive Order from the Division of Professional Regulation to the Division, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be delivered to the Division.

- d. All unexpended appropriations and balances and other funds available for use in connection with any of the Functions shall be transferred for use by the Division for the Functions pursuant to the direction of the Governor. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

IV. SAVINGS CLAUSE

- a. The powers, duties, rights and responsibilities related to the Functions and transferred from the Division of Professional Regulation by this Executive Order shall be vested in and shall be exercised by the Division. Each act done in exercise of such powers, duties, rights and responsibilities shall have the same legal effect as if done by the Division of Professional Regulation.
- b. Every person or entity of the Division shall be subject to the same obligations and duties and any penalties, civil or criminal, arising therefrom, and shall have the same rights arising from the exercise of such powers, duties, rights and responsibilities as had been exercised by the Division of Professional Regulation or its subdivisions, officers or employees.
- c. Every officer of the Division shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing law for the same offense by any officer whose powers or duties were transferred under this Executive Order.
- d. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon the Division of Professional Regulation in connection with any of the Functions transferred by this Executive Order, the same shall be made, given, furnished or served in the same manner to or upon the Division.
- e. This Executive Order shall not affect any act done, ratified or canceled or any right occurring or established or any action or proceeding had or commenced in an administrative, civil or criminal cause regarding the Functions of the Division of Professional Regulation before this Executive Order takes effect; such actions or proceedings may be prosecuted and continued by the Division.
- f. Any rules of the Division of Professional Regulation or the Department of Financial and Professional Regulation that relate to the Functions, are in full force on the effective date of this Executive Order, and that have been duly adopted by the Division of Professional Regulation and/or the Department of Financial and Professional Regulation shall become the rules of the Division. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by the Division of Professional Regulation that are pending in the rulemaking process on the effective date of this Executive Order and pertain to the Functions transferred, shall be deemed to have been filed by the Division. As soon as practicable hereafter, the Division shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers and duties affected by this Order, using the procedures for re-codification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. The Division, consistent with its authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules that will now be administered by the Division. To the extent that, prior to the effective date of the transfers, the Secretary of Financial and Professional Regulation or the Director of Professional Regulation

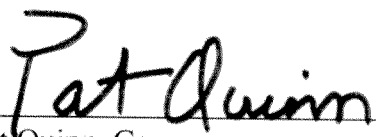
had been empowered to prescribe regulations or had other rulemaking authority with respect to the Bureau of Real Estate Professions, Division of Professional Regulation, such duties shall be exercised from and after the effective date of the transfers by the Director of Real Estate, who shall be responsible for the oversight of those respective Functions.

V. SEVERABILITY

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

VI. EFFECTIVE DATE

This Executive Order is effective upon filing with the Secretary of State.


Pat Quinn, Governor

Issued by Governor: March 31, 2014

Filed with Secretary of State: March 31, 2014

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