

INLAND REAL ESTATE CORP

Form 10-K/A

March 29, 2013

UNITED STATES

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 10-K/A

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For The Fiscal Year Ended December 31, 2012

or  
 Transition Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission File Number 001-32185

(Exact name of registrant as specified in its charter)

Maryland

(State or other jurisdiction

of incorporation or organization)

36-3953261

(I.R.S. Employer Identification No.)

2901 Butterfield Road, Oak Brook, Illinois

(Address of principal executive offices)

60523

(Zip code)

Registrant's telephone number, including area code: 630-218-8000

Securities registered pursuant to Section 12(b) of the Act:

Title of each class:

Common Stock, \$0.01 par value

8.125% Series A Cumulative Redeemable Preferred  
Stock

Name of each exchange on which registered:

New York Stock Exchange

New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act:

Title of each class:

None

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

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Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).  
Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check One):

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(do not check if a smaller reporting company)

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of June 30, 2012, the aggregate market value of the shares of common stock held by non-affiliates of the registrant was \$643,602,067.

As of February 28, 2013 there were 89,947,822 shares of common stock outstanding.

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Documents Incorporated by Reference: Portions of the registrant's proxy statement for the annual stockholders meeting to be held in 2013 are incorporated by reference into Part III, Items 10, 11, 12, 13 and 14.

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EXPLANATORY NOTE

We are filing this Amendment No. 1 (this “Amendment”) to our Annual Report on Form 10-K for the fiscal year ended December 31, 2012, as filed with the Securities and Exchange Commission on February 28, 2013 (the “Original Filing”). This Amendment is being filed for the purpose of amending Item 15, “Exhibits, Financial Statement Schedules” to include as exhibit 99.2 the separate consolidated financial statements of IN Retail Fund, L.L.C., as of December 2012 and 2011, and for each of the years in the three year period ended December 31, 2012, including the Independent Auditors' Report on the consolidated financial statements of IN Retail Fund, L.L.C. as of and for the year ended December 31, 2012, as required under Rule 3-09 of Regulation S-X, and the consent of KPMG LLP.

Other than as set forth herein, no other changes have been made to the Original Filing. The Original Filing continues to speak as of the date of the Original Filing, and we have not updated the disclosures contained therein to reflect any events which occurred at a date subsequent to the filing of the Original Filing.

Part IV

Item 15. Exhibits, Financial Statement Schedules

The following documents were filed as part of the Original Filing:

(a)(1) Financial Statements:

Report of Independent Registered Public Accounting Firm  
Report of Independent Registered Public Accounting Firm on Internal Control over Financial Reporting  
Consolidated Balance Sheets of Inland Real Estate Corporation at December 31, 2012 and 2011  
Consolidated Statements of Operations and Other Comprehensive Income of Inland Real Estate Corporation for the years ended December 31, 2012, 2011 and 2010  
Consolidated Statements of Equity of Inland Real Estate Corporation for the years ended December 31, 2012, 2011 and 2010  
Consolidated Statements of Cash Flows of Inland Real Estate Corporation for the years ended December 31, 2012, 2011 and 2010  
Notes to Consolidated Financial Statements

The following financial statement schedules were filed as part of the Original Filing and should be read in conjunction with the above financial statements:

(a)(2) Financial Statement Schedules:

Real Estate and Accumulated Depreciation (Schedule III)

All financial statements schedules other than those listed above have been omitted because they are not applicable or because the required information is presented in the financial statements or related notes.

(a)(3) Exhibits:

The exhibits filed herewith are set forth on the Exhibit Index included with this Amendment No. 1 to the Annual Report on Form 10-K.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

INLAND REAL ESTATE CORPORATION

By: /s/ MARK E. ZALATORIS  
Mark E. Zalatoris  
Title: President and Chief Executive Officer  
(principal executive officer)  
Date: March 29, 2013

EXHIBIT INDEX

The following exhibits are filed as part of this Amendment No. 1 to the Annual Report on Form 10-K or incorporated by reference herein:

Item No.	Description
3.1	Fourth Articles of Amendment and Restatement of the Registrant (1)
3.2	Articles Supplementary designating the Company's 8.125% Series A Cumulative Redeemable Preferred Stock, \$0.01 par value per share (2)
3.5	Amended and Restated Bylaws of the Registrant effective April 23, 2010 (3)
4.1	Specimen Stock Certificate (4)
4.2	Dividend Reinvestment Plan of the Registrant (5)
4.3	Indenture governing 5.0% Convertible Senior Notes due 2029, dated August 10, 2010 between Inland Real Estate Corporation and Wells Fargo Bank, National Association, as trustee (6)
4.4	Form of 5.0% Convertible Senior Note due 2029 (7)
10.1	Fifth Amended and Restated Credit Agreement, dated as of August 21, 2012, among Inland Real Estate Corporation and KeyBank National Association, as Lender and Administrative Agent; Wells Fargo Bank, National Association and Bank of America, N.A., as Lenders and Co- Syndication Agents; KeyBanc Capital Markets, Wells Fargo Securities, LLC, and Merrill Lynch, Pierce, Fenner and Smith Incorporated, as Co-Lead Arrangers; RBS Citizens, National Association d/b/a Charter One, as a Lender and as Co-Documentation Agent; BMO Capital Markets, as Co- Documentation Agent; PNC Bank, National Association as a Lender and the other entities which may become parties as additional Lenders (8)
10.2	2005 Equity Award Plan (9)
10.3	Operating Agreement, dated as of October 8, 2004, among Inland Real Estate Corporation, The New York State Teachers' Retirement System, by and through its designated advisor, Morgan Stanley Real Estate Advisor, Inc., and IN Retail Manager, L.L.C. (10)
10.4	Contribution Agreement, dated as of October 8, 2004, by and between IN Retail Fund, L.L.C., Inland Real Estate Corporation and The New York State Teachers' Retirement System (11)
10.5	First Amendment to Operating Agreement of IN Retail Fund, L.L.C., dated as of September 28, 2011, among Inland Real Estate Corporation, The New York State Teachers' Retirement System and IN Retail Manager, L.L.C. (12)





- 10.6 Second Amendment to Operating Agreement of IN Retail Fund, L.L.C., dated as of December 20, 2011, among Inland Real Estate Corporation, The New York State Teachers' Retirement System and IN Retail Manager, L.L.C. (13)
- 10.7 Third Amendment to Operating Agreement of IN Retail Fund, L.L.C., dated as of June 11, 2012, among Inland Real Estate Corporation, The New York State Teachers' Retirement System and IN Retail Manager, L.L.C. (14)
- 10.8 Property Acquisition Agreement, dated as of November 1, 2004, by and between Inland Real Estate Acquisitions, Inc. and Inland Real Estate Corporation (15)
- 10.9 Employment Agreement between Inland Real Estate Corporation and Mark Zalatoris, effective as of January 1, 2012 (16)
- 10.10 Employment Agreement between Inland Real Estate Corporation and Brett A. Brown, effective as of January 1, 2012 (17)
- 10.11 Employment Agreement between Inland Real Estate Corporation and D. Scott Carr, effective as of January 1, 2012 (18)
- 10.12 Employment Agreement between Inland Real Estate Corporation and Beth Sprecher Brooks, effective as of January 1, 2012 (10)
- 10.13 Employment Agreement between Inland Real Estate Corporation and William W. Anderson, effective as of January 1, 2012 (20)
- 10.14 Software and Consulting Shared Services Agreement, dated February 13, 2006, among Inland Computer Services, Inland Retail Real Estate Trust, Inc., Inland Western Retail Real Estate Trust, Inc., Inland Real Estate Corporation, Inland American Real Estate Trust, Inc., Inland Holdco Management LLC and Inland American Holdco Management LLC (21)
- 10.15 Operating Agreement of Oak Property and Casualty LLC, dated as of October 1, 2006, among Inland Real Estate Corporation, Inland Retail Real Estate Trust, Inc., Inland Western Retail Real Estate Trust, Inc., Inland American Real Estate Trust, Inc. and Inland Risk and Insurance Management Services, Inc. (22)
- 10.16 Oak Property and Casualty LLC Membership Participation Agreement, dated as of October 1, 2006, among Inland Real Estate Corporation, Inland Retail Real Estate Trust, Inc., Inland Western Retail Real Estate Trust, Inc., Inland American Real Estate Trust, Inc. and Inland Risk and Insurance Management Services, Inc. (23)
- 10.17 Articles of Association of Oak Real Estate Association, dated as of October 1, 2006, among Inland Real Estate Corporation, Inland Retail Real Estate Trust, Inc., Inland Western Retail Real Estate Trust, Inc., Inland American Real Estate Trust, Inc. and Inland Risk and Insurance Management Services, Inc. (24)
- 10.18 Agreement for the Contribution of Limited Liability Company Interests, dated as of October 10, 2006, among Inland Real Estate Corporation, Inland Venture Corporation and IRC-IREX Venture LLC (25)



- 10.19 Second Amended and Restated Term Loan Agreement, dated as of August 21, 2012, among Inland Real Estate Corporation and KeyBank National Association, as Lender and Administrative Agent; Wells Fargo Bank, National Association and Bank of America, N.A., as Lenders and Co-Syndication Agents; KeyBanc Capital Markets, Wells Fargo Securities, LLC, and Merrill Lynch, Pierce, Fenner and Smith Incorporated, as Co-Lead Arrangers; RBS Citizens, National Association d/b/a Charter One, as a Lender and as Co-Documentation Agent; BMO Capital Markets, as Co-Documentation Agent; PNC Bank, National Association as a Lender and the other entities which may become parties as additional Lenders (26)
- 10.20 Limited Liability Company Agreement of IRC-IREX Venture II LLC, dated as of May 7, 2009, among Inland Exchange Venture Corporation and Inland Real Estate Exchange Corporation (27)
- 10.21 Sales Agency Agreement dated November 10, 2009, by and between Inland Real Estate Corporation and BMO Capital Markets Corp. (28)
- 10.22 Underwriting Agreement dated May 12, 2009 among Inland Real Estate Corporation and Merrill Lynch, Pierce, Fenner & Smith Incorporated and Wachovia Capital Markets, LLC as representatives of the several underwriters named in Schedule A thereto (29)
- 10.23 Limited Liability Company Agreement of IRC-IREX Venture LLC, dated as of September 5, 2006, among Inland Venture Corporation and Inland Real Estate Exchange Corporation (30)
- 10.24 Limited Partnership Agreement of INP Retail L.P., dated as of June 3, 2010, among Inland Real Estate Corporation, Stichting Depository PGGM Private Real Estate Fund, a Dutch foundation, acting in its capacity as depository of and for the account and risk of PGGM Private Real Estate Fund, a Dutch fund for the joint account of the participants and INP Retail Management Company, LLC (31)
- 10.25 First Amendment to the Limited Partnership Agreement of INP Retail, L.P. made and entered into as of October 9, 2012 among the Company, Stichting Depository PGGM Private Real Estate Fund (“Depository”), a Dutch foundation acting in its capacity as depository of and for the account and risk of PGGM Private Real Estate Fund, a Dutch fund for the joint account of the participants, and INP Retail Management Company, LLC. (32)
- 10.26 Dealer-Manager Agreement, dated as of June 29, 2010, by and between Macquarie Capital (USA) Inc. (33)
- 10.27 First Amendment to the Limited Liability Company Agreement of IRC-IREX Venture II, LLC, dated as of January 1, 2011 (34)
- 10.28 Second Amendment to Amended and Restated Term Loan Agreement dated as of March 11, 2011, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association, individually and as Administrative Agent and the Lenders (35)
- 10.29 Second Amendment to Fourth Amended and Restated Credit Agreement dated as of March 11, 2011, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association, individually and as Administrative Agent and the Lenders (36)
- 10.30 Third Amendment to Amended and Restated Term Loan Agreement dated as of June 23, 2011, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association,

individually and as Administrative Agent and the Lenders (37)

10.31 Third Amendment to Fourth Amended and Restated Credit Agreement dated as of June 23, 2011, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association, individually and as Administrative Agent and the Lenders (38)

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- 10.32 Fourth Amendment to Fourth Amended and Restated Credit Agreement, dated as of March 29, 2012, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association, individually and as Administrative Agent, and the Lenders. (39)
- 10.33 Fourth Amendment to Amended and Restated Term Loan Agreement, dated as of April 23, 2012, by and among Inland Real Estate Corporation as Borrower, KeyBank National Association, individually and as Administrative Agent, and the Lenders. (40)
- 10.34 Purchase Agreement, dated September 29, 2011, by and among Inland Real Estate Corporation, on the one hand, and Wells Fargo Securities, LLC and Merrill Lynch, Pierce, Fenner & Smith Incorporated, as representatives of the several Underwriters listed on Schedule A attached thereto, on the other hand (41)
- 10.35 Unsecured Loan Agreement dated as of November 15, 2011 by and among Inland Real Estate Corporation as Borrower and Wells Fargo Bank National Association as Lender (42)
- 10.36 First Modification Agreement, dated as of June 28, 2012, to the Unsecured Loan Agreement, dated as of November 15, 2011, by and between Wells Fargo Bank, National Association and Inland Real Estate Corporation. (43)
- 10.37 Second Modification Agreement (the "Agreement") effective as of November 15, 2011, by and between Wells Fargo Bank, National, Association, as Lender, and Inland Real Estate Corporation, as Borrower. (44)
- 10.38 Promissory Note, dated as of November 15, 2011, between Inland Real Estate Corporation as Borrower and Wells Fargo Bank National Association as Lender (45)
- 10.39 Repayment Guaranty, dated as of November 15, 2011, by the subsidiary guarantors identified on the signature page thereto, in favor of Wells Fargo Bank, National Association (46)
- 10.40 Sales Agency agreement, dated November 16, 2012, among Inland Real Estate Corporation, BMO Capital Markets, Jeffries & Company, Inc. and KeyBanc Capital Markets, Inc. (47)
- 10.41 Purchase Agreement, dated as of February 28, 2012, among Inland Real Estate Corporation and Wells Fargo Securities, LLC, as the representative of the several underwriters named in Schedule A thereto (48)
- 10.42 Agreement for transfer of membership interest made as of July 1, 2010 by and among Inland Real Estate Corporation (IREC) and New York State Teachers' Retirement System, the sold members of IN Retail Fund, L.L.C., which is the sole member of IN Retail Fund Algonquin Commons, L.L.C., which owns the property commonly known as Algonquin Commons Shopping Center, to transfer all of the membership interests of IN Retail Fund Algonquin Commons, L.L.C., to IREC (49)
- 10.43 Assignment and Assumption of Membership Interest as of July 1, 2010 from IN Retail Fund, L.L.C. to Inland Real Estate Corporation of all of its interest in IN Retail Fund Algonquin Commons, L.L.C., made subject and pursuant to that certain Agreement for Transfer of Membership Interest (Algonquin Commons Shopping Center) dated as of July 1, 2010 by and among Assignee and New York State Teachers' Retirement Systems (50)
- 10.44

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Amendment to Mortgage entered into as of December 16, 2004 between Teachers Insurance and Annuity Association of America ("Lender") and Algonquin Phase I Associates LLC and Algonquin Commons, LLC (collectively, "Borrower") to amend the Mortgage on Phase I of Algonquin Commons to reflect the making of the Phase II Loan and to confirm that the at the Mortgage, as amended, secures the Note related to the Phase I loan (51)

10.45 Guaranty by Jeffrey R. Anderson, as original Guarantor, to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Lender, dated as of December 2004 to pay and perform when due the Liabilities (as defined in the Guaranty) and to pay on demand the Expenses (as defined in the Guaranty) as a Guaranty of payment and performance, not of collection, made in connection with that certain Construction Loan Disbursement Agreement dated of even date related to the loan and promissory note, also dated of even date, in the original principal amount of \$21,000,000 made by Borrower in favor of Lender related to the property known as Algonquin Commons (52)

10.46 Guaranty by IN RETAIL FUND, L.L.C., to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Lender, to pay and perform when due the Liabilities (as defined in the Guaranty) and to pay on demand the Expenses (as defined in the Guaranty) as a Guaranty of payment and performance, not of collection, made in connection with the assumption by IN RETAIL FUND ALGONQUIN COMMONS, L.L.C. ("Borrower"), of that certain loan (the "Loan") originally made to the prior owner, which is evidenced by that certain promissory note dated December 16, 2004, in the original principal amount of \$21,000,000.00 related to the property known as Algonquin Commons. (53)

10.47 LOAN ASSUMPTION AGREEMENT made and entered into as of February 15, 2006 by and between ALGONQUIN PHASE I ASSOCIATES LLC and ALGONQUIN COMMONS, LLC, as prior guarantor; IN RETAIL FUND ALGONQUIN COMMONS, L.L.C., as Borrower; IN RETAIL FUND, L.L.C., as new guarantor; and TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as lender, related to that certain promissory note dated October 29, 2004, in the original principal amount of \$77,300,000. (54)

10.48 LOAN ASSUMPTION AGREEMENT made and entered into as of February 15, 2006 by and between prior owner; JEFFREY R. ANDERSON, as prior guarantor; IN RETAIL FUND ALGONQUIN COMMONS, L.L.C., as Borrower; IN RETAIL FUND, L.L.C., as new guarantor; and TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Lender, related to that certain promissory note dated December 16, 2004, in the original principal amount of \$21,000,000.00 related to Algonquin Commons Phase II. (55)

10.49 MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING STATEMENT made December 2004, by ALGONQUIN COMMONS, LLC, , ALGONQUIN PHASE II ASSOCIATES LLC, JRA ANDERSON OFFICE PARK, LLC, JRA BEECHMONT TWINS, LLC, JRA FAMILY LIMITED LIABILITY COMPANY, MFF ASSOCIATES, LLC, and TGH ASSOCIATES, LLC, (collectively, as Borrower), for the benefit of TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Lender, in connection with the loan and promissory note in principal amount of \$21,000,000 due and payable on November 1, 2014 related to Algonquin Commons Phase II. (56)

10.50 OPEN-END MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING STATEMENT made this 29th day of October, 2004, by ALGONQUIN PHASE I ASSOCIATES LLC and ALGONQUIN COMMONS, LLC (collectively, as Borrower) for the benefit of TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, as Lender, in connection with the loan and promissory note in the maximum principal amount of \$77,300,000 due and payable on November 1, 2014 related to Algonquin Commons Phase I. (57)

10.51

Promissory note by ALGONQUIN PHASE I ASSOCIATES· LLC and ALGONQUIN COMMONS, LLC (collectively, as Borrower) to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA (as Lender) to pay a loan made in the principal sum of \$77,300,000 related to Algonquin Commons Phase I. (58)

10.52

Promissory note by ALGONQUIN COMMONS, LLC, ALGONQUIN PHASE II ASSOCIATES LLC, JRA ANDERSON OFFICE PARK, LLC, JRA BEECHMONT TWINS, LLC, JRA FAMILY LIMITED LIABILITY COMPANY, MFF ASSOCIATES, LLC and TGH ASSOCIATES, LLC (collectively, as Borrower) to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA (as Lender) to pay a loan made in the principal sum of \$21,000,000 related to Algonquin Commons Phase II. (59)

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- 10.53 Construction Loan Disbursement Agreement entered into effective .as of December 2004, by and between each of ALGONQUIN COMMONS, LLC, ALGONQUIN PHASE II ASSOCIATES LLC, JRA ANDERSON OFFICE PARK, LLC, JRA BEECHMONT TWINS, LLC, JRA FAMILY LIMITED LIABILITY COMPANY, MFF \_ ASSOCIATES, LLC and TGH ASSOCIATES, LLC (collectively and jointly and severally as Borrower), and TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, (as Lender) in connection with the \$21,000,000 loan made to Algonquin Commons Phase II. (60)
- 10.54 Limited Liability Company Agreement of IRC-IREX Venture II LLC, dated as of January 1, 2013, among Inland Exchange Venture Corporation and Inland Private Capital Corporation (f/k/a Inland Real Estate Exchange Corporation) (64)
- 12.1 Computation of Ratios (65)
- 14.1 Code of Ethics (61)
- 21.1 Subsidiaries of the Registrant (66)
- 23.1 Consent of KPMG LLP, dated February 28, 2013 (67)
- 23.2 Consent of KPMG LLP, dated March 29, 2013 (\*)
- 31.1 Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (68)
- 31.2 Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (69)
- 31.3 Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (\*)
- 31.4 Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002 (\*)
- 32.1 Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (70)
- 32.2 Certification of Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (71)
- 32.3 Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (\*)
- 32.4 Certification of Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (\*)
- 99.1 Lock-Up Agreement between Inland Real Estate Corporation and Daniel L. Goodwin, Inland Real Estate Investment Corporation, The Inland Group, Inc. and Inland Investment Stock Holding Company, dated May 9, 2007 (62)



99.2 Consolidated financial statements of IN Retail Fund, L.L.C. as of December 31, 2012 and 2011, and for each of the years in the three-year period ended December 31, 2012, including the Independent Auditor's Report on the consolidated financial statements of IN Retail Fund, L.L.C. as of and for the year ended December 31, 2012 (\*)

101 The following financial information from our Annual Report on Form 10-K for the year ended December 31, 2012, filed with the Securities and Exchange Commission on February 28, 2013, is formatted in Extensible Business Reporting Language ("XBRL"): (i) Consolidated Balance Sheets, (ii) Consolidated Statements of Operations and Comprehensive Income, (iii) Consolidated Statements of Equity, (iv) Consolidated Statements of Cash Flows (v) Notes to Consolidated Financial Statements (tagged as blocks of text). (63)

(1) Incorporated by reference to Exhibit 3.1 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on November 8, 2012 (file number 001-32185).

(2) Incorporated by reference to Exhibit 3.3 to the Registrant's Quarterly Report on Form 10-Q/A for the period ended September 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on November 16, 2012 (file number 001-32185).

(3) Incorporated by reference to Exhibit 3.5 to the Registrant's Current Report on Form 8-K dated April 23, 2010, as filed by the Registrant with the Securities and Exchange Commission on April 23, 2010 (file number 001-32185).

(4) Incorporated by reference to Exhibit 4.1 to the Registrant's current report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on November 16, 2012 (file number 001-32185).

(5) Incorporated by reference to the Registrant's Form S-3 Registration Statement, as filed by the Registrant with the Securities and Exchange Commission on July 15, 2009 (file number 333-160582).

(6) Incorporated by reference to Exhibit 4.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on August 16, 2010 (file number 001-32185).

(7) Incorporated by reference to Exhibit A of Exhibit 4.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on August 16, 2010 (file number 001-32185).

(8) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on August 27, 2012 (file number 001-32185).

(9) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K dated June 23, 2005, as filed by the Registrant with the Securities and Exchange Commission on June 28, 2005 (file number 001-32185).

(10) Incorporated by reference to Exhibit 10.4 to the Registrant's Annual Report on Form 10-K/A, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2012 (file number

001-32185).

- (11) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K/A dated October 8, 2004, as filed by the Registrant with the Securities and Exchange Commission on October 22, 2004 (file number 001-32185).

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- (12) Incorporated by reference to Exhibit 10.6 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 27, 2012 (file number 001-32185).
- (13) Incorporated by reference to Exhibit 10.7 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 27, 2012 (file number 001-32185).
- (14) Incorporated by reference to Exhibit 10.6 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (15) Incorporated by reference to Exhibit 10.3 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2004, as filed by the Registrant with the Securities and Exchange Commission on November 9, 2004 (file number 001-32185).
- (16) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 24, 2012 (file number 001-32185).
- (17) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 24, 2012 (file number 001-32185).
- (18) Incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 24, 2012 (file number 001-32185).
- (19) Incorporated by reference to Exhibit 10.4 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 24, 2012 (file number 001-32185).
- (20) Incorporated by reference to Exhibit 10.5 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 24, 2012 (file number 001-32185).
- (21) Incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, as filed by the Registrant with the Securities and Exchange Commission on November 6, 2006 (file number 001-32185).
- (22) Incorporated by reference to Exhibit 10.4 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, as filed by the Registrant with the Securities and Exchange Commission on November 6, 2006 (file number 001-32185).
- (23) Incorporated by reference to Exhibit 10.5 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, as filed by the Registrant with the Securities and Exchange Commission on November 6, 2006 (file number 001-32185).
- (24) Incorporated by reference to Exhibit 10.6 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, as filed by the Registrant with the Securities and Exchange Commission on November 6, 2006 (file number 001-32185).
- (25) Incorporated by reference to Exhibit 10.7 to the Registrant's Quarterly Report on Form 10-Q for the quarterly period ended September 30, 2006, as filed by the Registrant with the Securities and Exchange Commission on November 6, 2006 (file number 001-32185).

(26) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on August 27, 2012 (file number 001-32185)

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- (27) Incorporated by reference to Exhibit 10.1 to the Registrant's Quarterly Report on Form 10-Q, as filed by the Registrant with the Securities and Exchange Commission on May 7, 2009 (file number 001-32185)
- (28) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K dated November 10, 2009, as filed by the Registrant with the Securities and Exchange Commission on November 10, 2009 (file number 001-32185).
- (29) Incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K dated May 12, 2009, as filed by the Registrant with the Securities and Exchange Commission on May 12, 2009 (file number 001-32185).
- (30) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K dated September 5, 2006, as filed by the Registrant with the Securities and Exchange Commission on September 7, 2006 (file number 001-32185).
- (31) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on June 9, 2010 (file number 001-32185).
- (32) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on October 15, 2012 (file number 001-32185).
- (33) Incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on June 29, 2010 (file number 001-32185)
- (34) Incorporated by reference to Exhibit 10.23 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2011 (file number 001-32185)
- (35) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on March 17, 2011 (file number 001-32185)
- (36) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on March 17, 2011 (file number 001-32185)
- (37) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on June 29, 2011 (file number 001-32185)
- (38) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on June 29, 2011 (file number 001-32185)
- (39) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 4, 2012 (file number 001-32185).
- (40) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on April 25, 2012 (file number 001-32185).
- (41) Incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K dated September 29, 2011, as filed by the Registrant with the Securities and Exchange Commission on October 5, 2011 (file number 001-32185).

(42) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on November 21, 2011 (file number 001-32185).

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- (43) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on July 5, 2012 (file number 001-32185).
- (44) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on August 7, 2012 (file number 001-32185).
- (45) Incorporated by reference to Exhibit 10.2 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on November 21, 2011 (file number 001-32185).
- (46) Incorporated by reference to Exhibit 10.3 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on November 21, 2011 (file number 001-32185).
- (47) Incorporated by reference to Exhibit 10.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on November 16, 2012 (file number 00132185).
- (48) Incorporated by reference to Exhibit 1.1 to the Registrant's Current Report on Form 8-K, as filed by the Registrant with the Securities and Exchange Commission on March 2, 2012 (file number 001-32185).
- (49) Incorporated by reference to Exhibit 10.9 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (50) Incorporated by reference to Exhibit 10.10 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (51) Incorporated by reference to Exhibit 10.11 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (52) Incorporated by reference to Exhibit 10.12 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (53) Incorporated by reference to Exhibit 10.13 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (54) Incorporated by reference to Exhibit 10.14 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (55) Incorporated by reference to Exhibit 10.15 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).

(56) Incorporated by reference to Exhibit 10.16 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).

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- (57) Incorporated by reference to Exhibit 10.17 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (58) Incorporated by reference to Exhibit 10.18 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (59) Incorporated by reference to Exhibit 10.19 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (60) Incorporated by reference to Exhibit 10.20 to the Registrant's Quarterly report on Form 10-Q for the quarterly period ended June 30, 2012, as filed by the Registrant with the Securities and Exchange Commission on August 8, 2012 (file number 001-32185).
- (61) Incorporated by reference to Exhibit 14.1 to the Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 2003, as filed by the Registrant with the Securities and Exchange Commission on March 15, 2004 (file number 000-28382).
- (62) Incorporated by reference to Exhibit 99.1 to the Registrant's Quarterly Report on Form 10-Q for the quarter period ended March 31, 2007, as filed by the Registrant with the Securities and Exchange Commission on May 10, 2007 (file number 001-32185).
- (63) The XBRL related information is incorporated by reference to Exhibit 101 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013, shall not be deemed "filed" for purposes of Section 18 of the Securities and Exchange Act of 1934, as amended, or otherwise subject to liability of that section and shall not be incorporated by reference into any filing or other document pursuant to the Securities Act of 1933, as amended, except as shall be expressly set forth by specific reference in such filing or document.
- (64) Incorporated by reference to Exhibit 10.54 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).
- (65) Incorporated by reference to Exhibit 12.1 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).
- (66) Incorporated by reference to Exhibit 21.1 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).
- (67) Incorporated by reference to Exhibit 21.1 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).
- (68) Incorporated by reference to Exhibit 31.1 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).

(69) Incorporated by reference to Exhibit 31.2 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).

(70) Incorporated by reference to Exhibit 32.1 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).

(71) Incorporated by reference to Exhibit 32.2 to the Registrant's Annual Report on Form 10-K, as filed by the Registrant with the Securities and Exchange Commission on February 28, 2013 (file number 001-32185).

(\* ) Filed as part of this Amendment No. 1 to the Annual Report on Form 10-K for the fiscal year ended December 31, 2012.

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