

IC 25-34.1

ARTICLE 34.1. REAL ESTATE BROKERS AND SALESPERSONS

IC 25-34.1-1

Chapter 1. Definitions and General Provisions

IC 25-34.1-1-1

Short title

Sec. 1. This article shall be known as the "Real Estate Broker Licensing Act."

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.6.

IC 25-34.1-1-2

Definitions

Sec. 2. As used in this article:

- (1) "Person" means an individual, a partnership, a corporation, or a limited liability company.
- (2) "Commission" means the Indiana real estate commission.
- (3) "Real estate" means any right, title, or interest in real property.
- (4) "Broker" means a person who:
 - (A) for consideration, sells, buys, trades, exchanges, options, leases, rents, manages, lists, or appraises real estate or negotiates or offers to perform any of those acts; and
 - (B) is acting in association with and under the auspices of a managing broker and broker company.
- (5) "License" means a broker license issued under this article and which is not expired, suspended, or revoked.
- (6) "Licensee" means a person who holds a license issued under this article. The term does not include a person who holds a real estate appraiser license or certificate issued under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.
- (7) "Course approval" means approval of a broker course granted under this article which is not expired, suspended, or revoked.
- (8) "Licensing agency" means the Indiana professional licensing agency established by IC 25-1-5-3.
- (9) "Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1.
- (10) "Commercial real estate" means a parcel of real estate other than real estate containing one (1) to four (4) residential units. This term does not include single family residential units such as:
 - (A) condominiums;

- (B) townhouses;
- (C) manufactured homes; or
- (D) homes in a subdivision;

when sold, leased, or otherwise conveyed on a unit-by-unit basis, even if those units are part of a larger building or parcel of real estate containing more than four (4) residential units.

(11) "Out-of-state commercial broker" includes a person, a partnership, an association, a limited liability company, a limited liability partnership, or a corporation that is licensed to do business as a broker in a jurisdiction other than Indiana.

(12) "Out-of-state commercial salesperson" includes a person affiliated with an out-of-state commercial broker who is not licensed as a broker under this article.

(13) "Managing broker" refers to an individual broker whom the commission holds responsible for the actions of licensees who are affiliated with the broker company.

(14) "Broker company" means a licensee that is a business engaged in the activities described in IC 25-34.1-3-2(a), whether as a sole proprietorship, a partnership, a limited liability company, or a corporation. In the case of a broker company that is a sole proprietorship, the individual broker who is the sole proprietor is the broker company and the managing broker for the broker company.

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1982, P.L.113, SEC.79; P.L.132-1984, SEC.42; P.L.186-1990, SEC.11; P.L.183-1991, SEC.5; P.L.128-1994, SEC.1; P.L.64-2004, SEC.16; P.L.2-2005, SEC.71; P.L.1-2006, SEC.479; P.L.127-2012, SEC.7; P.L.200-2013, SEC.1; P.L.116-2015, SEC.1.

IC 25-34.1-1-3

Nonconflicting rules to remain in effect

Sec. 3. All rules adopted under the former IC 25-34 and in effect on December 31, 1979, which are not in conflict with this article shall remain in effect under IC 25-34.1 until they are amended or repealed.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.3-1990, SEC.91.

IC 25-34.1-1-4

Term of license

Sec. 4. Beginning July 1, 2014, licenses issued under this article are for a term of three (3) years and expire on the date set by the licensing agency.

As added by P.L.127-2012, SEC.8. Amended by P.L.200-2013, SEC.2.

IC 25-34.1-2

Chapter 2. Creation of Commission

IC 25-34.1-2-1

Creation; qualification of members; appointment; term; vacancies

Sec. 1. (a) The Indiana real estate commission is created.

(b) The commission consists of the following:

(1) Nine (9) district members. Each Indiana congressional district must be represented by one (1) individual appointed under this subdivision.

(2) One (1) real estate member at large.

(3) Two (2) citizen members at large.

A member described in subdivision (1) must be a resident of the represented district for not less than one (1) year. A member described in subdivision (1) or (2) must have engaged in business as a license broker for not less than five (5) years. Citizen members at large shall be appointed to represent the general public, must be residents of Indiana, and must have never been associated with the real estate business in any way other than as a consumer.

(c) Each member of the commission shall be appointed by the governor and shall serve a four (4) year term. If a successor has not been appointed, the current member shall serve until a successor is appointed and qualified. If a vacancy occurs on the commission, the governor shall appoint an individual to serve the unexpired term of the previous member and until a successor is appointed and qualified.

(d) A member of the commission may not hold a state or federal elective office.

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1981, P.L.222, SEC.259; P.L.170-2002, SEC.128.

IC 25-34.1-2-2

Officers; term; duties; executive director

Sec. 2. (a) The commission shall elect from its membership a chairman and a vice chairman. The chairman and vice chairman shall serve in that capacity for one (1) year and until a successor is elected. The chairman and vice chairman may serve consecutively no more than two (2) terms in that capacity. The chairman shall preside at all meetings. The vice chairman shall preside at meetings in the absence of the chairman and shall perform other duties as the chairman may direct.

(b) The licensing agency shall provide to the commission an executive director. The executive director may not be a member of the commission. The executive director shall:

(1) provide reasonable notice to all commission members of the time and place of each meeting;

(2) keep a record of all meetings, of all votes taken by the commission, and of all other proceedings, transactions, communications, official acts, and records of the commission;

- (3) keep a current file of all licenses and licensees; and
- (4) perform any other duties which the commission may prescribe.

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1982, P.L.113, SEC.80; P.L.132-1984, SEC.43.

IC 25-34.1-2-3

Meetings; time and place; quorum; written consent to action

Sec. 3. (a) The commission shall meet upon the call of the chairman or at the written request of any seven (7) members of the commission. The chairman shall establish the time and place of all meetings.

(b) A majority of the current members of the commission constitutes a quorum at a meeting for the purpose of transacting business. A majority vote of all members present at a meeting is necessary to bind the commission.

(c) Any action required or permitted to be taken at a meeting of the commission may be taken without a meeting if, prior to that action:

- (1) a written consent to the action, either executed as a single document or in counterparts, is signed by all members of the commission; or
- (2) all members orally consent to the action and subsequently confirm that consent in writing.

The written consent or confirmation shall set forth the action under consideration and shall be filed with the minutes of the meetings which are kept by the executive director. A written consent or a confirmed oral consent shall be treated for all purposes as a unanimous vote of the members and as though the vote had taken place at a regular meeting of the commission.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-2-4

Compensation of members; expenses

Sec. 4. (a) Each member is entitled to the minimum salary per diem as provided in IC 4-10-11-2.1(b).

(b) Each member is entitled to reimbursement for traveling and other expenses, as provided in the state travel policies and procedures established by the department of administration and approved by the state budget agency.

(c) The compensation and expenses of the commission members and the expenses of the commission shall be paid out of the general fund of the state.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-2-5

Powers of commission

Sec. 5. The commission may:

- (1) administer and enforce the provisions of this article;
- (2) adopt rules in accordance with IC 4-22-2 and prescribe forms for licenses, applications, and other documents which are necessary or appropriate for the administration and enforcement of this article;
- (3) issue, deny, suspend, and revoke licenses in accordance with this article, which licenses shall remain the property of the commission;
- (4) subject to IC 25-1-7, investigate complaints concerning licensees or persons the commission has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action pursuant to IC 25-34.1-6;
- (5) bring actions, in the name of the state of Indiana, in an appropriate circuit court, superior court, or probate court in order to enforce compliance with this article or the rules;
- (6) inspect the records of a licensee in accordance with rules and standards prescribed by the commission;
- (7) conduct, or designate a member or other representative to conduct, public hearings on any matter for which a hearing is required under this article and exercise all powers granted in IC 4-21.5;
- (8) adopt a seal containing the words "Indiana Real Estate Commission" and, through its executive director, certify copies and authenticate all acts of the commission;
- (9) utilize counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules;
- (10) enter into contracts and authorize expenditures that are necessary or appropriate, subject to IC 25-1-6, to administer and enforce this article and the rules;
- (11) maintain the commission's office, files, records, and property in the city of Indianapolis;
- (12) grant, deny, suspend, and revoke approval of examinations and courses of study as provided in IC 25-34.1-5;
- (13) provide for the filing and approval of surety bonds which are required by IC 25-34.1-5;
- (14) adopt rules in accordance with IC 4-22-2 necessary for the administration of the investigative fund established under IC 25-34.1-8-7.5;
- (15) adopt emergency rules under IC 4-22-2-37.1 to adopt any or all parts of Uniform Standards of Professional Appraisal Practice (USPAP), including the comments to the USPAP, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331-3351);
- (16) exercise other specific powers conferred upon the

commission by this article; and
(17) adopt rules under IC 4-22-2 governing education, including prelicensing, postlicensing, and continuing education.

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1981, P.L.222, SEC.260; P.L.7-1987, SEC.129; P.L.145-2003, SEC.8; P.L.177-2009, SEC.58; P.L.127-2012, SEC.9; P.L.200-2013, SEC.3; P.L.84-2016, SEC.113.

IC 25-34.1-2-5.1

Standards for competent practice; rules

Sec. 5.1. The commission shall adopt rules establishing standards for the competent practice of the various occupations regulated in this article.

As added by Acts 1981, P.L.222, SEC.261.

IC 25-34.1-2-6

Repealed

(As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1981, P.L.222, SEC.262; P.L.145-2003, SEC.9; P.L.87-2006, SEC.1; P.L.177-2006, SEC.10. Repealed by P.L.57-2007, SEC.9.)

IC 25-34.1-2-7

Report of funds; deposit; payment of expenses; fee for investigative fund

Sec. 7. (a) Except as provided in subsection (b), all funds collected under this article shall, at the end of each month, be reported to the auditor of state and deposited with the treasurer of state for deposit in the general fund. All expenses incurred in the administration of this article shall be paid from the general fund.

(b) The commission shall establish a fee of not more than twenty dollars (\$20) for real estate brokers to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. All funds collected under this subsection shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

As added by P.L.57-2007, SEC.2. Amended by P.L.127-2012, SEC.10.

IC 25-34.1-3

Chapter 3. Licensing

IC 25-34.1-3-1

Registration or license requirements; fees or charges

Sec. 1. Any agency or political subdivision of the state other than the commission may not impose any registration or license requirement or any license or employment fee or charge on licensees on account of activities defined in IC 25-34.1.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-3-2

Transactions without license; prohibition; exemption

Sec. 2. (a) Except as provided in:

- (1) subsection (b);
- (2) section 8(i) of this chapter; and
- (3) section 11 of this chapter;

no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.

(b) This article does not apply to:

- (1) acts of an attorney which constitute the practice of law;
- (2) performance by a public official of acts authorized by law;
- (3) acts of a receiver, executor, administrator, commissioner, trustee, or guardian, respecting real estate owned or leased by the person represented, performed pursuant to court order or a will;
- (4) rental, for periods of less than thirty (30) days, of rooms, lodging, or other accommodations, by any commercial hotel, motel, tourist facility, or similar establishment which regularly furnishes such accommodations for consideration;
- (5) rental of residential apartment units by an individual employed or supervised by a licensed broker;
- (6) rental of apartment units which are owned and managed by a person whose only activities regulated by this article are in relation to a maximum of twelve (12) apartment units which are located on a single parcel of real estate or on contiguous parcels of real estate;
- (7) referral of real estate business by a broker or referral company which is licensed under the laws of another state, to or from brokers licensed by this state;
- (8) acts performed by a person in relation to real estate owned by that person unless that person is licensed under this article, in which case the article does apply to that person;
- (9) acts performed by a regular, full-time, salaried employee of a person in relation to real estate owned or leased by that person unless the employee is licensed under this article, in which case

the article does apply to that person;
(10) conduct of a sale at public auction by a licensed auctioneer pursuant to IC 25-6.1;
(11) sale, lease, or other transfer of interests in cemetery lots;
(12) acts of a broker, who is licensed under the laws of another state, which are performed pursuant to, and under restrictions provided by, written permission that is granted by the commission in its sole discretion, except that such a person shall comply with the requirements of section 5(c) of this chapter; and
(13) the performance of an evaluation of real property by an employee, an officer, a director, or a member of a credit or loan committee of a financial institution, or by any other person engaged by a financial institution, in a transaction for which the financial institution would not be required to use the services of a state licensed appraiser under regulations adopted under Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.).

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1982, P.L.156, SEC.1; P.L.183-1991, SEC.6; P.L.64-2004, SEC.17; P.L.127-2012, SEC.11; P.L.45-2016, SEC.1.

IC 25-34.1-3-3

Repealed

(Repealed by Acts 1982, P.L.156, SEC.4.)

IC 25-34.1-3-3.1

Repealed

(As added by Acts 1982, P.L.156, SEC.2. Amended by P.L.255-1987, SEC.2; P.L.214-1993, SEC.82; P.L.128-1994, SEC.2; P.L.236-1995, SEC.49; P.L.182-1996, SEC.1; P.L.194-2005, SEC.85; P.L.157-2006, SEC.71; P.L.105-2008, SEC.62. Repealed by P.L.127-2012, SEC.12.)

IC 25-34.1-3-4

Repealed

(Repealed by Acts 1982, P.L.156, SEC.4.)

IC 25-34.1-3-4.1

Requirements for broker's license

Sec. 4.1. (a) To obtain a broker license, an individual must:

- (1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:
 - (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;
 - (B) a crime that has a direct bearing on the individual's ability to practice competently; or
 - (C) a crime that indicates the individual has the propensity

- to endanger the public;
 - (2) have a high school diploma or a general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18;
 - (3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5;
 - (4) apply for a license by submitting the application fee prescribed by the commission and an application specifying:
 - (A) the name, address, and age of the applicant;
 - (B) the broker company with which the applicant intends to associate;
 - (C) the address of the broker company;
 - (D) proof of compliance with subdivisions (2) and (3); and
 - (E) any other information the commission requires;
 - (5) pass a written examination prepared and administered by the commission or its duly appointed agent; and
 - (6) within one (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.
- (b) To obtain a broker license, a partnership must:
- (1) have as partners only individuals who are licensed brokers;
 - (2) have at least one (1) partner who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
 - (3) cause each employee of the partnership who acts as a broker to be licensed; and
 - (4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).
- (c) To obtain a broker license, a corporation must:
- (1) have a licensed broker who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
 - (2) cause each employee of the corporation who acts as a broker to be licensed; and
 - (3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.
- (d) To obtain a broker license, a limited liability company must:
- (1) if a member-managed limited liability company:
 - (A) have as members only individuals who are licensed brokers; and

- (B) have at least one (1) member who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
- (2) if a manager-managed limited liability company, have a licensed broker who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
- (3) cause each employee of the limited liability company who acts as a broker to be licensed; and
- (4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the information prescribed in subsection (a)(4), together with:
 - (A) if a member-managed company, the name and residence address of each member; or
 - (B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

- (1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or
- (2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business. For at least two (2) years after the issuance of a license, the individual cannot be a managing broker. An individual who applies for a broker's license after June 30, 2014, must, during the first two (2) years after the license is issued, take and pass at least thirty (30) hours of postlicensing education focused on the practical matters of real estate transactions instead of the continuing education requirements under IC 25-34.1-9.

(g) Subject to IC 25-1-2-6(e), unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires three (3) years after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the commission and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid

without the commission taking any action.

(h) Subject to IC 25-1-2-6(e), if the holder of a license under this section fails to renew the license on or before the date specified by the licensing agency, the license may be reinstated by the commission if the holder of the license, not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).

(i) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

(j) A partnership, corporation, or limited liability company may be only a broker company, except as authorized in IC 23-1.5. An individual broker who associates with a broker company shall immediately notify the commission:

- (1) of the name and business address of the broker company with which the individual broker is associating; and
- (2) of any changes of the broker company with which the individual broker is associated that may occur.

Upon receiving notice under subdivision (1) or (2), the commission shall change the address of the individual broker on its records to that of the broker company.

As added by Acts 1982, P.L.156, SEC.3. Amended by P.L.255-1987, SEC.3; P.L.5-1988, SEC.139; P.L.214-1993, SEC.83; P.L.128-1994, SEC.3; P.L.229-1995, SEC.6; P.L.236-1995, SEC.50; P.L.182-1996, SEC.2; P.L.64-2004, SEC.18; P.L.194-2005, SEC.86; P.L.157-2006, SEC.72; P.L.105-2008, SEC.63; P.L.127-2012, SEC.13; P.L.116-2015, SEC.2; P.L.177-2015, SEC.72.

IC 25-34.1-3-5

Licensing of nonresident; consent to service of process; waiver

Sec. 5. (a) A resident of another state who meets the requirements of this chapter may be licensed.

(b) A nonresident broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

(c) The requirements of subsections (a) and (b) may be waived for individuals who reside in or are moving from other jurisdictions if the following requirements are met:

- (1) The jurisdiction grants the same privilege to the licensees of this state.
- (2) The individual is licensed in that jurisdiction.
- (3) The licensing requirements of that jurisdiction are

substantially similar to the requirements of this chapter.

(4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state.

However, subdivision (1) need not be met in order for the requirements of subsections (a) and (b) to be waived in the case of an individual moving to Indiana from another jurisdiction.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.255-1987, SEC.4; P.L.64-2004, SEC.19; P.L.127-2012, SEC.14; P.L.116-2015, SEC.3.

IC 25-34.1-3-6

Change of name, business address, or association of licensee or managing broker

Sec. 6. Each licensee and each licensee's managing broker, if any, shall notify the commission immediately of any change of name, name under which the licensee transacts business, business address, or association.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.15.

IC 25-34.1-3-7

Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-34.1-3-8

Real estate appraiser licensure and certification program; necessity for licensure or certification

Sec. 8. (a) This section does not preclude a person who:

- (1) is not licensed or certified as a real estate appraiser under this section; and
- (2) is licensed as a broker under this article;

from appraising real estate in Indiana for compensation.

(b) As used in this section, "federal act" refers to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through 3351).

(c) The commission shall adopt rules to establish a real estate appraiser licensure and certification program to be administered by the board.

(d) The commission may not adopt rules under this section except upon the action and written recommendations of the board under IC 25-34.1-8-6.5.

(e) The real estate appraiser licensure and certification program established by the commission under this section must meet the requirements of:

- (1) the federal act;
- (2) any federal regulations adopted under the federal act; and
- (3) any other requirements established by the commission as

recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(f) The real estate appraiser licensure and certification requirements established by the commission under this section must require a person to meet the standards for real estate appraiser certification and licensure established:

- (1) under the federal act;
- (2) by federal regulations; and
- (3) under any other requirements established by the commission as recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(g) The commission may require continuing education as a condition of renewal for real estate appraiser licensure and certification.

(h) The following are not required to be a licensed or certified real estate appraiser to perform the requirements of IC 6-1.1-4:

- (1) A county assessor.
- (2) A township assessor.
- (3) An employee of a county or township assessor.

(i) Notwithstanding IC 25-34.1-3-2(a):

(1) only a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act; as determined under rules adopted by the commission, as recommended by the board; and

(2) a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate not involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act; as determined under rules adopted by the commission, as recommended by the board.

As added by P.L.186-1990, SEC.12. Amended by P.L.183-1991, SEC.7; P.L.57-2007, SEC.3; P.L.146-2008, SEC.530.

IC 25-34.1-3-9

Repealed

(As added by P.L.186-1990, SEC.13. Amended by P.L.183-1991, SEC.8; P.L.145-2003, SEC.10; P.L.87-2006, SEC.2; P.L.177-2006, SEC.11. Repealed by P.L.57-2007, SEC.9.)

IC 25-34.1-3-9.5

Fees; real estate appraiser licensure and certification program

Sec. 9.5. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this chapter.

(b) Notwithstanding IC 25-1-8-2, a fee established under IC 25-1-8-2 to implement section 8 of this chapter may not be less than fifty dollars (\$50).

(c) The commission shall establish fees to provide funding for the investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be more than twenty dollars (\$20).

(d) The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

(e) A fee described in subsection (a) is in addition to any fees required by federal law.

As added by P.L.57-2007, SEC.4.

IC 25-34.1-3-10

Inactive license requirements; continuing education; reactivation requirements

Sec. 10. (a) A broker licensed under section 4.1 of this chapter may apply for and receive an inactive license from the commission.

(b) An individual may not be granted an inactive license without the approval of the commission if a disciplinary or suspension hearing is pending against the individual.

(c) An individual with an inactive license:

- (1) may not perform an act that requires a broker's license;
- (2) is not required to fulfill the continuing education requirements under IC 25-34.1-9;
- (3) is required to pay any fees that a licensee is required to pay; and
- (4) must fulfill the:
 - (A) requirements under IC 25-34.1-9-11 for the current licensing period; or
 - (B) postlicensing education requirements as described in subsection (f);whichever is applicable, before applying for reactivation of the individual's license.

(d) Notwithstanding IC 25-34.1-9-11(2), the commission may adopt rules under IC 4-22-2 establishing continuing education requirements for individuals who have reactivated a license with less than twelve (12) months remaining in the licensing period.

(e) A valid inactive salesperson license issued before July 1, 2014, under subsection (a), becomes a broker's license on July 1, 2014.

(f) Notwithstanding subsection (c), an individual whose salesperson's license becomes a broker's license under subsection (e) may not perform an act that requires a broker's license under this article unless the individual does all of the following:

- (1) Completes at least twenty-four (24) hours of the education

described in IC 25-34.1-5-5.

(2) Meets the requirements to be a licensed broker under IC 25-34.1-3-4.1.

(3) Attests to the commission that the individual has completed the twenty-four (24) hours of education described in subdivision (1).

(g) Beginning July 1, 2014, a person who was licensed as a salesperson under section 3.1 of this chapter, before its repeal, and who applies for reactivation must complete the twenty-four (24) hour course required to become a broker under this article. The course described under this subsection may count toward the person's continuing education requirements.

(h) Beginning June 30, 2014, a broker licensed after June 30, 2014, who becomes inactive before completing the thirty (30) hour postlicensing education required under section 4.1(f) of this chapter, must complete the thirty (30) hours of postlicensure education before reactivation of the broker's license.

As added by P.L.120-1992, SEC.1. Amended by P.L.157-2006, SEC.73; P.L.127-2012, SEC.16; P.L.200-2013, SEC.4; P.L.200-2013, SEC.5.

IC 25-34.1-3-10.5

"Referral status"

Sec. 10.5. (a) For purposes of this section, "referral status" means that the commission has granted an applicant of a license a waiver under IC 25-34.1-9-19 as a result of the applicant meeting the requirements under IC 25-34.1-9-19(2).

(b) For purposes of this section, "salesperson" has the meaning set forth in IC 25-34.1-1-2(5) (before that subdivision was removed).

(c) For purposes of this section, "salesperson's license" means a license issued under section 3.1 of this chapter (before its repeal).

(d) Subject to subsection (e), the following applies to an individual whose salesperson's license is in referral status on June 30, 2014:

(1) On July 1, 2014, the salesperson's license of the individual becomes a broker's license under this article.

(2) The individual may continue to make referrals to a licensed broker after June 30, 2014.

(e) An individual whose salesperson's license becomes a broker's license under subsection (d) may only make referrals to a licensed broker and may not perform any other act that requires a broker's license under this article unless the individual does all of the following:

(1) Completes at least twenty-four (24) hours of the education described in IC 25-34.1-5-5.

(2) Meets the requirements to be a licensed broker under IC 25-34.1-3-4.1.

(3) Attests to the commission that the individual has completed

the twenty-four (24) hours of education described in subdivision (1).

(f) If:

(1) a broker is licensed under this article after June 30, 2014; and

(2) the broker's license is placed on referral status before the broker completes the thirty (30) hours of postlicensing education required under section 4.1(f) of this chapter;

the broker must complete the thirty (30) hours of postlicensing education before the broker's license may be moved from referral status and the broker may perform acts that require a broker's license under this article beyond making referrals to licensed brokers.

As added by P.L.127-2012, SEC.17.

IC 25-34.1-3-11

Acts permitted by unlicensed out-of-state commercial broker; written consent

Sec. 11. (a) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform acts with respect to commercial real estate that require a license under this article without a license under this article, if the out-of-state commercial broker does all of the following:

(1) Works in cooperation with a broker who holds a valid license issued under this article.

(2) Enters into a written agreement with the broker described in subdivision (1) that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and the broker's agents will comply with the laws of this state.

(3) Furnishes the broker described in subdivision (1) with a copy of the out-of-state commercial broker's current certificate of good standing or other proof of a license in good standing from a jurisdiction where the out-of-state commercial broker maintains a valid real estate license.

(4) Files an irrevocable written consent with the commission that legal actions arising out of the conduct of the out-of-state commercial broker or the broker's agents may be commenced against the out-of-state commercial broker in a court with jurisdiction in a county in Indiana in which the cause of action accrues.

(5) Advertises in compliance with state law and includes the name of the broker described in subdivision (1) in all advertising.

(6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker or the broker described in subdivision (1) in a trust account

maintained by the broker described in subdivision (1).

(7) Deposits all documentation required by this section and records and documents related to the transaction with the broker described in subdivision (1).

(b) The broker described in subsection (a)(1) shall retain the documentation that is provided by the out-of-state commercial broker as required under this section, and the records and documents related to a transaction, for at least five (5) years.

(c) An out-of-state commercial salesperson may perform acts with respect to commercial real estate that require a broker to be licensed under this article without a license under this article if the out-of-state commercial salesperson meets all of the following requirements:

(1) The out-of-state commercial salesperson:

(A) is licensed with and works under the direct supervision of the out-of-state commercial broker;

(B) provides the broker described in subsection (a)(1) with a copy of the out-of-state commercial salesperson's current certificate of good standing or other proof of a license in good standing from the jurisdiction where the out-of-state commercial salesperson maintains a valid real estate license in connection with the out-of-state commercial broker; and

(C) collects money, including:

(i) commissions;

(ii) deposits;

(iii) payments;

(iv) rentals; or

(v) escrow funds;

only in the name of and with the consent of the out-of-state commercial broker under whom the out-of-state commercial salesperson is licensed.

(2) The out-of-state commercial broker described in subdivision

(1)(A) meets all of the requirements of subsection (a).

(d) An out-of-state commercial broker or out-of-state commercial salesperson acting under this section shall file a written consent as provided in section 5(b) of this chapter.

As added by P.L.64-2004, SEC.20. Amended by P.L.127-2012, SEC.18.

IC 25-34.1-3-12

Criminal convictions

Sec. 12. A licensee who is convicted of a crime (as defined in IC 33-23-1-4) shall send a copy of the:

(1) complaint or other information that describes the crime; and

(2) judgment of conviction;

to the commission not more than thirty (30) days after the date of the conviction.

As added by P.L.87-2006, SEC.3.

IC 25-34.1-4

Chapter 4. Principal Brokers

IC 25-34.1-4-0.5

Prerequisites to becoming a managing broker

Sec. 0.5. Except as provided in section 6 of this chapter, to become a managing broker, an individual must:

- (1) hold an active broker's license for at least two (2) years; and
- (2) take and pass at least twenty-four (24) hours of broker management courses approved by the commission.

As added by P.L.127-2012, SEC.19. Amended by P.L.116-2015, SEC.4.

IC 25-34.1-4-0.6

Real estate schools

Sec. 0.6. Beginning July 1, 2013, a real estate school may offer courses described in section 0.5(2) of this chapter. An individual who takes and passes a course offered under this section is entitled to credit under section 0.5(2) of this chapter for the hours taken and passed under the course, regardless of whether the individual takes and passes the course before, on, or after July 1, 2014.

As added by P.L.200-2013, SEC.6.

IC 25-34.1-4-1

Responsibilities of broker company

Sec. 1. A broker company and its managing broker are responsible under this article for the actions of any broker who is associated with the broker company. Any broker company that maintains two (2) or more separate offices for associated licensees shall notify the commission of the name and address of the broker who manages each office.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.20; P.L.116-2015, SEC.5.

IC 25-34.1-4-2

Partnership, corporation, or limited liability company as broker company

Sec. 2. Except as provided in IC 23-1.5, a partnership broker, corporate broker, or limited liability company broker:

- (1) may act only as a broker company; and
- (2) shall designate to the commission a managing broker who meets the requirements for managing brokers set forth in IC 25-34.1-3-4.1 to be primarily responsible to the commission for its actions.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.128-1994, SEC.4; P.L.229-1995, SEC.7; P.L.127-2012, SEC.21; P.L.116-2015, SEC.6.

IC 25-34.1-4-3

Residency requirements of managing brokers; certain nonresidents may be managing brokers

Sec. 3. (a) Except as provided in subsection (b), each individual who is a managing broker shall be a resident of Indiana.

(b) A nonresident may be a managing broker if none of the licensees associated with the managing broker's broker company are residents of Indiana.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.128-1994, SEC.5; P.L.64-2004, SEC.21; P.L.127-2012, SEC.22; P.L.116-2015, SEC.7.

IC 25-34.1-4-3.1

Individuals who became managing brokers on July 1, 2014

Sec. 3.1. An individual who, on June 30, 2014, was:

- (1) a principal broker; or
- (2) the designated individual broker under IC 25-34.1-4-2 (as in effect on June 30, 2014) of a partnership broker, corporate broker, or limited liability company broker;

became a managing broker on July 1, 2014.

As added by P.L.116-2015, SEC.8.

IC 25-34.1-4-4

Independent contractor relationship

Sec. 4. Notwithstanding IC 23-1.5, the association of a broker with a broker company, as provided by this article, creates an independent contractor relationship unless otherwise specified by a written contract entered into by the broker company and the broker.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.229-1995, SEC.8; P.L.127-2012, SEC.23; P.L.116-2015, SEC.9.

IC 25-34.1-4-5

Trust accounts

Sec. 5. (a) Each broker company:

- (1) shall keep in one (1) or more trust accounts (interest or noninterest bearing) all funds belonging to others that come into the possession of the broker company or of any broker whose license the broker company is holding; and
- (2) shall clearly identify any account containing those funds as a trust account.

The trust accounts shall contain all earnest money deposits, funds held for closing escrows, sale proceeds not yet disbursed, and all other funds belonging to others.

(b) The broker company shall not use any trust account for the deposit of any personal funds or other business funds and shall keep a detailed record of the funds and any interest accrued in each trust account that identifies the amount of funds held for each beneficiary. Any interest earned shall be held for the beneficiary.

(c) Upon:

- (1) the death of the sole proprietor, in the case of a sole proprietorship broker company;
- (2) the termination of a broker company; or
- (3) the expiration, revocation, or suspension of a broker company's license;

the commission shall take custody of each trust account of the broker company and may appoint a successor trustee to protect and distribute the proceeds of that account.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.255-1987, SEC.5; P.L.114-2010, SEC.22; P.L.127-2012, SEC.24; P.L.116-2015, SEC.10.

IC 25-34.1-4-6

Death of sole proprietor or partner; carrying out business contracted before death; brokers associated with broker company

Sec. 6. (a) In the event of:

- (1) the death of the sole proprietor of a sole proprietorship broker company; or
- (2) the termination of a partnership broker company by the death of a partner;

a broker formerly associated with the broker company may continue to carry out business contracted for before the death of the sole proprietor or termination of the broker company for a maximum period of ninety (90) days after the death or termination. During that period, the broker shall maintain a trust account as provided in section 5 of this chapter. However, until associating with another broker company, the broker may not undertake any new business.

(b) Upon associating with a new broker company, the broker may conduct on behalf of the deceased proprietor or terminated managing broker only that business which is necessary to complete obligations assumed while associated with the broker company. All other acts performed by the broker shall be performed in association with the new managing broker.

(c) Each broker formerly associated with the deceased or terminated managing broker becomes, upon the death or termination of the managing broker, a managing broker by law until the broker elects to act as a broker for another broker company.

(d) This section applies only to matters of licensing and responsibility under this article and does not affect the transfer of the deceased broker's property interests as provided by IC 29 and other laws of succession.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.25; P.L.116-2015, SEC.11.

IC 25-34.1-4.5

Expired

(Expired 12-31-2014 by P.L.127-2012, SEC.26.)

IC 25-34.1-5

Chapter 5. Educational Courses

IC 25-34.1-5-1

Approval and permit required for broker course

Sec. 1. No person shall conduct, solicit or accept student enrollment for a broker course as prescribed in this chapter without:

- (1) the approval of the course by the commission; and
- (2) the issuance of a permit under section 15 of this chapter.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.27; P.L.116-2015, SEC.12.

IC 25-34.1-5-2

Application for approval

Sec. 2. To obtain course approval, a person must apply to the commission by submitting a bond in the amount of ten thousand dollars (\$10,000) and an application which includes a copy of the accreditation certificate issued by the appropriate accreditation body, if any, a detailed teaching syllabus, a proposed certificate to be issued to students who successfully complete the course, and other information and documents which may be required by the commission. If the course is to be conducted by a corporation, the application shall also include the names and residence addresses of all directors and officers, a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state of Indiana.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-3

Bond; obligee; requirements; liability; continuity; cancellation

Sec. 3. (a) The commission shall be the obligee under the bond.

(b) The bond shall be:

- (1) executed by the person seeking course approval and by a corporate surety, licensed to do business in the state, as surety;
- (2) in such form and with such terms and conditions as the commission may require;
- (3) conditioned upon faithful compliance with all requirements of an approved course as provided by this article and the commission's regulations; and
- (4) effective from its effective date and continue in effect until cancelled.

The total and aggregate liability of the surety on a bond is limited to the amount specified in the bond and the continuous nature of the bond may in no event be construed as allowing the liability of the surety under a bond to accumulate for each successive approval period during which the bond is in force.

(c) To provide continuous bonding of the school's activities, a school providing an approved course may not cancel a bond without

the commission's prior written approval of cancellation and approval of a substitute bond.

(d) The surety on a bond may cancel a bond filed under this article only after ninety (90) days from the date the surety mails a notice of intent to cancel, by registered or certified mail with return receipt requested, to the commission and to the school.

(e) To provide continuous bond coverage of the school's activities, the school shall give written notice to the commission, not later than thirty (30) days prior to the date upon which a bond cancellation becomes effective, that a new bond has been obtained.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-4

Approval of broker education courses

Sec. 4. (a) To obtain approval of a broker course, a school shall:

- (1) provide the curriculum prescribed in section 5 of this chapter;
- (2) have no more than thirty-five (35) students per instructor per classroom;
- (3) provide adequate educational facilities and supportive personnel as is necessary to implement the purpose of this article;
- (4) schedule not more than the maximum number of hours of instruction established by the commission in any twenty-four (24) hour period;
- (5) administer at least two (2) written examinations during the broker course which are approved, and passing scores established, by the commission;
- (6) within thirty (30) days of the end of each course, submit to the commission the names and addresses of those students who successfully complete the course;
- (7) maintain records of students who successfully complete and pass the course of study for a minimum of five (5) years or, in the event the school should cease operation, the owner shall provide a custodian acceptable to the commission to keep those records and provide copies to students at the fee in effect when the school ceases operation; and
- (8) meet any other standards the commission may establish by regulation.

(b) Any instruction conducted in a broker office does not apply to the minimum hour requirements of section 5 of this chapter.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.28.

IC 25-34.1-5-5

Curriculum

Sec. 5. The required curriculum for brokers shall consist of a total of at least ninety (90) hours of instruction and shall include the

following subjects: principles, practices, Indiana license law and professional standards, law of agency, contracts, financing, settlement procedures, escrow responsibility, recordkeeping, government regulations, and appraising.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.127-2012, SEC.29.

IC 25-34.1-5-6

Commission's considerations; factors

Sec. 6. In determining whether to grant approval of the curriculum, the commission shall consider, in addition to the requirements of sections 4 and 5 of this chapter, the following factors: accreditation, administration, ownership, instructors' qualifications, director's qualifications, course records, textbooks and related materials, cost of tuition and materials, and other means of evaluation as the commission establishes by regulation.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-7

Expiration of approval and permit; renewal

Sec. 7. (a) The following expire on December 31 of each calendar year:

- (1) The approval of a course by the commission.
- (2) A permit issued under section 15 of this chapter.

(b) To obtain renewal of approval for the ensuing calendar year, the school must submit to the commission by November 30 of the current year:

- (1) a letter requesting renewal;
- (2) an annual report; and
- (3) a bond in the amount of twenty percent (20%) of the previous year's total tuition, but in no event less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000).

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.116-2015, SEC.13.

IC 25-34.1-5-8

Inspection of records and facilities

Sec. 8. Each school conducting an approved course shall allow the commission to inspect its records and facilities. Each school shall report any significant proposed change in curriculum, faculty, or facilities to the commission at least thirty (30) days before the change, if possible. No change is effective unless it is approved by the commission.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-9

Denial, suspension, or revocation of approval and permit

Sec. 9. The commission may deny, suspend, or revoke:

- (1) the approval of any course; and
- (2) the permit issued to a school under section 15 of this chapter;

if it determines the school failed to comply with the standards established in this chapter and the commission's rules.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.116-2015, SEC.14.

IC 25-34.1-5-10

Prohibited advertising

Sec. 10. A school may not advertise that it or its course is endorsed, recommended, or accredited by the commission.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-11

Additional fees for review class prohibited

Sec. 11. Schools conducting approved courses may not charge an additional fee for any review class.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-5-12

Real estate education advisory council makes course recommendations

Sec. 12. (a) The real estate education advisory council established by IC 25-34.1-9-2 shall make recommendations to the commission concerning the following:

- (1) Requirements for sponsors of courses.
- (2) Requirements for instructors to be used by sponsors in providing courses.
- (3) Requirements for the curricula for education courses required under this article.
- (4) Rules to implement this chapter.
- (5) Other issues identified by the commission in implementing this chapter.

(b) The commission shall approve all prelicensing courses.

(c) The commission may, with the advice of the council, approve online education required for licensing under this article.

As added by P.L.127-2012, SEC.30.

IC 25-34.1-5-13

Instructor permits

Sec. 13. (a) Each instructor of a prelicensing education course under this chapter must have a permit issued by the commission.

(b) An instructor permit under subsection (a) must:

- (1) be issued for a term of three (3) years, ending on a date set by the licensing agency; and
- (2) expire if not renewed by the end of the permit period.

(c) An instructor issued a permit under subsection (a) must meet the following requirements:

(1) Be a licensed real estate broker or attorney licensed in Indiana, or an expert in the field working in conjunction with a licensed real estate broker or licensed attorney.

(2) Each year, complete four (4) hours of continuing education approved by the licensing agency and specific to providing real estate instruction. Hours earned under this subdivision may be used toward the completion of the continuing education requirement for a broker under IC 25-34.1-9-11.

(3) Pay applicable fees established under rules adopted by the commission under IC 4-22-2.

(4) Meet any additional requirements established by the commission under rules adopted under IC 4-22-2.

(d) If a permit expires under subsection (b)(2), to return the permit to active status, the instructor must:

(1) successfully complete continuing education requirements required by the commission;

(2) file a renewal application;

(3) pay a renewal fee under rules adopted by the commission under IC 4-22-2;

(4) pay any applicable late fees established under rules adopted by the commission under IC 4-22-2; and

(5) meet any additional requirements established by the commission.

(e) Instructors approved by the commission before July 1, 2013, shall be exempted from the requirement under subsection (c)(1).

As added by P.L.200-2013, SEC.8. Amended by P.L.2-2014, SEC.112.

IC 25-34.1-5-15

Real estate schools

Sec. 15. (a) Each real estate school approved under this chapter to conduct a prelicensing broker course must have a permit issued by the commission.

(b) A real estate school issued a permit under subsection (a) must meet the following requirements:

(1) For online courses, an instructor that has been issued a permit under this chapter must be available during normal business hours.

(2) Course rosters must be provided to the commission each month.

(3) The school must pay the permit fees established by the commission under subsection (d).

(c) To remain in effect, a permit issued under this section must be renewed by the commission before its expiration under section 7(a) of this chapter.

(d) The commission shall establish, by rule adopted under

IC 4-22-2, fees for permits under this section.

(e) A school must annually file with the commission a list of courses offered by the school.

As added by P.L.200-2013, SEC.9. Amended by P.L.2-2014, SEC.113; P.L.116-2015, SEC.15.

IC 25-34.1-6
Chapter 6. Enforcement

IC 25-34.1-6-1

Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-34.1-6-1.1

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-34.1-6-2

Penalties; supplemental procedures

Sec. 2. (a) A person who:

(1) performs the acts of a broker without a broker license; or
(2) conducts, or solicits or accepts enrollment of students for, a course as prescribed in IC 25-34.1-3 without course approval; commits a Class A infraction. Upon conviction for an offense under this section, the court shall add to any fine imposed the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, it must be alleged and proved that, at the time the cause of action arose, the party seeking relief was not in violation of this section.

(c) Each enforcement procedure established in this section and IC 25-1-7-14 is supplemental to other enforcement procedures established in this section.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.214-1993, SEC.84; P.L.84-2010, SEC.71; P.L.127-2012, SEC.31.

IC 25-34.1-6-2.5

Violation of credit service organization statute or mortgage rescue protection fraud statute; Class A infraction; enforcement procedures and sanctions

Sec. 2.5. (a) A violation of:

- (1) IC 24-5-15; or
(2) IC 24-5.5;

by a person licensed or required to be licensed under this article is a violation of this article.

(b) A person who commits a violation described in subsection (a) commits a Class A infraction and is subject to:

- (1) the enforcement procedures described in section 2 of this chapter; and
(2) any sanction that may be imposed by the commission under IC 25-1-11-12.

As added by P.L.52-2009, SEC.12; P.L.105-2009, SEC.15. Amended by P.L.114-2010, SEC.23.

IC 25-34.1-6-3

Criminal conviction; discipline

Sec. 3. A licensee who is convicted of a crime that substantially relates to the practice of real estate may be disciplined under IC 25-1-11. A certified copy of a judgment of conviction from a court is presumptive evidence of a conviction for purposes of this section.

As added by P.L.87-2006, SEC.4. Amended by P.L.1-2007, SEC.180.

IC 25-34.1-6-4

Not grounds for liability

Sec. 4. (a) The mere transporting, transmitting, or delivering of a document related to a real estate transaction does not impose any liability for the content of the document or any statement within the document.

(b) A licensee is not liable for a report or statement made by a person who has made a report concerning the real estate, including inspection reports and surveys, unless:

- (1) the report or statement was made by a person employed by either the licensee or a broker with whom the licensee is associated;
- (2) the report or statement was made by a person selected and hired by the licensee; however, ordering a report from a person does not constitute selecting or hiring a person; or
- (3) the licensee knew before closing occurred that the report or statement was false or the licensee acted in reckless disregard as to whether the report or statement was true or false.

(c) A licensee is not liable for the information contained in a seller's real estate disclosure form prepared under IC 32-21-5, unless:

- (1) the licensee signed the disclosure form; or
- (2) the licensee knew before closing occurred that the information was false or the licensee acted in reckless disregard as to whether the information was true or false.

(d) A licensee is not liable for the information that was obtained from:

- (1) the licensee's client;
- (2) a governmental entity;
- (3) a person who obtained the information from a governmental entity; or
- (4) a person who is licensed, certified, or registered to provide professional services on which the licensee relies;

unless the licensee knew before closing occurred that the information was false or the licensee acted in reckless disregard as to whether the information was true or false.

As added by P.L.116-2015, SEC.16.

IC 25-34.1-7

Chapter 7. Real Estate Recovery Fund

IC 25-34.1-7-1

Establishment of fund; administration; investments

Sec. 1. (a) The real estate recovery fund is established for the purpose set out in this chapter. The fund shall be administered by the real estate commission.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund, except as provided in section 2.1 of this chapter.

As added by P.L.255-1987, SEC.6. Amended by P.L.143-1990, SEC.9.

IC 25-34.1-7-2

Surcharge; formula; assessment; application of section

Sec. 2. (a) If the total amount in the real estate recovery fund (including principal and interest) is less than four hundred fifty thousand dollars (\$450,000) on June 30 in an odd-numbered year after the payment of all claims and expenses, the real estate commission shall assess a surcharge according to the following formula in order to maintain the fund at an approximate level of six hundred thousand dollars (\$600,000):

STEP ONE: Determine the amount remaining in the fund on June 30 of the current year after all expenses and claims have been paid.

STEP TWO: Subtract the amount determined under STEP ONE from six hundred thousand dollars (\$600,000).

STEP THREE: Determine the number of licensees who had licenses in effect on June 30 of the current year.

STEP FOUR: Divide the number determined under STEP TWO by the number determined under STEP THREE.

(b) The real estate commission shall assess the surcharge described in subsection (a) against each licensee who:

- (1) receives an initial license; or
- (2) receives a renewal license.

(c) The real estate commission shall assess the surcharge described in subsection (a) for the two (2) year period beginning on July 1 of the current year through June 30 of the next odd-numbered year.

(d) The surcharge assessed under this section is in addition to any other fee under this article.

(e) This section does not apply to a person who:

- (1) receives an initial license or certificate; or

(2) receives a renewal license or certificate; under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.
As added by P.L.255-1987, SEC.6. Amended by P.L.143-1990, SEC.10; P.L.183-1991, SEC.9.

IC 25-34.1-7-2.1

Reversion of excess funds

Sec. 2.1. If the total amount in the real estate recovery fund (including principal and interest) exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after the payment of all claims and expenses, the amount in excess of seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

As added by P.L.143-1990, SEC.11.

IC 25-34.1-7-3

Interest on investments; payment of expenses

Sec. 3. Any interest earned on investment of money in the real estate recovery fund shall be credited at least annually to the fund. No money may be appropriated from the general fund for payment of any expenses incurred under this chapter, and none of these expenses may be charged against the state.

As added by P.L.255-1987, SEC.6.

IC 25-34.1-7-4

Applications for order directing payment out of fund; amount of loss; limitation on recovery

Sec. 4. (a) If any aggrieved person obtains a final judgment in any court against a licensee to recover damages for any act of:

- (1) embezzlement of money or property; or
- (2) unlawfully obtaining money or property by false pretenses, use of a device, trickery, or forgery;

that results in an actual cash loss to the aggrieved person (as opposed to loss in market value), the person may, upon termination of all proceedings including appeals and proceedings supplemental to judgment for collection purposes, file a verified application with the commission for an order directing payment out of the real estate recovery fund of the amount of actual and direct loss in the transaction that remains unpaid upon the judgment. The amount of actual and direct loss may include court costs but may not include attorney's fees or punitive damages awarded. The amount that may be paid from the real estate recovery fund may not exceed twenty thousand dollars (\$20,000) per judgment and an aggregate lifetime limit of fifty thousand dollars (\$50,000) with respect to any one (1) licensee.

(b) This section applies only to a final judgment that awards damages for an act by the licensee described in subsections (a)(1)

through (a)(2) that arises directly out of any transaction:

- (1) that occurred when the licensee was licensed;
- (2) for which a license was required under IC 25-34.1; and
- (3) that occurred after December 31, 1987.

As added by P.L.255-1987, SEC.6. Amended by P.L.134-2013, SEC.17.

IC 25-34.1-7-5

Claims against single licensee in excess of dollar limitation; distribution; joinder of claims; payment; insufficient funds

Sec. 5. (a) If the payment in full of two (2) or more pending valid claims that have been filed by aggrieved persons against a single licensee would exceed the fifty thousand dollar (\$50,000) limit set forth in section 4 of this chapter, the fifty thousand dollars (\$50,000) shall be distributed among the aggrieved persons in the ratio that their respective claims bear to the aggregate of all valid claims or in any other manner that the commission may determine equitable. This money shall be distributed among the persons entitled to share in it without regard to the order of priority in which their respective judgments have been obtained or their claims have been filed.

(b) The commission shall consider pending applications filed by all claimants and prospective claimants against one (1) licensee jointly to the end that the respective rights of all the claimants to the commission may be equitably adjudicated and settled.

(c) On June 30 and December 31 of each year, the real estate commission shall identify each claim that the commission orders to be paid during the six (6) month period that ended on that day. The commission shall pay the part of each claim that is so identified within fifteen (15) days after the end of the six (6) month period in which the claim is ordered paid. However, if the balance in the fund is insufficient to pay the full payable amount of each claim that is ordered to be paid during a six (6) month period, the commission shall pay a prorated portion of each claim that is ordered to be paid during the period. Any part of the payable amount of a claim left unpaid due to the prorating of payments under this subsection must be paid (subject to the fifty thousand dollar (\$50,000) limit described in section 4 of this chapter) before the payment of claims ordered to be paid during the following six (6) month period.

As added by P.L.255-1987, SEC.6. Amended by P.L.134-2013, SEC.18.

IC 25-34.1-7-6

Agent for service of process

Sec. 6. Any broker who is licensed or renews a license under this article after December 31, 1987, and upon whom personal service cannot be made with reasonable diligence shall be considered to have appointed the commission as the licensee's agent for service of process for purposes of actions filed under section 4 of this chapter

for recovery from the real estate recovery fund. Service of process under this section shall be made as nearly as practicable in the manner prescribed by the Indiana Rules of Trial Procedure for service on corporations.

As added by P.L.255-1987, SEC.6. Amended by P.L.127-2012, SEC.32.

IC 25-34.1-7-7

Limitation of actions; notice of commencement of action

Sec. 7. An order for payment from the real estate recovery fund may not be issued unless the action to recover from the real estate recovery fund was commenced within one (1) year after the termination of all proceedings against the licensee for embezzlement of money or property, or unlawfully obtaining money or property by false pretenses, use of a device, trickery, or forgery, including appeals and proceedings supplemental to judgment. When any person commences an action for a judgment that may result in an order for payment from the fund, the person shall notify the commission in writing of the commencement of the action.

As added by P.L.255-1987, SEC.6.

IC 25-34.1-7-8

Commission as defendant; hearings; orders directing payment

Sec. 8. (a) When any person files an application for an order directing payment from the real estate recovery fund, the commission shall promptly review and consider the application, and it may issue an order directing payment out of the real estate recovery fund, as provided in section 9 of this chapter, subject to the limitation of section 4 of this chapter, if the commission finds:

- (1) that there is no collusion between the judgment creditor and the judgment debtor;
- (2) that the judgment creditor is making application not more than one (1) year after the termination of all proceedings in connection with the judgment, including appeals and proceedings supplemental to judgment for collection purposes;
- (3) that the judgment creditor has diligently pursued all available creditor's remedies, including proceedings supplemental, against the licensee who is the subject of the application filed under section 4 of this chapter, against all the judgment debtors, and against all other persons liable to the creditor in the transaction for which the creditor seeks recovery from the real estate recovery fund, but that the diligent pursuit did not result in satisfaction of the judgment;
- (4) that the embezzlement of money or property, or the unlawfully obtaining of money or property by false pretenses, use of a device, trickery, or forgery, arose directly out of a transaction that occurred when the judgment debtor was licensed and acted in a capacity for which a license is required

under this article and that the transaction occurred after December 31, 1987; and

(5) that, in the event of a default judgment or a judgment entered upon stipulation of the parties, the judgment debtor's acts constituted embezzlement of money or property, or the unlawful obtaining of money or property by false pretenses, use of a device, trickery, or forgery.

(b) A person who is dissatisfied by:

(1) an order issued under subsection (a) directing payment out of the real estate recovery fund; or

(2) a denial of an application filed under section 4 of this chapter;

may petition for review under IC 4-21.5-3-7.

As added by P.L.255-1987, SEC.6. Amended by P.L.134-2013, SEC.19.

IC 25-34.1-7-9

Payment of claims

Sec. 9. Upon an order of the commission directing that payment be made out of the real estate recovery fund, the commission shall, subject to sections 4 through 5 of this chapter, make the payment out of the real estate recovery fund as provided in section 5 of this chapter.

As added by P.L.255-1987, SEC.6. Amended by P.L.134-2013, SEC.20.

IC 25-34.1-7-10

Suspension of judgment debtor's license; repayment of fund; interest

Sec. 10. (a) If the commission is required to make any payment from the real estate recovery fund in settlement of a claim or toward the satisfaction of an order under this chapter, the commission shall suspend the judgment debtor's license and, if the judgment debtor is licensed under IC 25-34.1-3-4.1, the license of the individual designated broker, under this article. The licensee is not eligible to be licensed again as a broker until the licensee has repaid in full the amount paid from the real estate recovery fund with interest of twelve percent (12%) per annum.

(b) A license suspension issued under this section must be done in accordance with IC 4-21.5-3-6. The licensee may petition for review under IC 4-21.5-3-7.

As added by P.L.255-1987, SEC.6. Amended by P.L.127-2012, SEC.33; P.L.134-2013, SEC.21; P.L.134-2013, SEC.22.

IC 25-34.1-7-11

Subrogation

Sec. 11. When the commission has ordered and caused payment to be made from the real estate recovery fund to a judgment creditor,

the commission is subrogated to the rights of the judgment creditor with respect to the amount paid.

As added by P.L.255-1987, SEC.6. Amended by P.L.134-2013, SEC.23.

IC 25-34.1-7-12

Expenditure of interest

Sec. 12. Subject to the approval of the budget agency, the real estate commission may expend the interest earned by the real estate recovery fund for:

- (1) information concerning the commission's activities and administrative rulings;
- (2) other educational information concerning the real estate industry; and
- (3) expenses related to the continuing education program under IC 25-34.1-9.

As added by P.L.255-1987, SEC.6. Amended by P.L.120-1992, SEC.2.

IC 25-34.1-7-13

Attorney general; assistance; expenses

Sec. 13. (a) The office of the attorney general shall provide the staff assistance necessary to:

- (1) enable the real estate commission to perform its duties under this chapter; and
- (2) enforce this chapter.

(b) Expenses incurred by the office of the attorney general under this section shall be paid from the real estate recovery fund.

As added by P.L.255-1987, SEC.6.

IC 25-34.1-8

Chapter 8. Real Estate Appraiser Certification Board

IC 25-34.1-8-1

Creation of board

Sec. 1. The real estate appraiser licensure and certification board is created.

As added by P.L.186-1990, SEC.14. Amended by P.L.183-1991, SEC.10.

IC 25-34.1-8-2

Qualification of members; appointment

Sec. 2. (a) The board consists of seven (7) members appointed by the governor as follows:

- (1) Five (5) members who are real estate appraisers:
 - (A) who are licensed or certified under this article;
 - (B) who have at least five (5) years experience as real estate appraisers; and
 - (C) at least three (3) of whom are certified appraisers.
- (2) One (1) representative who represents lenders qualified to:
 - (A) make Federal Housing Administration insured loans and Veterans Administration guaranteed loans; and
 - (B) sell loans to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.
- (3) One (1) member who is not associated with the real estate business in any way other than as a consumer.

(b) When making appointments under subsection (a), the governor shall consider the geographic areas represented on the board.

As added by P.L.186-1990, SEC.14. Amended by P.L.183-1991, SEC.11.

IC 25-34.1-8-3

Term

Sec. 3. Each board member serves for a term of four (4) years.

As added by P.L.186-1990, SEC.14.

IC 25-34.1-8-3.5

Officers

Sec. 3.5. (a) The board shall annually elect one (1) of its members to be the chair and another member to be the vice chair.

(b) A member of the board who serves as chair or vice chair serves until a successor is elected.

(c) A member who serves as chair or vice chair may serve not more than two (2) consecutive terms in that capacity.

(d) The chair shall preside at all of the board's meetings.

(e) The vice chair shall:

- (1) preside at meetings in the absence of the chair; and
- (2) perform other duties as directed by the chair.

As added by P.L.236-1995, SEC.51.

IC 25-34.1-8-4

Quorum

Sec. 4. (a) The board must have a quorum to transact business.

(b) Four (4) members of the board constitute a quorum.

As added by P.L.186-1990, SEC.14.

IC 25-34.1-8-5

Majority vote

Sec. 5. The affirmative vote of four (4) members of the board is required for the board to take action.

As added by P.L.186-1990, SEC.14.

IC 25-34.1-8-6

Repealed

(As added by P.L.186-1990, SEC.14. Amended by P.L.183-1991, SEC.12; P.L.145-2003, SEC.11; P.L.87-2006, SEC.5; P.L.177-2006, SEC.12. Repealed by P.L.57-2007, SEC.9.)

IC 25-34.1-8-6.5

Recommendations to commission; implementation and operation of program; fee; rules

Sec. 6.5. The board shall submit recommendations to the commission concerning the following:

(1) Implementation and operation of the real estate appraiser licensure and certification program under IC 25-34.1-3-8.

(2) Rules governing real estate appraisers licensed and certified under IC 25-34.1-3-8.

(3) Establishing a fee in an amount necessary to fund the investigative fund established by section 7.5 of this chapter but not more than twenty dollars (\$20).

(4) Rules governing the administration of the investigative fund established by section 7.5 of this chapter.

As added by P.L.57-2007, SEC.5.

IC 25-34.1-8-7

Approval of applications; issuance of licenses and certificates

Sec. 7. The board shall do the following:

(1) Approve and disapprove applications for licensure and certification.

(2) Issue licenses and certificates.

As added by P.L.186-1990, SEC.14. Amended by P.L.183-1991, SEC.13.

IC 25-34.1-8-7.5

Investigative fund; administration by attorney general and professional licensing agency

Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of:

(1) money from a fee imposed upon licensed or certified appraisers and real estate brokers under IC 25-34.1-2-7 and IC 25-34.1-3-9.5;

(2) civil penalties deposited in the fund under IC 24-5-23.5-9(d);

(3) registration fees imposed on appraisal management companies under IC 25-34.1-11-15; and

(4) civil penalties deposited under IC 25-34.1-11-17.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Except as otherwise provided in this subsection, money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds seven hundred fifty thousand dollars (\$750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars (\$750,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars (\$5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5. *As added by P.L.145-2003, SEC.12. Amended by P.L.87-2006, SEC.6; P.L.57-2007, SEC.6; P.L.52-2009, SEC.13; P.L.77-2010, SEC.1; P.L.127-2012, SEC.34.*

IC 25-34.1-8-7.7

Memorandum of understanding

Sec. 7.7. (a) The attorney general and the licensing agency shall enter into a memorandum of understanding to administer and enforce this article.

(b) The attorney general and the licensing agency shall present the memorandum of understanding annually to the commission for review.

As added by P.L.87-2006, SEC.7.

IC 25-34.1-8-8

Repealed

(Repealed by P.L.183-1991, SEC.19.)

IC 25-34.1-8-9

Per diem; travel and other expenses

Sec. 9. Each member of the board who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). Each member of the board is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the department of administration and approved by the budget agency.

As added by P.L.186-1990, SEC.14. Amended by P.L.3-2008, SEC.203.

IC 25-34.1-8-10

Qualification of applicants; criminal background checks; evidence of compliance

Sec. 10. (a) To be licensed or certified as a real estate appraiser, an individual must meet the following conditions:

(1) Not have a conviction for any of the following:

(A) An act that would constitute a ground for disciplinary sanction under IC 25-1-11.

(B) A crime that has a direct bearing on the individual's ability to practice competently.

(C) Fraud or material deception in the course of professional services or activities.

(D) A crime that indicates the individual has the propensity to endanger the public.

(2) Have satisfied the requirements established under IC 25-34.1-3-8(f).

(b) After December 31, 2008, the board shall require each applicant for initial licensure or certification under this chapter to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for use by the board in determining whether the applicant should be denied licensure or certification under this chapter for any reason set forth in subsection (a)(1). The applicant shall pay any fees or costs associated with the fingerprints and background check required under this subsection. The board may not release the results of a background check described in this subsection to any private entity.

(c) The board may request evidence of compliance with this section in accordance with subsection (d). Evidence of compliance with this section may include any of the following:

(1) Subject to subsections (b) and (d)(2), criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of

Investigation.

(2) Credit histories.

(3) Other background checks considered necessary by the board.

(d) The board may request evidence of compliance with this section at any of the following times:

(1) The time of application for an initial license or certificate.

(2) The time of renewal of a license or certificate.

(3) Any other time considered necessary by the board.

(e) The commission, upon recommendation of the board, shall adopt rules under IC 4-22-2 to implement this section.

As added by P.L.183-1991, SEC.14. Amended by P.L.214-1993, SEC.85; P.L.182-1996, SEC.3; P.L.145-2008, SEC.30.

IC 25-34.1-8-11

Repealed

(Repealed by P.L.214-1993, SEC.91.)

IC 25-34.1-8-12

Real estate appraisal practice or education without license or certification; injunctions; enforcement

Sec. 12. (a) A person who:

(1) performs:

(A) the acts of a licensed real estate appraiser without a license; or

(B) the acts of a certified real estate appraiser without a certificate; or

(2) conducts or solicits or accepts enrollment of students for a course without course approval as required by section 13 of this chapter;

commits a Class B infraction. When a judgment is entered for an offense under this section, the court shall add to any fine imposed the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, a party seeking relief must allege and prove that at the time the cause of action arose the party was not in violation of this section.

(c) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state of Indiana to enjoin a person from violating this section.

(d) In charging any person in a complaint for a judgment or an injunction for the violation of this section, it is sufficient, without averring any further or more particular facts, to charge that the person upon a certain day and in a certain county:

(1) acted as:

(A) a certified real estate appraiser without a certificate; or

(B) a licensed real estate appraiser without a license; or
(2) conducted, or solicited or accepted enrollment of students for a real estate appraiser course without course approval.

(e) Each enforcement procedure established in this section and IC 25-1-7-14 is supplemental to other enforcement procedures established in this section.

As added by P.L.183-1991, SEC.16. Amended by P.L.57-2007, SEC.7; P.L.3-2008, SEC.204; P.L.84-2010, SEC.72.

IC 25-34.1-8-13

Real estate appraiser courses; approval

Sec. 13. A person may not conduct, solicit, or accept student enrollment for a real estate appraiser course represented as satisfying the requirements of the board without approval of the course by the Appraiser Qualifications Board, under the regulatory oversight of the Appraisal Subcommittee established under Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.).

As added by P.L.183-1991, SEC.17. Amended by P.L.57-2007, SEC.8.

IC 25-34.1-8-14

Repealed

(As added by P.L.183-1991, SEC.18. Repealed by P.L.57-2007, SEC.9.)

IC 25-34.1-8-15

Use of investigative fund

Sec. 15. The office of the attorney general and the professional licensing agency may use the investigative fund established by section 7.5 of this chapter to hire investigators and other employees to administer and enforce the provisions of this article and to investigate and prosecute real estate fraud and real estate appraisal fraud.

As added by P.L.145-2003, SEC.13.

IC 25-34.1-9

Chapter 9. Continuing Education

IC 25-34.1-9-1

"Council" defined

Sec. 1. As used in this chapter, "council" refers to the real estate education advisory council established by this chapter.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-2

Real estate education advisory council; establishment

Sec. 2. The real estate education advisory council is established.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-3

Membership

Sec. 3. The council consists of five (5) members, three (3) of whom must be recommended by the Indiana association of realtors and appointed by the commission.

As added by P.L.120-1992, SEC.3. Amended by P.L.127-2012, SEC.35.

IC 25-34.1-9-4

Term of office

Sec. 4. Each member of the council shall be appointed by the commission for a two (2) year term. If a successor has not been appointed, the current member serves until a successor is appointed and qualified.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-5

Vacancies

Sec. 5. If a vacancy occurs on the council, the commission shall appoint an individual to serve the unexpired term of the previous member and until a successor is appointed and qualified.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-6

Removal for cause

Sec. 6. The commission may remove a member of the council for cause.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-7

Chair and vice chair

Sec. 7. The council shall elect from the council's membership a chairman and a vice chairman.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-8

Meetings

Sec. 8. The council shall meet upon the call of the chairman or at the request of the commission. The chairman shall establish the time and place of all meetings.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-9

Implementation and courses under this chapter

Sec. 9. (a) The council shall make recommendations to the commission concerning the following:

- (1) Requirements for sponsors of courses under this chapter.
- (2) Requirements for instructors to be used by sponsors in providing courses under this chapter.
- (3) Requirements for the curricula for postlicensing and continuing education courses under this chapter.
- (4) Rules to implement this chapter.
- (5) Other issues identified by the commission to implement this chapter.

(b) Notwithstanding IC 25-1-4, the commission shall approve all postlicensing and continuing education courses.

(c) The commission may, with the advice of the council, approve online education required for licensing.

As added by P.L.120-1992, SEC.3. Amended by P.L.127-2012, SEC.36.

IC 25-34.1-9-10

Completion of approved education requirement; exception

Sec. 10. Except for an individual who has been granted an inactive license under IC 25-34.1-3-10, an individual who is licensed as a real estate broker under IC 25-34.1-3-4.1 must complete the approved education requirement each year.

As added by P.L.120-1992, SEC.3. Amended by P.L.127-2012, SEC.37.

IC 25-34.1-9-11

Approved education requirement

Sec. 11. (a) The approved education requirement is as follows:

- (1) At least twelve (12) hours per year and at least thirty-six (36) hours per three (3) year renewal cycle in any of the following subjects, as determined by the commission:
 - (A) License and escrow law.
 - (B) Anti-trust law.
 - (C) Civil rights law.
 - (D) Agency law.
 - (E) Listing contracts and purchase agreements.
 - (F) Ethics and professionals standards.
 - (G) Settlement procedures.

- (H) Appraising.
- (I) Property management.
- (J) Farm property management.
- (K) Commercial brokerage and leasing.
- (L) Financing.
- (M) Residential brokerage.
- (N) Land development.
- (O) Legislative issues affecting the real estate practice.
- (P) Other courses approved by the commission.

(b) An attorney in good standing licensed to practice law in Indiana may satisfy the requirements of subsection (a) by completing the number of hours required by subsection (a) in continuing legal education courses in the subject matters listed in subsection (a).

(c) An individual who applies for a broker's license after June 30, 2014, must, during the first two (2) years after the license is issued, take and pass at least thirty (30) hours of postlicensing education focused on the practical matters of real estate transactions instead of the continuing education requirements under this chapter.

(d) For license renewal, a managing broker must complete at least twelve (12) hours of continuing education each year and at least thirty-six (36) hours per three (3) year renewal cycle. At least four (4) hours of the continuing education each year must be dedicated to the necessary business and management skills and legal knowledge needed by a managing broker. The commission shall develop or approve the continuing education courses for managing brokers.

As added by P.L.120-1992, SEC.3. Amended by P.L.182-1996, SEC.4; P.L.127-2012, SEC.38; P.L.116-2015, SEC.17.

IC 25-34.1-9-11.1

Expired

(As added by P.L.127-2012, SEC.39. Expired 7-1-2014 by P.L.127-2012, SEC.39.)

IC 25-34.1-9-12

Course sponsor; approval requirements

Sec. 12. To obtain approval as a continuing education course sponsor, the sponsor must do the following:

- (1) Provide the commission information on courses, curriculum, and facilities as determined by the commission.
- (2) Limit the number of credit hours that may be offered in a twenty-four (24) hour period for the course to a number not more than the amount established by the commission by rule.
- (3) Provide each participant who successfully completes an approved course a certificate that contains the following:
 - (A) The name of the participant.
 - (B) The name, address, and signature of the sponsor.
 - (C) The number of approved credit hours.
 - (D) The date of the program.

- (E) Any other information required by the commission.
 - (4) Pay a fee determined by the commission.
 - (5) Meet any standard that the commission adopts by rule.
- As added by P.L.120-1992, SEC.3.*

IC 25-34.1-9-13

Approved sponsor; records; attendance roster; evaluation; transmittal form

Sec. 13. (a) A continuing education sponsor that has received approval under section 12 of this chapter must maintain records for five (5) years of the participants who successfully complete and pass the course. If the sponsor ceases operations, the owner shall place the records in the care of a custodian that is approved by the commission.

(b) A continuing education sponsor shall, not later than ten (10) days after a continuing education course is offered, submit the following to the commission:

- (1) A completed continuing education attendance roster of all participants. The roster must include the full legal name, address of residence, and any other identifying information required by the commission of each participant. The names must be submitted to the commission in alphabetical order.
- (2) A completed continuing education evaluation transmittal form for each of the participants.

As added by P.L.120-1992, SEC.3. Amended by P.L.173-2016, SEC.2.

IC 25-34.1-9-14

Expiration of sponsor approval; renewal requirements

Sec. 14. (a) The approval for a sponsor for a broker's course expires December 31 each even-numbered year.

(b) A sponsor must submit:

- (1) a letter requesting renewal of approval; and
- (2) the renewal fee;

at least thirty (30) days before a sponsor's approval expires.

As added by P.L.120-1992, SEC.3. Amended by P.L.127-2012, SEC.40.

IC 25-34.1-9-15

Inspection; approved sponsor records and facilities

Sec. 15. The commission may inspect an approved sponsor's records and facilities.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-15.5

Commission approval, denial, suspension, or revocation of courses or court sponsors

Sec. 15.5. (a) The commission may deny, suspend, or revoke

approval of any course or course sponsor if the commission determines that the course sponsor, by the act of an employee or agent, has failed to comply with the standards established in this chapter and the rules of the commission.

(b) The commission may deny, suspend, or revoke approval of any course instructor permit issued under this article if the commission determines that the instructor has failed to comply with the standards established in this chapter and the rules of the commission.

(c) The commission may deny, suspend, or revoke approval of any course sponsor if the commission determines the course sponsor:

(1) falsifies attendance information for continuing education courses submitted to the commission; or

(2) fails to provide the commission with attendance information required under section 13(b) of this chapter.

As added by P.L.200-2013, SEC.10. Amended by P.L.173-2016, SEC.3.

IC 25-34.1-9-16

Advertising sponsor or course

Sec. 16. (a) A person may advertise that the sponsor or the sponsor's course is approved by the commission and fulfills the requirements of the commission.

(b) A person may not advertise that the sponsor or the sponsor's course is required or recommended by the commission.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-17

Renewal period; licensee exemption from continuing education requirement

Sec. 17. A licensee who is initially licensed in the second year of a renewal period is exempt from the continuing education requirements under this chapter for that renewal period.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-18

Application for renewal; certification requirements

Sec. 18. An applicant for renewal must certify on the application that the applicant:

(1) has complied with the continuing education requirements;

(2) is exempt from the continuing education requirement because the individual has been licensed for less than one (1) year; or

(3) has not complied with the continuing education requirements but is seeking a waiver under section 19 of this chapter.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-19

Waiver conditions; continuing education requirement; prohibited activity

Sec. 19. The commission may grant an applicant a waiver from the continuing education requirement for the renewal period if the applicant meets one (1) of the following conditions:

(1) Was not able to fulfill the requirement due to a hardship that resulted from any of the following:

(A) Service in the armed forces of the United States during a substantial part of the renewal period.

(B) An incapacitating illness.

(C) Other circumstances determined by the commission.

(2) Has certified on approved forms to the commission the following:

(A) That the applicant has an active license but will not perform an act that requires a broker's license.

(B) That the applicant is affiliated with a managing broker for the sole purpose of making referrals to a licensed broker.

An individual granted a waiver under this subdivision may not perform an act that requires a broker's license until the individual has fulfilled the same continuing education requirements needed to reactivate an inactive license under IC 25-34.1-3-10(c) and IC 25-34.1-3-10(d) and applicable requirements under IC 25-34.1-3-10.5.

As added by P.L.120-1992, SEC.3. Amended by P.L.42-2011, SEC.58; P.L.127-2012, SEC.41.

IC 25-34.1-9-20

Renewal license; denial

Sec. 20. Subject to IC 25-1-4, the commission may deny renewal of the license of a licensee that does not fulfill the requirements of this chapter.

As added by P.L.120-1992, SEC.3. Amended by P.L.157-2006, SEC.74.

IC 25-34.1-9-21

Implementation of chapter

Sec. 21. The commission may adopt rules under IC 4-22-2 necessary to implement this chapter.

As added by P.L.120-1992, SEC.3.

IC 25-34.1-9-22

Continuing education instructor permits

Sec. 22. (a) Each instructor of a continuing education course under this chapter must have a permit issued by the commission.

(b) An instructor permit under subsection (a) must:

(1) be issued for a term of three (3) years and, subject to IC 25-1-2-6(e), expire on a date set by the licensing agency; and

(2) automatically expire if not renewed by the end of the permit period.

(c) An instructor issued a permit under subsection (a), must meet the following requirements:

(1) Be a licensed real estate broker or attorney licensed in Indiana, or an expert in the field working in conjunction with a licensed real estate broker or licensed attorney.

(2) Each year, complete four (4) hours of continuing education approved by the commission and specific to providing real estate instruction. Hours earned under this subdivision may be used toward the completion of the continuing education requirement for a broker under IC 25-34.1-9-11.

(3) Pay applicable fees established under rules adopted by the commission under IC 4-22-2.

(4) Meet any additional requirements established by the commission under rules adopted under IC 4-22-2.

(d) If a permit expires under subsection (b)(2), to return to active status, the instructor must:

(1) successfully complete continuing education requirements set by the commission;

(2) file a renewal application;

(3) pay a renewal fee under rules adopted by the commission under IC 4-22-2; and

(4) pay any applicable late fees established under rules adopted by the commission under IC 4-22-2.

(e) Instructors approved by the commission before July 1, 2013, shall be exempted from the requirement under subsection (c)(1).

(f) The commission may deny, suspend, or revoke approval of any instructor permit issued under this chapter if the commission determines that the instructor has failed to comply with the standards established in this chapter and the rules of the commission.

As added by P.L.200-2013, SEC.11. Amended by P.L.177-2015, SEC.73.

IC 25-34.1-9-23

Electronic continuing education tracking system

Sec. 23. The commission may enter into an agreement with an entity that is not a state agency or the federal government to provide through electronic means a continuing education tracking system. The system must provide an electronic record of the continuing education courses, classes, or programs completed by all individuals who are licensed under this article. All the following apply to an electronic system provided under this section:

(1) All continuing education tracking performed by the system must accurately reflect the continuing education requirements under this chapter.

(2) A confirmation of completed continuing education courses required under this chapter generated by the system is

considered verification of completion for renewal of a license or registration and for purposes of any audit of licensees or registrants conducted by the commission.

(3) The system must provide access to an individual who is licensed or registered under this article and to the commission access to continuing education information about the individual.

(4) The commission shall adopt rules under IC 4-22-2 it considers appropriate or necessary to implement this section.

As added by P.L.173-2016, SEC.4.

IC 25-34.1-10

Chapter 10. Real Estate Agency Relationships

IC 25-34.1-10-0.5

"Agency relationship"

Sec. 0.5. As used in this chapter, "agency relationship" means a relationship in which a licensee represents a client in a real estate transaction.

As added by P.L.130-1999, SEC.3.

IC 25-34.1-10-1

"Broker"

Sec. 1. As used in this chapter, "broker" means an individual or entity issued a broker's real estate license by the Indiana real estate commission.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.4.

IC 25-34.1-10-2

Repealed

(As added by P.L.128-1994, SEC.6. Repealed by P.L.130-1999, SEC.23.)

IC 25-34.1-10-3

Repealed

(As added by P.L.128-1994, SEC.6. Repealed by P.L.130-1999, SEC.23.)

IC 25-34.1-10-4

Repealed

(As added by P.L.128-1994, SEC.6. Repealed by P.L.130-1999, SEC.23.)

IC 25-34.1-10-5

"Client"

Sec. 5. As used in this chapter, "client" means a person who has entered into an agency relationship with a licensee.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.5.

IC 25-34.1-10-6

"Customer"

Sec. 6. As used in this chapter, "customer" means a person who is provided services in the ordinary course of business by a licensee but who is not a client.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.6.

IC 25-34.1-10-6.5

"In-house agency relationship"

Sec. 6.5. As used in this chapter, "in-house agency relationship" means an agency relationship involving two (2) or more clients who are represented by different licensees within the same broker company.

As added by P.L.130-1999, SEC.7. Amended by P.L.116-2015, SEC.18.

IC 25-34.1-10-6.8

"Licensee"

Sec. 6.8. As used in this chapter, "licensee" means an individual or entity issued a broker's real estate license by the Indiana real estate commission.

As added by P.L.130-1999, SEC.8. Amended by P.L.127-2012, SEC.42.

IC 25-34.1-10-7

"Limited agent"

Sec. 7. As used in this chapter, "limited agent" means a licensee who, with the written and informed consent of all parties to a real estate transaction, represents both the seller and buyer or both the landlord and tenant and whose duties and responsibilities to a client are only those set forth in this chapter.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.9.

IC 25-34.1-10-7.5

Repealed

(As added by P.L.130-1999, SEC.10. Repealed by P.L.127-2012, SEC.43.)

IC 25-34.1-10-7.8

Repealed

(As added by P.L.130-1999, SEC.11. Repealed by P.L.127-2012, SEC.44.)

IC 25-34.1-10-8

"Real estate transaction"

Sec. 8. As used in this chapter, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate.

As added by P.L.128-1994, SEC.6.

IC 25-34.1-10-9

"Subagent"

Sec. 9. As used in this chapter, "subagent" means a broker engaged to act for another broker in performing brokerage services for a client.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.12.

IC 25-34.1-10-9.5

Agency relationship; performance of duties

Sec. 9.5. (a) A licensee has an agency relationship with, and is representing, the individual with whom the licensee is working unless:

- (1) there is a written agreement to the contrary; or
- (2) the licensee is merely assisting the individual as a customer without compensation.

(b) If a licensee, under subsection (a)(1), does not have an agency relationship with the individual with whom the licensee is working due to the existence of a written agreement to the contrary, the licensee must perform at least the following duties under the written agreement:

- (1) Be available to receive and timely present offers and counteroffers for the purchase or lease of:

(A) the property of the individual, if the individual is a seller or landlord; or

(B) the property that the individual seeks to purchase or lease, if the individual is a buyer or tenant.

- (2) Assist in negotiating, completing real estate forms, communicating, and timely presenting offers, counteroffers, notices, and various addenda relating to the offers and counteroffers until:

(A) a purchase agreement or lease is signed; and

(B) all contingencies are satisfied or waived.

- (3) Timely respond to questions relating to offers, counter offers, notices, various addenda, and contingencies from the seller, landlord, buyer, or tenant pertaining to the subject property.

(c) If:

- (1) a licensee described in subsection (b) fails to perform the duties set forth in subsection (b); and

- (2) another licensee performs those duties on behalf of or at the request of a seller, landlord, buyer, or tenant;

the performance of those duties by the other licensee referred to in subdivision (2) does not constitute an agency relationship.

(d) This section does not prohibit a licensee from performing duties in addition to the duties specified in this section on behalf of or at the request of a seller, landlord, buyer, or tenant in a real estate transaction.

As added by P.L.130-1999, SEC.13. Amended by P.L.87-2006, SEC.8.

IC 25-34.1-10-10

Licensee representing seller or landlord; duties; disclosure of

information

Sec. 10. (a) A licensee representing a seller or landlord has the following duties and obligations:

- (1) To fulfill the terms of the agency relationship made with the seller or landlord.
- (2) To disclose the nature of the agency relationship with the seller or landlord, and redefine and disclose if the relationship changes.
- (3) To promote the interests of the seller or landlord by:
 - (A) seeking a price or lease rate and contract terms satisfactory to the seller or landlord; however, the licensee is not obligated to seek additional offers to purchase or lease after an offer to purchase or lease has been accepted by the seller or landlord, unless otherwise agreed between the parties;
 - (B) presenting all offers to purchase or lease to and from the seller or landlord immediately upon receipt of the offers regardless of whether an offer to purchase or lease has been accepted, unless otherwise directed by the seller or landlord;
 - (C) disclosing to the seller or landlord adverse material facts or risks actually known by the licensee concerning the real estate transaction;
 - (D) advising the seller or landlord to obtain expert advice concerning material matters that are beyond the licensee's expertise;
 - (E) timely accounting for all money and property received from the seller or landlord;
 - (F) exercising reasonable care and skill; and
 - (G) complying with the requirements of this chapter and all applicable federal, state, and local laws, rules, and regulations, including fair housing and civil rights statutes, rules, and regulations.

(b) A licensee representing a seller or landlord may not disclose the following without the informed written consent of the seller or landlord:

- (1) That a seller or landlord will accept less than the listed price or lease rate for the property or other contract concessions.
- (2) What motivates the seller to sell or landlord to lease the property.
- (3) Any material or confidential information about the seller or landlord unless the disclosure is required by law or where failure to disclose would constitute fraud or dishonest dealing.

(c) A licensee representing a seller or landlord owes no duties or obligations to the buyer or tenant except that a licensee shall treat all prospective buyers or tenants honestly and shall not knowingly give them false information.

(d) A licensee shall disclose to a prospective buyer or tenant adverse material facts or risks actually known by the licensee

concerning the physical condition of the property and facts required by statute or regulation to be disclosed and that could not be discovered by a reasonable and timely inspection of the property by the buyer or tenant. A licensee representing a seller or landlord owes no duty to conduct an independent inspection of the property for the buyer or tenant or to verify the accuracy of any statement, written or oral, made by the seller, the landlord, or an independent inspector. This subsection does not limit the obligation of a prospective buyer or tenant to obtain an independent inspection of the physical condition of the property. A cause of action does not arise against a licensee for disclosing information in compliance with this section.

(e) A licensee representing a seller or landlord may:

- (1) show alternative properties not owned by the seller or landlord to a prospective buyer or tenant and may list competing properties for sale or lease without breaching any duty or obligation to the seller or landlord; and
- (2) provide to a buyer or tenant services in the ordinary course of a real estate transaction and any similar services that do not violate the terms of the agency relationship made with the seller or landlord.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.14.

IC 25-34.1-10-11

Licensee representing buyer or tenant; duties; disclosure of information

Sec. 11. (a) A licensee representing a buyer or tenant has the following duties and obligations:

- (1) To fulfill the terms of the agency relationship made with the buyer or tenant.
- (2) To disclose the nature of the agency relationship with the buyer or tenant, and redefine and disclose if the relationship changes.
- (3) To promote the interests of the buyer or tenant by:
 - (A) seeking a property with a price or lease rate and contract terms satisfactory to the buyer or tenant; however, the licensee is not obligated to locate other properties to purchase or lease while the buyer is under contract to buy property or while the tenant is under contract to lease property, unless otherwise agreed between the parties;
 - (B) presenting all offers to purchase and lease to and from the buyer or tenant immediately upon receipt of an offer regardless of whether the buyer is already under contract to buy or the tenant is under contract to lease property, unless otherwise directed by the buyer or tenant;
 - (C) disclosing to the buyer or tenant adverse material facts or risks actually known by the licensee concerning the real estate transaction;

- (D) advising the buyer or tenant to obtain expert advice concerning material matters that are beyond the licensee's expertise;
- (E) timely accounting for all money and property received from the buyer or tenant;
- (F) exercising reasonable care and skill; and
- (G) complying with the requirements of this chapter and all applicable federal, state, and local laws, rules, and regulations, including fair housing and civil rights statutes, rules, and regulations.

(b) A licensee representing a buyer or tenant shall not disclose the following without the informed consent, in writing, of the buyer or tenant:

- (1) That a buyer or tenant will pay more than the offered purchase price or offered lease rate for the property or other contract concessions.
- (2) What motivates the buyer to buy or tenant to lease the property.
- (3) Any material or confidential information about the buyer or tenant unless this disclosure is required by law or where failure to disclose would constitute fraud or dishonest dealing.

(c) A licensee representing a buyer or tenant owes no duties or obligations to the seller or landlord except that a licensee shall treat all prospective sellers or landlords honestly and not knowingly give them false information.

(d) A licensee representing a buyer or tenant owes no duty to conduct an independent investigation of the buyer's or tenant's financial ability to perform for the benefit of the seller or landlord or to verify the accuracy of any statement, written or oral, made by the buyer, the tenant, or a third party.

(e) A licensee representing a buyer or tenant may:

- (1) show properties in which the buyer or tenant is interested to other prospective buyers or tenants and may show competing buyers or tenants the same property or assist other buyers or tenants in purchasing or leasing a particular property without breaching any duty or obligation to the buyer or tenant; and
- (2) provide to a seller or landlord services in the ordinary course of a real estate transaction and any similar services that do not violate the terms of the agency relationship made with the buyer or tenant.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.15.

IC 25-34.1-10-12

Licensee acting as limited agent

Sec. 12. (a) A licensee may act as a limited agent only with the written consent of all parties to a real estate transaction. The written consent is presumed to have been given and all parties are considered

informed for any party who signs a writing or writings at the time of entering into an agency relationship with the licensee that contains the following:

(1) A description of the real estate transaction or types of real estate transactions in which the licensee will serve as a limited agent.

(2) A statement that in serving as a limited agent, the licensee represents parties whose interests are different or even adverse.

(3) A statement that a limited agent shall not disclose the following without the informed consent, in writing, of the parties to the real estate transaction:

(A) Any material or confidential information, except adverse material facts or risks actually known by the licensee concerning the physical condition of the property and facts required by statute, rule, or regulation to be disclosed and that could not be discovered by a reasonable and timely inspection of the property by the parties.

(B) That a buyer or tenant will pay more than the offered purchase price or offered lease rate for the property.

(C) That a seller or landlord will accept less than the listed price or lease rate for the property.

(D) What motivates a party to buy, sell, or lease the property.

(E) Other terms that would create a contractual advantage for one (1) party over another party.

(4) A statement that there will be no imputation of knowledge or information between any party and the limited agent or among licensees.

(5) A statement that a party does not have to consent to the limited agency.

(6) A statement that the consent of each party has been given voluntarily and that any limited agency disclosure has been read and understood.

(b) A licensee acting as a limited agent may disclose and provide to both the seller and buyer property information, including listed and sold properties available through a multiple listing service or other information source.

(c) A cause of action does not arise against a licensee for disclosing or failing to disclose information in compliance with this section, and the limited agent does not terminate the limited agency relationship by making a required disclosure.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.16.

IC 25-34.1-10-12.5

Representations by licensees

Sec. 12.5. (a) An individual licensee affiliated with a broker company represents only the client with which the licensee is

working in an in-house agency relationship. A client represented by an individual licensee affiliated with a broker company is represented only by that licensee to the exclusion of all other licensees. A managing broker does not represent any party in such transactions unless the managing broker has an agency relationship to personally represent a client.

(b) A licensee who personally represents both the seller and buyer or both the landlord and tenant in a real estate transaction is a limited agent and is required to comply with the provisions of this chapter governing limited agents.

(c) A licensee representing a client in an in-house agency relationship owes the client duties and obligations set forth in this chapter and shall not disclose material or confidential information obtained from the client to other licensees, except to the managing broker for the purpose of seeking advice or assistance for the client's benefit.

(d) A broker company, a managing broker, and any affiliated licensee shall take reasonable and necessary care to protect any material or confidential information disclosed by a client to the client's in-house agent.

(e) In all in-house agency relationships, a broker company, a managing broker, and an individual licensee possess only actual knowledge and information. There is no imputation of agency, knowledge, or information among or between clients, the broker company, the managing broker, and licensees. Information contained in records of prior transactions maintained by the broker company concerning any existing or previous adverse material facts or risks with respect to real property may not be imputed to a broker or affiliated licensee unless the broker or affiliated licensee had actual knowledge of any adverse material facts or risks with respect to the real property. A person may not bring a cause of action against a broker or licensee for failure to disclose adverse material facts or risks if the cause of action is based on imputed knowledge of the adverse material facts or risks.

As added by P.L.130-1999, SEC.17. Amended by P.L.127-2012, SEC.45; P.L.150-2013, SEC.1; P.L.150-2013, SEC.2; P.L.116-2015, SEC.19.

IC 25-34.1-10-13

Written office policy regarding agency relationships; disclosure of policy; disclosure of compensation; compensation not creating agency relationship

Sec. 13. (a) A managing broker shall develop and enforce a broker company written office policy that identifies and describes the agency relationships that a licensee may have with a seller, landlord, buyer, or tenant and that specifically permits or rejects the practice of disclosed limited agency.

(b) At the beginning of an agency relationship, a licensee shall

disclose in writing the broker company's written office policy set forth in this section before the disclosure by the potential seller, landlord, buyer, or tenant of any confidential information specific to that potential seller, landlord, buyer, or tenant.

(c) Parties to a real estate transaction shall be advised whether compensation will be shared with other broker companies that may represent other parties to the transaction whose interests are different or even adverse.

(d) The payment of compensation does not create an agency relationship between a licensee and a seller, landlord, buyer, or tenant.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.18; P.L.127-2012, SEC.46; P.L.116-2015, SEC.20.

IC 25-34.1-10-14

Commencement and termination of agency relationship

Sec. 14. (a) The duties and obligations set forth in this chapter begin at the time the licensee enters into an agency relationship with a party to a real estate transaction and continues until the agency relationship terminates.

(b) If the agency relationship is not fulfilled or completed for any reason, the agency relationship ends at the earlier of:

- (1) a date of expiration agreed upon by the parties; or
- (2) a termination of the relationship by the parties.

(c) Except as otherwise agreed to in writing and as provided in subsection (b), a licensee representing a seller, landlord, buyer, or tenant owes no further duties or obligations after termination, expiration, or completion of the agency relationship, except:

- (1) accounting for all money and property received during the agency relationship; and
- (2) keeping confidential all information received during the course of the agency relationship that was made confidential by request or instructions from the client, unless:
 - (A) the disclosure is required by law;
 - (B) the client gives written consent to the disclosure; or
 - (C) the information becomes public from a source other than the licensee or by subsequent words or conduct of the client.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.19.

IC 25-34.1-10-15

Fiduciary duties superseded

Sec. 15. The duties and obligations of a licensee set forth in this chapter supersede any fiduciary duties of a licensee to a party based on common law principles of agency to the extent that those common law fiduciary duties are inconsistent with the duties and obligations set forth in this chapter.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999,

SEC.20.

IC 25-34.1-10-16

Liability for misrepresentation

Sec. 16. (a) A client is not liable for any misrepresentation made by a licensee in connection with the agency relationship, unless the client knew or should have known of the misrepresentation.

(b) A licensee is not liable for any misrepresentation made by another licensee, unless the licensee knew or should have known of the other licensee's misrepresentation.

As added by P.L.128-1994, SEC.6. Amended by P.L.130-1999, SEC.21.

IC 25-34.1-10-17

Subagency prohibited

Sec. 17. A licensee may not make an offer of subagency through a multiple listing service or other information source, or agree to appoint, cooperate with, compensate, or otherwise associate with a subagent in a real estate transaction. The elimination of subagency by this section is not intended to limit the rights of a licensee to cooperate with, compensate, or otherwise associate with another licensee who is not acting on behalf of a client.

As added by P.L.130-1999, SEC.22.

IC 25-34.1-11

Chapter 11. Appraisal Management Companies

IC 25-34.1-11-1

"Appraisal"

Sec. 1. As used in this chapter, "appraisal" has the meaning set forth in IC 24-5-23.5-1.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-2

"Appraisal management company"

Sec. 2. As used in this chapter, "appraisal management company" means a person that, for compensation, acts as a third party intermediary by contracting with independent real estate appraisers to perform appraisals for other persons.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-3

"Appraisal management services"

Sec. 3. (a) As used in this chapter, "appraisal management services" means any of the following functions:

- (1) To recruit, qualify, verify licensing or certification, or negotiate fees and service level expectations with independent real estate appraisers on behalf of a person seeking an appraisal.
- (2) To receive an order for an appraisal from a person and deliver the order for completion to a independent real estate appraiser.
- (3) To track and determine the status of orders for appraisals.
- (4) To conduct quality control of a completed appraisal before delivery of the appraisal to the client who ordered the appraisal.
- (5) To provide a completed appraisal performed by a real estate appraiser to one (1) or more clients.

(b) The term does not include transportation or communication of an appraisal or order for an appraisal without concern for the appraisal information in the appraisal or the order for an appraisal, including transportation or communication by the United States Postal Service, a delivery company, a courier, or an Internet service provider.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-4

"Board"

Sec. 4. As used in this chapter, "board" refers to the real estate appraiser licensure and certification board established by IC 25-34.1-8-1.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-5

"Person"

Sec. 5. (a) As used in this chapter, "person" means an individual engaged in a trade or business, an association, a partnership, a limited partnership, a limited liability company, a corporation, or a similar entity.

(b) The term does not include an employee.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-6

"Real estate appraiser"

Sec. 6. As used in this chapter, "real estate appraiser" means a person who:

(1) prepares an appraisal for a real estate transaction in Indiana; and

(2) meets one (1) or more of the following:

(A) Is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's license.

(B) Holds a real estate appraiser license or certificate issued under IC 25-34.1-8.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-7

"USPAP"

Sec. 7. "USPAP" refers to the Uniform Standards of Professional Appraisal Practice, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the federal Financial Institutions Reform, Recover, and Enforcement Act (12 U.S.C. 3331-3351).

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-8

Certificate of registration required

Sec. 8. An appraisal management company may not perform appraisal management services unless the appraisal management company has obtained a certificate of registration from the board under this chapter.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-9

Information and fee required for registration

Sec. 9. (a) An appraisal management company that wishes to obtain or renew a certificate of registration under this chapter must submit the following information to the board on forms prescribed by the board:

(1) The name of the person seeking registration.

(2) The business address of the person seeking registration.

(3) The telephone contact information of the person seeking

registration.

(4) The name, address, and contact information of each person that has an ownership share in an appraisal management company that equals or exceeds five percent (5%) of the total ownership share of the appraisal management company.

(5) Any other information that the board reasonably requires.

(b) An appraisal management company that wishes to obtain or renew a certificate of registration must pay the fee established under section 15 of this chapter.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-10

Issuance of a certificate of registration

Sec. 10. (a) The board shall issue a certificate of registration to an appraisal management company that:

(1) has furnished the information required by section 9(a) of this chapter in the manner prescribed by the board; and

(2) paid the fee required under section 9(b) of this chapter.

(b) Subject to IC 25-1-2-6(e), a certificate of registration issued to an appraisal management company under this chapter expires two (2) years after the date on which the certificate of registration is issued.

As added by P.L.77-2010, SEC.2. Amended by P.L.177-2015, SEC.74.

IC 25-34.1-11-11

Restrictions on appraisal management companies

Sec. 11. (a) A person may not own an interest in an appraisal management company if the person has had the person's license or certificate to act as a real estate appraiser in Indiana or any other state revoked and the license or certificate has not been reinstated.

(b) An appraisal management company may only hire an independent contractor to perform an appraisal who:

(1) holds a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1; and

(2) is in good standing.

(c) An appraisal management company may not corrupt or improperly influence a real estate appraiser in violation of IC 24-5-23.5-7.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-12

Appraisal reviews

Sec. 12. (a) As used in this section, "appraisal review" means the USPAP Standard 3 process of developing and communicating an opinion about the quality of an independent real estate appraiser's work that is performed as part of an appraisal assignment made by an appraisal management company. However, the term does not include:

- (1) an examination of an appraisal solely for grammatical errors, typographical errors, or similar errors; or
- (2) a quality control examination for completeness.

(b) An individual who performs an appraisal review must hold a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-13

Service requests; record requirements

Sec. 13. (a) An appraisal management company performing appraisal management services shall maintain a record of each service request for an appraisal that the appraisal management company receives. The following must be included in a record maintained under this subsection:

- (1) The person making the service request.
- (2) The date on which the service request is made.
- (3) The property to be appraised.
- (4) The real estate appraiser who performed the appraisal.
- (5) A copy of the appraisal produced for the service request.
- (6) The individuals who reviewed the appraisal.
- (7) The date on which the appraisal was delivered to the person who made the service request.
- (8) The costs and fees for the appraisal management services performed by the appraisal management company.
- (9) The costs and fees for the appraisal performed by the real estate appraiser.

(b) An appraisal management company shall keep the records described in subsection (a) for not less than six (6) years after the date specified in subsection (a)(2).

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-14

Registration forms

Sec. 14. The board shall prescribe forms for the registration of appraisal management companies under this chapter.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-15

Registration fee

Sec. 15. (a) The board shall establish the registration fee to be paid by an appraisal management company seeking registration under this chapter. The amount of the registration fee must be the lesser of:

- (1) the amount determined by the board to be sufficient for the administration of appraisal management registrations under this chapter when aggregated with all the registration fees paid by appraisal management companies seeking registration under this chapter; or

(2) five hundred dollars (\$500).

(b) Registration fees collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.
As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-16

Appraisals; standards compliance

Sec. 16. An appraisal management company is responsible for ensuring an appraisal complies with standards established:

(1) in the USPAP; and

(2) by the board.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-17

Disciplinary sanctions

Sec. 17. (a) An appraisal management company that violates this chapter is subject to disciplinary sanctions under IC 25-1-11-12.

(b) The board may impose a civil penalty of not more than ten thousand dollars (\$10,000) for each violation of this chapter.

(c) A civil penalty collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-18

Penalty for failure to register

Sec. 18. (a) A person who performs appraisal management services without a certificate of registration under this chapter commits a Class A infraction.

(b) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section.

As added by P.L.77-2010, SEC.2.

IC 25-34.1-11-19

Authority to adopt rules

Sec. 19. The board may adopt rules under IC 4-22-2 that the board considers necessary or advisable for the administration of this chapter.

As added by P.L.77-2010, SEC.2.