

HOUSE BILL No. 1115

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-34.1-2-5.1; IC 25-34.1-3-2.

Synopsis: Real estate referral fees. Requires individuals receiving compensation for making referrals to a real estate broker or salesperson to make a written disclosure to the potential customer before the potential customer enters into a contractual relationship with the real estate broker or salesperson.

Effective: July 1, 1998.

Marendt

January 6, 1998, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.



Introduced

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

HOUSE BILL No. 1115

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 25-34.1-2-5.1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.1. (a) The
3 commission shall adopt rules establishing standards for the competent
4 practice of the various occupations regulated in this article.
5 (b) Referring an individual to a real estate broker or
6 salesperson in exchange for compensation is an incompetent
7 practice under this article unless disclosure is made to the
8 individual:
9 (1) of the amount of the compensation;
10 (2) of the nature of the relationship between the referring
11 agent and the real estate broker or salesperson;
12 (3) in writing; and
13 (4) before the individual enters into a contractual
14 relationship with the real estate broker or salesperson.
15 (c) A referring broker or salesperson who practices
16 incompetently under subsection (b) is subject to a civil penalty of
17 one hundred dollars (\$100).

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1 **(d) The commission shall revoke the license of an individual**
 2 **who:**

- 3 **(1) practices incompetently under subsection (b);**
 4 **(2) is licensed under this article; and**
 5 **(3) has previously been assessed a civil penalty under**
 6 **subsection (c).**

7 SECTION 2. IC 25-34.1-3-2 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) Except as
 9 provided in:

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

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

16 (b) This article does not apply to:

- 17 (1) acts of an attorney which constitute the practice of law;
 18 (2) performance by a public official of acts authorized by law;
 19 (3) acts of a receiver, executor, administrator, commissioner,
 20 trustee, or guardian, respecting real estate owned or leased by the
 21 person represented, performed pursuant to court order or a will;
 22 (4) rental, for periods of less than thirty (30) days, of rooms,
 23 lodging, or other accommodations, by any commercial hotel,
 24 motel, tourist facility, or similar establishment which regularly
 25 furnishes such accommodations for consideration;
 26 (5) rental of residential apartment units by an individual
 27 employed or supervised by a licensed broker;
 28 (6) rental of apartment units which are owned and managed by
 29 a person whose only activities regulated by this article are in
 30 relation to a maximum of twelve (12) apartment units which are
 31 located on a single parcel of real estate or on contiguous parcels
 32 of real estate;
 33 (7) **except as provided in IC 25-34.1-2-5.1**, referral of real
 34 estate business by a broker, salesperson, or referral company
 35 which is licensed under the laws of another state, to or from
 36 brokers and salespersons licensed by this state;
 37 (8) acts performed by a person in relation to real estate owned by
 38 that person unless that person is licensed under this article, in
 39 which case the article does apply to him;
 40 (9) acts performed by a regular, full-time, salaried employee of
 41 a person in relation to real estate owned or leased by that person
 42 unless the employee is licensed under this article, in which case



1 the article does apply to him;
2 (10) conduct of a sale at public auction by a licensed auctioneer
3 pursuant to IC 25-6.1;
4 (11) sale, lease, or other transfer of interests in cemetery lots;
5 and
6 (12) acts of a broker or salesperson, who is licensed under the
7 laws of another state, which are performed pursuant to, and
8 under restrictions provided by, written permission that is granted
9 by the commission in its sole discretion, except that such a
10 person shall comply with the requirements of section 5(c) of this
11 chapter.

