



January 29, 1999

## SENATE BILL No. 358

DIGEST OF SB 358 (Updated January 28, 1999 3:12 pm - DI 75)

**Citations Affected:** IC 24-4.6; IC 25-34.1.

**Synopsis:** Real estate agents; sale of certain property. Redefines certain terms used in the law governing real estate agency relationships. Provides that unless there is an agreement to the contrary, a licensee (formerly referred to as a "real estate broker" under current law) has an agency relationship with and represents a consumer that the licensee is working with. Provides that a licensee acting as a limited agent may disclose and provide property information to both a buyer and a seller. Describes the duties and obligations of a licensee, managing broker, and principal broker. Prohibits a subagency relationship in a real estate transaction.

**Effective:** July 1, 1999.

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**Zakas, Alexa**

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January 11, 1999, read first time and referred to Committee on Commerce and Consumer Affairs.

January 28, 1999, amended, reported favorably — Do Pass.

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SB 358—LS 7473/DI 100+



January 29, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

## SENATE BILL No. 358

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 24-4.6-2.1-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this  
3 chapter, "agent" means a real estate agent or other person acting on  
4 behalf of the owner of real estate or transferee **or acting as a limited**  
5 **agent.**

6 SECTION 2. IC 24-4.6-2.1-1.5 IS ADDED TO THE INDIANA  
7 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 1999]: **Sec. 1.5. As used in this chapter,**  
9 **"limited agent" means an agent who, with the written and**  
10 **informed consent of all parties to a real estate transaction, is**  
11 **engaged by both the seller and buyer or both the landlord and**  
12 **tenant.**

13 SECTION 3. IC 25-34.1-10-0.5 IS ADDED TO THE INDIANA  
14 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
15 [EFFECTIVE JULY 1, 1999]: **Sec. 0.5. As used in this chapter,**  
16 **"agency relationship" means a relationship in which a licensee**  
17 **represents a client in a real estate transaction.**

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1 SECTION 4. IC 25-34.1-10-1 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this  
 3 chapter, "broker" means an individual or entity issued a broker's real  
 4 estate license by the Indiana real estate commission. ~~The term includes~~  
 5 ~~the broker's salespersons unless the context indicates otherwise.~~

6 SECTION 5. IC 25-34.1-10-5 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. As used in this  
 8 chapter, "client" means a person who has entered into a ~~brokerage~~  
 9 ~~engagement~~ **an agency relationship** with a ~~real estate broker licensee.~~

10 SECTION 6. IC 25-34.1-10-6 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. As used in this  
 12 chapter, "customer" means a person who is provided ~~brokerage~~  
 13 ~~services~~ in the ordinary course of a ~~real estate transaction business~~ **by a real**  
 14 ~~estate broker licensee~~ but who is not a client.

15 SECTION 7. IC 25-34.1-10-6.5 IS ADDED TO THE INDIANA  
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 17 [EFFECTIVE JULY 1, 1999]: **Sec. 6.5. As used in this chapter,**  
 18 **"in-house agency relationship" means an agency relationship**  
 19 **involving two (2) or more clients who are represented by different**  
 20 **licensees within the same real estate firm.**

21 SECTION 8. IC 25-34.1-10-6.8 IS ADDED TO THE INDIANA  
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 23 [EFFECTIVE JULY 1, 1999]: **Sec. 6.8. As used in this chapter,**  
 24 **"licensee" means an individual or entity issued a salesperson's or**  
 25 **broker's real estate license by the Indiana real estate commission.**

26 SECTION 9. IC 25-34.1-10-7 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. As used in this  
 28 chapter, "limited agent" means a ~~broker licensee~~ who, with the written  
 29 and informed consent of all parties to a real estate transaction, ~~is~~  
 30 ~~engaged by~~ **represents** both the seller and buyer or both the landlord  
 31 and tenant and whose duties and responsibilities to a client are only  
 32 those set forth in this chapter.

33 SECTION 10. IC 25-34.1-10-7.5 IS ADDED TO THE INDIANA  
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 1999]: **Sec. 7.5. As used in this chapter,**  
 36 **"managing broker" means a broker who manages a branch office**  
 37 **or who acts on behalf of a principal broker.**

38 SECTION 11. IC 25-34.1-10-7.8 IS ADDED TO THE INDIANA  
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 1999]: **Sec. 7.8. As used in this chapter,**  
 41 **"principal broker" means the individual broker (including the**  
 42 **broker designated or representative of a partnership, corporation,**

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1 **or limited liability company) whom the Indiana real estate**  
 2 **commission shall hold responsible for the actions of licensees who**  
 3 **are affiliated with the individual broker.**

4 SECTION 12. IC 25-34.1-10-9 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 9. As used in this  
 6 chapter, "subagent" means a broker engaged to act for another broker  
 7 in performing brokerage services for a client. ~~The subagent owes the~~  
 8 ~~same duties and responsibilities to the client as the client's broker.~~

9 SECTION 13. IC 25-34.1-10-9.5 IS ADDED TO THE INDIANA  
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 1999]: **Sec. 9.5. A licensee has an agency**  
 12 **relationship with, and is representing, the individual with whom**  
 13 **the licensee is working unless:**

- 14 (1) **there is a written agreement to the contrary; or**  
 15 (2) **the licensee is merely assisting the individual as a**  
 16 **customer.**

17 SECTION 14. IC 25-34.1-10-10 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 10. (a) A ~~broker~~  
 19 ~~engaged by licensee representing~~ a seller or landlord has the following  
 20 duties and obligations:

- 21 (1) To fulfill the terms of the ~~brokerage engagement agency~~  
 22 **relationship** made with the seller or landlord.  
 23 (2) To disclose the nature of the ~~brokerage agency~~ relationship  
 24 with the seller or landlord, and redefine and disclose if the  
 25 relationship changes.  
 26 (3) To promote the interests of the seller or landlord by:  
 27 (A) seeking a price or lease rate and contract terms satisfactory  
 28 to the seller or landlord; however, the ~~broker licensee~~ is not  
 29 obligated to seek additional offers to purchase or lease after an  
 30 offer to purchase or lease has been accepted by the seller or  
 31 landlord, unless otherwise ~~noted in the brokerage engagement~~  
 32 **agreed** between the parties;  
 33 (B) presenting all offers to purchase or lease to and from the  
 34 seller or landlord immediately upon receipt of the offers  
 35 regardless of whether an offer to purchase or lease has been  
 36 accepted, unless otherwise directed by the seller or landlord;  
 37 (C) disclosing to the seller or landlord adverse material facts  
 38 or risks actually known by the ~~broker licensee~~ concerning the  
 39 real estate transaction;  
 40 (D) advising the seller or landlord to obtain expert advice  
 41 concerning material matters that are beyond the ~~broker's~~  
 42 **licensee's** expertise;



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- 1 (E) timely accounting for all money and property received  
 2 from the seller or landlord;  
 3 (F) exercising reasonable care and skill; and  
 4 (G) complying with the requirements of this chapter and all  
 5 applicable federal, state, and local laws, rules, and regulations,  
 6 including fair housing and civil rights statutes, rules, and  
 7 regulations.
- 8 (b) A ~~broker engaged by licensee representing~~ a seller or landlord  
 9 may not disclose the following without the informed written consent of  
 10 the seller or landlord:
- 11 (1) That a seller or landlord will accept less than the listed price  
 12 or lease rate for the property or other contract concessions.
  - 13 (2) What motivates the seller to sell or landlord to lease the  
 14 property.
  - 15 (3) Any material or confidential information about the seller or  
 16 landlord unless the disclosure is required by law or where failure  
 17 to disclose would constitute fraud or dishonest dealing.
- 18 (c) A ~~broker engaged by licensee representing~~ a seller or landlord  
 19 owes no duties or obligations to the buyer or tenant except that a ~~broker~~  
 20 **licensee** shall treat all prospective buyers or tenants honestly and shall  
 21 not knowingly give them false information.
- 22 (d) A ~~broker licensee~~ shall disclose to a prospective buyer or tenant  
 23 adverse material facts or risks actually known by the ~~broker licensee~~  
 24 concerning the physical condition of the property and facts required by  
 25 statute or regulation to be disclosed and that could not be discovered  
 26 by a reasonable and timely inspection of the property by the buyer or  
 27 tenant. A ~~broker engaged by licensee representing~~ a seller or landlord  
 28 owes no duty to conduct an independent inspection of the property for  
 29 the buyer or tenant or to verify the accuracy of any statement, written  
 30 or oral, made by the seller, the landlord, or an independent inspector.  
 31 This subsection does not limit the obligation of a prospective buyer or  
 32 tenant to obtain an independent inspection of the physical condition of  
 33 the property. A cause of action does not arise against a ~~broker licensee~~  
 34 for disclosing information in compliance with this section.
- 35 (e) A ~~broker engaged by licensee representing~~ a seller or landlord  
 36 may:
- 37 (1) show alternative properties not owned by the seller or landlord  
 38 to a prospective buyer or tenant and may list competing properties  
 39 for sale or lease without breaching any duty or obligation to the  
 40 seller or landlord; and
  - 41 (2) provide ~~assistance~~ to a buyer or tenant ~~with~~ services in the  
 42 ordinary course of a real estate transaction ~~such as preparing~~

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1 offers to purchase or lease and communicating the offers to the  
 2 seller or landlord; arranging for lenders; attorneys; inspectors;  
 3 insurance agents; surveyors and any similar services that do not  
 4 violate the terms of the **brokerage engagement agency**  
 5 **relationship** made with the seller or landlord.

6 (f) A subagent has the same duties and responsibilities as those set  
 7 forth in this section:

8 SECTION 15. IC 25-34.1-10-11 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) A **broker**  
 10 **engaged by licensee representing** a buyer or tenant has the following  
 11 duties and obligations:

12 (1) To fulfill the terms of the **brokerage engagement agency**  
 13 **relationship** made with the buyer or tenant.

14 (2) To disclose the nature of the **brokerage agency** relationship  
 15 with the buyer or tenant, and redefine and disclose if the  
 16 relationship changes.

17 (3) To promote the interests of the buyer or tenant by:

18 (A) seeking a property with a price or lease rate and contract  
 19 terms satisfactory to the buyer or tenant; however, the **broker**  
 20 **licensee** is not obligated to locate other properties to purchase  
 21 or lease while the buyer is under contract to buy property or  
 22 while the tenant is under contract to lease property, unless  
 23 otherwise ~~noted in the brokerage engagement~~ **agreed** between  
 24 the parties;

25 (B) presenting all offers to purchase and lease to and from the  
 26 buyer or tenant immediately upon receipt of an offer regardless  
 27 of whether the buyer is already under contract to buy or the  
 28 tenant is under contract to lease property, unless otherwise  
 29 directed by the buyer or tenant;

30 (C) disclosing to the buyer or tenant adverse material facts or  
 31 risks actually known by the **broker licensee** concerning the real  
 32 estate transaction;

33 (D) advising the buyer or tenant to obtain expert advice  
 34 concerning material matters that are beyond the **broker's**  
 35 **licensee's** expertise;

36 (E) timely accounting for all money and property received  
 37 from the buyer or tenant;

38 (F) exercising reasonable care and skill; and

39 (G) complying with the requirements of this chapter and all  
 40 applicable federal, state, and local laws, rules, and regulations,  
 41 including fair housing and civil rights statutes, rules, and  
 42 regulations.

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1 (b) A **broker engaged by licensee representing** a buyer or tenant  
 2 shall not disclose the following without the informed consent, in  
 3 writing, of the buyer or tenant:

4 (1) That a buyer or tenant will pay more than the offered purchase  
 5 price or offered lease rate for the property or other contract  
 6 concessions.

7 (2) What motivates the buyer to buy or tenant to lease the  
 8 property.

9 (3) Any material or confidential information about the buyer or  
 10 tenant unless this disclosure is required by law or where failure to  
 11 disclose would constitute fraud or dishonest dealing.

12 (c) A **broker engaged by licensee representing** a buyer or tenant  
 13 owes no duties or obligations to the seller or landlord except that a  
 14 **broker licensee** shall

15 ~~(1) treat all prospective sellers or landlords honestly and not~~  
 16 ~~knowingly give them false information. and~~

17 ~~(2) notify the seller, landlord, or agent verbally at the time of the~~  
 18 ~~appointment and in writing, not later than the presentation of the~~  
 19 ~~purchase agreement or lease, that the broker is promoting solely~~  
 20 ~~the interests of the buyer or tenant:~~

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

26 (e) A **broker engaged by licensee representing** a buyer or tenant  
 27 may:

28 (1) show properties in which the buyer or tenant is interested to  
 29 other prospective buyers or tenants and may show competing  
 30 buyers or tenants the same property or assist other buyers or  
 31 tenants in purchasing or leasing a particular property without  
 32 breaching any duty or obligation to the buyer or tenant; and

33 (2) provide ~~assistance~~ to a seller or landlord ~~with~~ services in the  
 34 ordinary course of a real estate transaction ~~such as preparing~~  
 35 ~~offers to purchase or lease and communicating the offers to the~~  
 36 ~~buyer or tenant, arranging for attorneys, inspectors, surveyors and~~  
 37 ~~any similar services that do not violate the terms of the brokerage~~  
 38 ~~engagement agency relationship~~ made with the buyer or tenant.

39 SECTION 16. IC 25-34.1-10-12 IS AMENDED TO READ AS  
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. (a) A **broker**  
 41 **licensee** may act as a limited agent only with the written consent of all  
 42 parties to a real estate transaction. The written consent is presumed to

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1 have been given and all parties are considered informed for any party  
 2 who signs a writing or writings at the time of entering into a **brokerage**  
 3 **an agency** relationship with the **broker licensee** that contains the  
 4 following:

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

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

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

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

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

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

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

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

27 (4) A statement that there will be no imputation of knowledge or  
 28 information between any party and the limited agent or among  
 29 **brokers within an entity engaged as a limited agent licensees.**

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

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

35 (b) Under a brokerage engagement, a broker may assign different  
 36 salespersons affiliated with the broker to represent exclusively different  
 37 clients in the same transaction. The salespersons may not disclose,  
 38 except to the salesperson's broker, information made confidential by  
 39 request or instructions of the client the salesperson is representing,  
 40 except information permitted or required to be disclosed under this  
 41 chapter. The broker may not be considered to be acting for more than  
 42 one (1) party to a real estate transaction. A licensee acting as a limited

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1 **agent may disclose and provide to both the seller and buyer**  
 2 **property information, including listed and sold properties available**  
 3 **through a multiple listing service or other information source.**

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

8 SECTION 17. IC 25-34.1-10-12.5 IS ADDED TO THE INDIANA  
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 1999]: **Sec. 12.5. (a) An individual licensee**  
 11 **affiliated with a principal broker represents only the client with**  
 12 **which the licensee is working in an in-house agency relationship. A**  
 13 **client represented by an individual licensee affiliated with a**  
 14 **principal broker is represented only by that licensee to the**  
 15 **exclusion of all other licensees. A principal or managing broker**  
 16 **does not represent any party in such transactions unless the**  
 17 **principal or managing broker has an agency relationship to**  
 18 **personally represent a client.**

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

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

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

33 (e) In all in-house agency relationships, a principal broker,  
 34 managing broker, and an individual licensee possess only actual  
 35 knowledge and information. There is no imputation of agency,  
 36 knowledge, or information among or between clients, the principal  
 37 broker, the managing broker, and licensees.

38 SECTION 18. IC 25-34.1-10-13 IS AMENDED TO READ AS  
 39 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 13. (a) A principal**  
 40 **broker shall develop and enforce among the broker's salespersons a**  
 41 **written office policy that identifies and describes the brokerage agency**  
 42 **relationships in which the broker engages that a licensee may have**



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1 with a seller, landlord, buyer, or tenant and that specifically permits or  
2 rejects the practice of disclosed limited agency.

3 (b) ~~When entering into brokerage engagement~~ **At the beginning of**  
4 **an agency relationship**, a **broker licensee** shall disclose in writing the  
5 **principal** broker's written office policy set forth in this section before  
6 the disclosure by the potential seller, landlord, buyer, or tenant of any  
7 confidential information specific to that potential seller, landlord,  
8 buyer, or tenant.

9 (c) ~~A broker shall advise~~ Parties to a real estate transaction **shall be**  
10 **advised** whether ~~the broker will share the broker's~~ compensation **will**  
11 **be shared** with other **principal** brokers who may represent other  
12 parties to the transaction whose interests are different or even adverse.

13 (d) The payment of compensation does not create a ~~brokerage an~~ **agency**  
14 **relationship** between a **broker licensee** and a seller, landlord,  
15 buyer, or tenant.

16 SECTION 19. IC 25-34.1-10-14 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) The ~~brokerage~~  
18 **relationships duties and obligations** set forth in this ~~section~~ **chapter**  
19 begin at the time the **broker licensee** enters into a ~~brokerage~~  
20 **engagement an agency relationship** with a party to a real estate  
21 transaction and continues until the ~~engagement~~ **agency relationship**  
22 terminates.

23 (b) If the ~~brokerage engagement~~ **agency relationship** is not  
24 **performed fulfilled** or completed for any reason, the ~~brokerage~~ **agency**  
25 relationship ends at the earlier of:

26 (1) a date of expiration agreed upon by the parties; or

27 (2) a termination of the relationship by the parties.

28 (c) Except as otherwise agreed to in writing and as provided in  
29 subsection (b), a ~~broker engaged by licensee representing~~ a seller,  
30 landlord, buyer, or tenant owes no further duties or obligations after  
31 termination, expiration, or completion of ~~performance of the brokerage~~  
32 **engagement agency relationship**, except:

33 (1) accounting for all money and property received during the  
34 **brokerage agency** relationship; and

35 (2) keeping confidential all information received during the  
36 course of the ~~brokerage~~ **agency** relationship that was made  
37 confidential by request or instructions from the ~~engaging party~~  
38 **client**, unless:

39 (A) the disclosure is required by law;

40 (B) the ~~engaging party~~ **client** gives written consent to the  
41 disclosure; or

42 (C) the information becomes public from a source other than

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1 the **broker licensee** or by subsequent words or conduct of the  
2 **engaging party client.**

3 SECTION 20. IC 25-34.1-10-15 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. The duties and  
5 **responsibilities obligations** of a **broker licensee** set forth in this chapter  
6 supersede any fiduciary duties of a **broker licensee** to a party based on  
7 common law principles of agency to the extent that those common law  
8 fiduciary duties are inconsistent with the duties and **responsibilities**  
9 **obligations** set forth in this chapter.

10 SECTION 21. IC 25-34.1-10-16 IS AMENDED TO READ AS  
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) A client is not  
12 liable for any misrepresentation made by a **broker licensee** in  
13 connection with the **brokerage engagement agency relationship**,  
14 unless the client ~~knows~~ **knew** or should have known of the  
15 misrepresentation. ~~or the broker is repeating a misrepresentation made~~  
16 ~~to the broker by the client.~~

17 (b) A ~~broker who is providing brokerage services to a client and~~  
18 ~~who retains another broker to provide brokerage services to that client~~  
19 **licensee** is not liable for any misrepresentation made by ~~the other~~  
20 **broker another licensee**, unless

21 (1) the **broker licensee** knew or should have known of the other  
22 **broker's licensee's** misrepresentation. ~~or~~

23 (2) the other broker is repeating a misrepresentation made to the  
24 other broker by the broker.

25 SECTION 22. IC 25-34.1-10-17 IS ADDED TO THE INDIANA  
26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 1999]: **Sec. 17. A licensee may not make an**  
28 **offer of subagency through a multiple listing service or other**  
29 **information source, or agree to appoint, cooperate with,**  
30 **compensate, or otherwise associate with a subagent in a real estate**  
31 **transaction. The elimination of subagency by this section is not**  
32 **intended to limit the rights of a licensee to cooperate with,**  
33 **compensate, or otherwise associate with another licensee who is not**  
34 **acting on behalf of a client.**

35 SECTION 23. THE FOLLOWING ARE REPEALED [EFFECTIVE  
36 JULY 1, 1999]: IC 25-34.1-10-2; IC 25-34.1-10-3; IC 25-34.1-10-4.

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SENATE MOTION

Mr. President: I move that Senator Alexa be added as second author of Senate Bill 358.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Commerce and Consumer Affairs, to which was referred Senate Bill No. 358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 10 through 19, begin a new paragraph, and insert:

"SECTION 6. IC 25-34.1-10-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. As used in this chapter, "customer" means a person who is provided ~~brokerage~~ services in the ordinary course of a ~~real estate transaction business~~ by a ~~real estate broker licensee~~ but who is not a client.

SECTION 7. IC 25-34.1-10-6.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **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 real estate firm."**

Page 3, line 2, delete "assigned to" and insert "**affiliated with**".

Page 3, delete lines 8 through 13, begin a new paragraph and insert:

"SECTION 13. IC 25-34.1-10-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 9.5. 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."**

Page 7, line 42, delete ", so" and insert ".".

Page 8, delete lines 1 through 2.

Page 8, line 9, after "licensee" insert: "**affiliated with a principal broker 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 principal broker is represented only by that licensee to the exclusion of all other licensees. A principal or managing broker does not represent any party in such transactions unless the principal or managing broker has an agency relationship to personally represent a client."**

Page 8, delete lines 10 through 15.

Page 8, line 33, delete "by operation of law".

Page 8, line 42, strike "When entering into".

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Page 8, line 42, after "engagement" insert "**At the beginning of**".

Page 9, line 15, delete "agency".

Page 9, line 15, strike "relationships" and insert "**duties and obligations**".

Page 9, line 20, strike "performed" and insert "**fulfilled**".

Page 9, line 27, strike "performance of".

Page 10, line 1, strike "responsibilities" and insert "**obligations**".

Page 10, line 4, strike "responsibilities" and insert "**obligations**".

and when so amended that said bill do pass.

(Reference is to SB 358 as introduced.)

MILLS, Chairperson

Committee Vote: Yeas 9, Nays 1.

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